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THIS JUNIOR MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING IS SUBORDINATE TO THAT CERTAIN CONSTRUCTION LOAN MORTGAGE, SECURITY AGREEMENT DATED AS OF DECEMBER 1, 2004, MADE BY THE MORTGAGOR HEREIN IN FAVOR OF THE MORTGAGEE HEREIN, ON ITS OWN BEHALF AND IN ITS CAPACITY AS AGENT FOR THE LENDERS FOR THE LOAN SECURED THEREBY ("SENIOR LENDERS"), IN ACCORDANCE WITH THE TERMS OF THAT CERTAIN INTERCREDITOR AGREEMENT OF EVEN DATE HERewith BETWEEN THE MORTGAGEE HEREIN IN ITS CAPACITY AS AGENT FOR SENIOR LENDERS AND IN ITS CAPACITY AS AGENT FOR THE LENDERS UNDER THE MEZZANINE LOAN AGREEMENT REFERRED TO BELOW.

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

by

**METROPOLITAN SQUARE COMMERCIAL, INC.,
an Illinois corporation**

to and for the benefit of

**LASALLE BANK NATIONAL ASSOCIATION,
a national banking association**

Box 400-CTCC

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

THIS JUNIOR MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING ("Mortgage") is made as of the 1st day of December, 2004, by METROPOLITAN SQUARE COMMERCIAL, INC., an Illinois corporation ("Mortgagor"), to and for the benefit of LASALLE BANK NATIONAL ASSOCIATION, a national banking association ("LaSalle"), on its own behalf and in its capacity as agent for the Lenders under the Loan Agreement referred to below ("Mortgagee"):

RECITALS:

(A) Pursuant to the terms and conditions of a Mezzanine Loan Agreement of even date herewith (as amended, restated or replaced from time to time "Loan Agreement") by and among Mortgagor, Metropolitan Square, Inc., an Illinois corporation ("MS Parent"), and Metropolitan Square Residential, Inc., an Illinois corporation ("MS Residential") (Mortgagor, MS Parent and MS Residential being sometimes referred to herein collectively as "Borrowers"), and LaSalle and the other Lenders named in the Loan Agreement (together with LaSalle, "Lenders"), Lenders have agreed to loan to Borrowers the principal amount of \$4,300,000 (the "Loan"). The Loan shall be evidenced by a certain Promissory Note of even date herewith (as amended, restated or replaced from time to time, "Note") made by Borrowers payable to Mortgagee in the principal amount of the Loan and due on December _____, 2007 ("Maturity Date"), except as may be accelerated pursuant to the terms hereof or of the Note or the Loan Agreement or any of the other "Loan Documents" (as defined in the Loan Agreement).

(B) A condition precedent to Lenders' extension of the Loan to Borrowers is the execution and delivery by Mortgagor of this Mortgage.

(D) Borrowers are receiving (and reference in this Mortgage is made to) a construction loan (the "Senior Loan") in the principal amount of \$40,000,000 from LaSalle and the other lenders named in the Senior Loan Agreement referred to in the Loan Agreement (LaSalle and such other lenders in their capacity as lenders for the Senior Loan being referred to herein as "Senior Lenders"), such Senior Loan as evidenced by a Construction Loan Mortgage Note ("Senior Note") made by Borrowers payable to LaSalle, on its own behalf and in its capacity as agent for the Senior Lenders, in the principal amount of the Senior Loan and secured in part by a Construction Loan Mortgage and Security Agreement ("Senior Mortgage") made by Mortgagor in favor of LaSalle, on its own behalf and in its capacity as agent for the Senior Lenders (the Senior Note, Senior Mortgage and all other instruments evidencing, securing or guarantying obligations of any party under the Senior Loan are referred to herein as the "Senior Loan Documents").

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness hereby secured, the receipt and sufficiency of which are hereby acknowledged, Mortgagor mortgages, grants, assigns, remises, releases, warrants and conveys to

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Mortgagee, its successors and assigns, and grants a security interest in, all of the Mortgagor's right, title and interest in and to the following described property, rights and interests (referred to collectively herein as "**Premises**"), all of which property, rights and interests are hereby pledged primarily and on a parity with the Real Estate (as defined below) and not secondarily, and as to any portion of the Premises constituting property subject to the Uniform Commercial Code of the State of Illinois in effect from time to time ("**Code**"), this Mortgage is intended to be a security agreement under the Code for the purpose of creating hereby a security interest in such portion of the Premises, which the Mortgagor hereby grants to the Mortgagee as secured party:

THE REAL ESTATE located in the State of Illinois and legally described on Exhibit A attached hereto and made a part hereof ("**Real Estate**");

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Mortgagor and on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on Mortgagor's behalf ("**Improvements**");

TOGETHER WITH all easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

TOGETHER WITH all rents, revenues, issues, profits, proceeds, income, royalties, "accounts," including "health-care-insurance receivables," escrows, letter-of-credit rights (each as defined in the Code hereinafter defined), security deposits, impounds, reserves, tax refunds and other rights to monies from the Premises and/or the businesses and operations conducted by Mortgagor thereon, to be applied against the Indebtedness (hereinafter defined); provided, however, that Mortgagor, so long as no Event of Default (as hereinafter defined) has occurred hereunder, may collect rent as it becomes due, but not more than one month in advance thereof;

TOGETHER WITH all interest of Mortgagor in all leases now or hereafter on the Premises, whether written or oral ("**Leases**"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease;

TOGETHER WITH all fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Real Estate or the Improvements, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators,

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engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Real Estate or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the Indebtedness (as hereinafter defined); notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Code, this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral in Mortgagee, as a secured party, and Mortgagor, as Debtor, all in accordance with the Code; and

TOGETHER WITH all of Mortgagor's interests in "general intangibles" including "payment intangibles" and "software" (each as defined in the Code) now owned or hereafter acquired and related to the Premises, including, without limitation, all of Mortgagor's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which Mortgagor is or may become a party and which relate to the Premises, including, without limitation, all right, title and interest of Mortgagor in, to and under the Redevelopment Documents (as defined in Section 21 hereof); and (ii) all obligations and indebtedness owed to Mortgagor thereunder, including, without limitation, all amounts payable under the Redevelopment Documents; (iii) all intellectual property related to the Premises; and (iv) all choses in action and causes of action relating to the Premises;

TOGETHER WITH all of Mortgagor's accounts now owned or hereafter created or acquired as relate to the Premises, including, without limitation, all of the following now owned or hereafter created or acquired by Mortgagor: (i) accounts, contract rights, health-care-insurance receivables, book debts, notes, drafts, and other obligations or indebtedness owing to Mortgagor arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) Mortgagor's rights in, to and under all purchase orders for goods, services or other property; (iii) Mortgagor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due to become due to Mortgagor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of Mortgagor); (v) "securities", "investment property," "financial assets," and "securities entitlements" (each as defined in the Code), and (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and all warranties, guarantees, permits and licenses in favor of Mortgagor with respect to the Premises;

TOGETHER WITH all proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent

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domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof.

TO HAVE AND TO HOLD the Premises, unto Mortgagee, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Event of Default.

FOR THE PURPOSE OF SECURING the following (but not exceeding \$8,600,000 in the aggregate): (i) the payment of the Loan and all interest, late charges, LIBOR breakage charges (including any Make Whole Costs described in the Note) prepayment premium (if any), exit fee (if any), reimbursement obligations, fees and expenses for letters of credit issued by Mortgagee for the benefit of any Borrower, if any, and other indebtedness evidenced by or owing under the Note, any of the other Loan Documents, together with any extensions, modifications, renewals or refinancings of any of the foregoing; (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Borrowers or any other obligor to or benefiting Mortgagee which are evidenced or secured by or otherwise provided in the Note, this Mortgage or any of the other Loan Documents; (iii) any and all obligations, contingent or otherwise, whether now existing or hereafter arising, of any Borrower arising under or in connection with all Hedging Transactions and Hedging Agreements (each as defined in Paragraph 21 hereof) to which all of Lenders are a party, or to which LaSalle (on its own behalf and not as agent for Lenders) is a party; and (iv) the reimbursement to Mortgagee of any and all sums incurred, expended or advanced by Mortgagee pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage, any of the other Loan Documents, such Hedging Transactions and Hedging Agreements or any application for letters of credit and master letter of credit agreement, with interest thereon as provided herein or therein (collectively, "**Indebtedness**").

PROVIDED, HOWEVER, that if Borrowers shall pay the principal and all interest as provided in the Note, and shall pay all other sums herein provided for, or secured hereby, and if Mortgagor shall well and truly keep and perform all of the covenants herein contained, then this conveyance shall be null and void and may be cancelled of record at the request and at the cost of the Mortgagor, otherwise to remain in full force and effect.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Title.** Mortgagor represents, warrants and covenants that (a) Mortgagor is the holder of the fee simple title to the Premises, free and clear of all liens and encumbrances, except those conveyances, liens and encumbrances in favor of Mortgagee and as otherwise described on Exhibit B attached hereto ("**Permitted Exceptions**"); and (b) Mortgagor has legal power and authority to convey and encumber the Premises.

2. **Maintenance, Repair, Restoration, Prior Liens, Parking.** Mortgagor covenants that, so long as any portion of the Indebtedness remains unpaid, Mortgagor will:

a. promptly repair, restore or rebuild any Improvements now or hereafter on the Premises which may become damaged or be destroyed to a condition substantially similar

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to the condition immediately prior to such damage or destruction, whether or not proceeds of insurance are available or sufficient for the purpose;

b. keep the Premises in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims or other liens or claims for lien (subject to Mortgagor's right to contest liens as permitted by the terms of Section 7.19 of the Loan Agreement);

c. pay when due the Indebtedness in accordance with the terms of the Note and the other Loan Documents and duly perform and observe all of the terms, covenants and conditions to be observed and performed by Mortgagor under the Note, this Mortgage and the other Loan Documents;

d. pay when due any indebtedness which may be secured by a permitted lien or charge on the Premises on a parity with, superior to or inferior to this Mortgage, and upon request exhibit satisfactory evidence of the discharge of such lien to Mortgagee (subject to Mortgagor's right to contest liens as permitted by the terms of Section 7.19 of the Loan Agreement);

e. complete within a reasonable time any Improvements now or at any time in the process of erection upon the Premises;

f. comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof;

g. obtain and maintain in full force and effect, and abide by and satisfy the material terms and conditions of, all material permits, licenses, registrations and other authorizations with or granted by any governmental authorities that may be required from time to time with respect to the performance of Mortgagor's obligations under this Mortgage;

h. make no material alterations in the Premises or demolish any portion of the Premises without Mortgagee's prior written consent, except as required by law or municipal ordinance;

i. suffer or permit no change in the use or general nature of the occupancy of the Premises, without the Mortgagee's prior written consent;

j. pay when due all operating costs of the Premises;

k. not initiate or acquiesce in any zoning reclassification with respect to the Premises, without Mortgagee's prior written consent;

l. provide and thereafter maintain adequate parking areas within the Premises as may be required by law, ordinance or regulation (whichever may be greater), together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof; and

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m. cause the Premises at all times to be operated in compliance with all federal, state, local and municipal environmental, health and safety laws, statutes, ordinances, rules and regulations.

3. **Payment of Taxes and Assessments.** Mortgagor will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "**Taxes**"), whether or not assessed against Mortgagor, if applicable to the Premises or any interest therein, or the Indebtedness, or any obligation or agreement secured hereby, subject to Mortgagor's right to contest the same, as provided by Section 7.19 of the Loan Agreement, and Mortgagor will, upon written request, furnish to the Mortgagee duplicate receipts therefor within 10 days after Mortgagee's request.

4. **Security Agreement.** Mortgagor and Mortgagee agree that this Mortgage shall constitute a Security Agreement within the meaning of the Code with respect to (a) all sums at any time on deposit for the benefit of Mortgagor or held by Mortgagee (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or the other Loan Documents, and (b) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Premises or may not constitute a "fixture" (within the meaning of Section 9-102(41) of the Code) (which property is hereinafter referred to as "**Personal Property**"), and all replacements of, substitutions for, additions to, and the proceeds thereof, and the "supporting obligations" (as defined in the Code) (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "**Collateral**"), and that a security interest in and to the Collateral is hereby granted to Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all to secure payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this Paragraph shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

(A) Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral and has rights in and the power to transfer the Collateral, subject to no liens, charges or encumbrances other than this Mortgage, other liens and encumbrances benefiting Mortgagee and no other party, and liens and encumbrances, if any, expressly permitted by the other Loan Documents.

(B) The Collateral is to be used by Mortgagor solely for business purposes.

(C) The Collateral will be kept at the Real Estate and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Real Estate but will not be affixed to any other real estate.

(D) The only persons having any interest in the Premises are Mortgagor, Mortgagee and holders of interests, if any, expressly permitted hereby.

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(E) No Financing Statement (other than Financing Statements showing Mortgagee as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted hereby) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and Mortgagor, at Mortgagor's own cost and expense, upon demand, will furnish to Mortgagee such further information and will execute and deliver to Mortgagee such financing statements and other documents in form satisfactory to Mortgagee and will do all such acts as Mortgagee may request at any time or from time to time or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefiting Mortgagee and no other party and liens and encumbrances (if any) expressly permitted hereby; and Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Mortgagee to be desirable. Mortgagor hereby irrevocably authorizes Mortgagee at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto that (i) indicate the Collateral as all assets of Mortgagor (or words of similar effect), regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed, or as being of an equal or lesser scope or within greater detail, and (ii) contain any other information required by Section 5 of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed regarding the sufficiency or filing office acceptance of any financing statement or amendment, including whether Mortgagor is an organization, the type of organization and any organization identification number issued to Mortgagor, and in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Mortgagor agrees to furnish any such information to Mortgagee promptly upon request. Mortgagor further ratifies and affirms Mortgagor's authorization for any financing statements and/or amendments thereto, executed and filed by Mortgagee in any jurisdiction prior to the date of this Mortgage.

(F) Upon an Event of Default hereunder, Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof and for that purpose, so far as Mortgagor can give authority therefor, with or without judicial process, may enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to

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both parties. Mortgagee will give Mortgagor at least 10 days' notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor hereinafter set forth at least 10 days before the time of the sale or disposition. Mortgagee may buy at any public sale. Mortgagee may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Premises. If Mortgagee so elects, the Premises and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied against the Indebtedness in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

(G) The terms and provisions contained in this Paragraph, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

(H) This Mortgage is intended to be a financing statement within the purview of Section 9-502(b) of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Premises. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are hereinbelow set forth. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or counties where the Premises are located.

(I) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between Mortgagor or Mortgagor's agents as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of Mortgagor, as lessor thereunder.

1. Mortgagor represents and warrants that:
 - a. Mortgagor is the record owner of the Premises;
 - b. Mortgagor's chief executive office is located in the State of Illinois;
 - c. Mortgagor's state of organization is the State of Illinois;
 - d. Mortgagor's exact legal name is as set forth in the first paragraph of this Mortgage; and
 - e. Mortgagor's organizational identification number is 63525588.
2. Mortgagor agrees that:

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a. Where Collateral is in possession of a third party, Mortgagor will join with the Mortgagee in notifying the third party of the Mortgagee's interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of Mortgagee;

b. Mortgagor will cooperate with Mortgagee in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and

c. Until the Indebtedness is paid in full, Mortgagor will not change the state where it is located or change its corporate name without giving Mortgagee at least 60 days' prior written notice in each instance.

5. **Events of Default; Acceleration.** An Event of Default (as defined in the Loan Agreement) shall constitute an "**Event of Default**" for purposes of this Mortgage. If an Event of Default occurs, Mortgagee may, at its option, declare the whole of the Indebtedness to be immediately due and payable without further notice to Mortgagor, with interest thereon accruing from the date of such Event of Default until paid at the Default Rate.

6. **Foreclosure; Expense of Litigation.**

(A) When all or any part of the Indebtedness shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents in accordance with the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15 1101 et seq., Illinois Compiled Statutes) (as may be amended from time to time, the "Act"). In the event of a foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

(B) In any suit or other proceeding to foreclose this Mortgage or enforce any other remedy of Mortgagee under this Mortgage or the Note, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this Paragraph and such other expenses and fees as may be incurred in the enforcement of Mortgagor's obligations hereunder, the protection of said Premises and the maintenance of the interest created by this Mortgage, including the reasonable fees of any attorney employed by Lenders in any

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litigation or proceeding affecting this Mortgage, the Note, or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

7. **Application of Proceeds of Foreclosure Sale and Other Remedies.** The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as Mortgagee may determine in its sole and absolute discretion. Except as otherwise provided in Paragraph 6(A) hereof or by applicable law, the proceeds of any sale or the exercise of any other remedy hereunder shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to such sale or other remedy, including all such items as are mentioned in Paragraph 6(E) hereof; second, all other items which under the terms hereof constitute indebtedness secured by this Mortgage additional to that evidenced by the Note, with interest thereon as therein provided; third, all principal and interest remaining unpaid on the Note; and fourth, any remainder to Mortgagor, its successors or assigns, as their rights may appear.

8. **Appointment of Receiver.** Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall, upon petition by Mortgagee, appoint a receiver for the Premises in accordance with the Act. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the value of the Premises or whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or any other holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises (i) during the pendency of such foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when Mortgagor, but for the intervention of such receiver, would be entitled to collect such rents, issues and profits. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during said period, including, to the extent permitted by law, the right to lease all or any portion of the Premises for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (a) the Indebtedness, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale, and (b) any deficiency upon a sale and deficiency.

9. **Mortgagee's Right of Possession in Case of Default.** At any time after an Event of Default has occurred, Mortgagor shall, upon demand of Mortgagee, surrender to Mortgagee possession of the Premises. Mortgagee, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts relating thereto, and may exclude Mortgagor and Mortgagor's employees, agents or servants therefrom, and Mortgagee may then hold, operate, manage and control the Premises, either personally or by its agents. Mortgagee shall have full

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power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, Mortgagee shall have full power to:

- (A) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same;
- (B) elect to disaffirm any lease or sublease which is then subordinate to this Mortgage;
- (C) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to this Mortgage and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;
- (D) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises as Mortgagee deems are necessary;
- (E) insure and reinsure the Premises and all risks incidental to Mortgagee's possession, operation and management thereof; and
- (F) receive all of such avails, rents, issues and profits.

10. **Application of Income Received by Mortgagee.** Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Mortgagee may determine:

- (A) to the payment of the operating expenses of the Premises, including cost of management and leasing thereof (which shall include compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;
- (B) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises; and
- (C) to the payment of any Indebtedness, including any deficiency which may result from any foreclosure sale.

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11. Compliance with Illinois Mortgage Foreclosure Law.

(A) If any provision in this Mortgage shall be inconsistent with any provision of the Act, 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 be construed in a manner consistent with the Act.

(B) If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Paragraph 19 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(C) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee which are of the type referred to in Section 5/15 1510 or 5/15 1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Mortgage, shall be added to the Indebtedness and/or by the judgment of foreclosure.

12. Rights Cumulative. Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any of the Loan Documents or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

13. Mortgagee's Right of Inspection. Mortgagee and its representatives shall have the right to inspect the Premises and the books and records with respect thereto at all reasonable times upon not less than 24 hours prior notice to Mortgagor, and access thereto, subject to the rights of tenants in possession, shall be permitted for that purpose.

14. Release Upon Payment and Discharge of Mortgagor's Obligations. Mortgagee shall release this Mortgage by proper instrument upon payment and discharge of all Indebtedness, including payment of all reasonable expenses incurred by Mortgagee in connection with the execution of such release.

15. Notices. Any notices, communications and waivers under this Mortgage shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

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To Mortgagee: LaSalle Bank National Association
135 South LaSalle Street
Suite 1225
Chicago, Illinois 60603
Attn: Real Estate Mezzanine Finance Division

With a copy to: Seyfarth Shaw LLP
55 East Monroe Street
Suite 4200
Chicago, Illinois 60603
Attn: Alvin L. Kruse

To Mortgagor: Metropolitan Square Commercial, Inc.
c/o Joseph Freed and Associates LLC
220 North Smith Street
Suite 300
Palatine, Illinois 60067
Attn: Thomas H. Fraerman, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

16. **Waiver of Rights.** Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force 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 provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

(A) Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on Mortgagor's own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15 1601 or other applicable law or replacement statutes; and

(B) Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise

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granted or delegated to Mortgagee but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted.

17. **Further Instruments.** Upon request of Mortgagee, Mortgagor shall execute, acknowledge and deliver all such additional instruments and further assurances of title and shall do or cause to be done all such further acts and things as may reasonably be necessary fully to effectuate the intent of this Mortgage and of the other Loan Documents.

18. **Additional Indebtedness Secured.** All persons and entities with any interest in the Premises or about to acquire any such interest should be aware that this Mortgage secures more than the stated principal amount of the Note and interest thereon; this Mortgage secures any and all other amounts which may become due under the Note or any other document or instrument evidencing, securing or otherwise affecting the Indebtedness, including, without limitation, any and all amounts expended by Mortgagee to operate, manage or maintain the Premises or to otherwise protect the Premises or the interest created under this Mortgage.

19. **Subordination of Property Manager's Lien.** Any property management agreement for the Premises entered into hereafter with a property manager shall contain a provision whereby the property manager agrees that any and all mechanics' lien rights that the property manager or anyone claiming by, through or under the property manager may have in the Premises shall be subject and subordinate to this Mortgage and shall provide that Mortgagee may terminate such agreement at any time after the occurrence of an Event of Default hereunder. Such property management agreement or a short form thereof, at Mortgagee's request, shall be recorded with the Recorder of Deeds of the county where the Premises are located. In addition, if the property management agreement in existence as of the date hereof does not contain a subordination provision, Mortgagor shall cause the property manager under such agreement to enter into a subordination of the management agreement with Mortgagee, in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager to this Mortgage.

20. **Miscellaneous.**

(A) **Successors and Assigns.** This Mortgage and all provisions hereof shall be binding upon and enforceable against Mortgagor and Mortgagor's assigns and other successors. This Mortgage and all provisions hereof shall inure to the benefit of Mortgagee, its successors and assigns and any holder or holders, from time to time, of the Note.

(B) **Invalidity of Provisions; Governing Law.** In the event that any provision of this Mortgage is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Mortgagor and Mortgagee shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Mortgage and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect. This Mortgage is to be construed in accordance with and governed by the laws of the State of Illinois.

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(C) **Municipal Requirements.** Mortgagor shall not by act or omission permit any building or other improvement on premises not subject to this Mortgage to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any premises not subject to this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this subparagraph shall be void.

(D) **Rights of Tenants.** Mortgagee shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale, subject to the rights of any tenant or tenants of the Premises having an interest in the Premises prior to that of Mortgagee. The failure to join any such tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

(E) **Option of Mortgagee to Subordinate.** At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Premises upon the execution by Mortgagee of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Premises are situated.

(F) **Mortgagee in Possession.** Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises by Mortgagee pursuant to this Mortgage.

(G) **Relationship of Mortgagee and Mortgagor.** Mortgagee shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Mortgagor or of any lessee, operator, concessionaire or licensee of Mortgagor in the conduct of their respective businesses, and, without limiting the foregoing, Mortgagee shall not be deemed to be such partner, joint venturer, agent or associate on account of Mortgagee becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage, any of the other Loan Documents, or otherwise. The relationship of Mortgagor and Mortgagee hereunder is solely that of debtor/creditor.

(H) **Time of the Essence.** Time is of the essence of the payment by Mortgagor of all amounts due and owing to Mortgagee under the Note and the other Loan Documents and the performance and observance by Mortgagor of all terms, conditions, obligations and agreements contained in this Mortgage and the other Loan Documents.

(I) **No Merger.** The parties hereto intend that this Mortgage and the interest hereunder shall not merge in fee simple title to the Premises, and if Mortgagee acquires

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any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the interest hereunder shall not merge in the fee simple title and this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

(J) **Maximum Indebtedness.** Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed an amount equal to \$8,600,000; provided, however, in no event shall Mortgagee be obligated to advance funds in excess of the face amount of the Note.

(K) **Complete Agreement; No Reliance; Modifications.** This Mortgage, the Note and the other Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof. Mortgagor acknowledges that it is executing this Mortgage without relying on any statements, representations or warranties, either oral or written, that are not expressly set forth herein. This Mortgage and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by both Mortgagor and Mortgagee.

(L) **Captions.** The captions and headings of various Sections of this Mortgage and exhibits pertaining hereto are for convenience only and are not to be considered as defining or limiting in any way the scope or intent of the provisions hereof.

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

(N) **Execution of Counterparts.** This Mortgage may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(O) **Construction.** Each party to this Mortgage and legal counsel to each party have participated in the drafting of this Mortgage, and accordingly the general rule of construction to the effect that any ambiguities in a contract are to be resolved against the party drafting the contract shall not be employed in the construction and interpretation of this Mortgage.

(P) **Construction Loan.** The Note evidences a debt created by one or more disbursements made by Lenders to Borrowers to finance the cost of the construction of certain improvements upon the Real Estate in accordance with the provisions of the Loan Agreement, and this Mortgage is a construction mortgage as such term is defined in Section 9-313(1)(c) of the Code. The terms and conditions recited and set forth in the Loan Agreement are fully incorporated in this Mortgage and made a part hereof, and an Event of Default under any of the conditions or provisions of the Loan Agreement shall constitute a default hereunder. Upon the occurrence of any such Event of Default, the

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holder of the Note may at its option declare the Indebtedness immediately due and payable, or complete the construction of said improvements and enter into the necessary contracts therefor, in which case all money expended shall be so much additional Indebtedness and any money expended in excess of the amount of the original principal shall be immediately due and payable with interest until paid at the Default Rate. In the event of a conflict between the terms of the Loan Agreement and this Mortgage, the provisions of the Loan Agreement shall apply and take precedence over this Mortgage.

(Q) **Consent to Jurisdiction.** TO INDUCE MORTGAGEE TO ACCEPT THE NOTE, MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITS IN CHICAGO, ILLINOIS. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO MORTGAGOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

(R) **Waiver of Jury Trial.** MORTGAGOR AND MORTGAGEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS MORTGAGE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS MORTGAGE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. MORTGAGOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST MORTGAGEE OR ANY OTHER PERSON INDEMNIFIED UNDER THIS MORTGAGE ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

21. **Definitions of Certain Terms.** The following terms shall have the following meanings in this Agreement:

City: The City of Des Plaines, an Illinois home rule municipal corporation.

City Mortgage: Mortgage dated July 2, 2004, from the Borrowers to the City recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on August 9, 2004, as Document No. 0422245128, and the City Subordination and Standstill Agreement relating thereto dated as of December 1, 2004, between Mortgagee and the City, recorded

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in the Office of the Recorder of Deeds of Cook County, Illinois, on the date of the recording of this Mortgage.

Hedging Agreements: The following: (i) any ISDA Master Agreement between any Borrower and LaSalle (on its own behalf and not as agent for Lenders) or any other provider relating to the Loan, (ii) any Schedule to Master Agreement between any Borrower and LaSalle (on its own behalf and not as agent for Lenders) or any other provider relating to the Loan, and (iii) all other agreements entered into from time to time by any Borrower and LaSalle (on its own behalf and not as agent for Lenders) or any other provider relating to Hedging Transactions in connection with the Loan.

Hedging Transaction: Any transaction (including an agreement with respect thereto) now existing or hereafter entered into between any Borrower and LaSalle (on its own behalf and not as agent for Lenders) or any other provider relating to the Loan which is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures.

Redevelopment Agreement: The Redevelopment Agreement dated as of July 21, 2003, by and between the City and TDC&JFA, as assigned by TDC&JFA to Borrowers by the Redevelopment Agreement Assignments.

Redevelopment Agreement Assignments: The following: (i) the Assignment of Rights under Redevelopment Agreement dated as of July 27, 2004, from TDC&JFA to MS Parent; (ii) the Assignment of Rights under Redevelopment Agreement dated as of July 22, 2004, from TDC&JFA to Mortgagor; (iii) the Assignment of Rights under Redevelopment Agreement dated as of July 22, 2004, from TDC&JFA to MS Residential; (iv) the Assignment of Rights under Redevelopment Agreement dated as of July 22, 2004, from MS Parent to Mortgagor; (v) the Assignment of Rights under Redevelopment Agreement dated as of July 22, 2004, from TDC&JFA to MS Residential; (vi) the Assignment of Rights under Redevelopment Agreement dated December 17, 2004, from MS Parent to Mortgagor; (vii) the Assignment of Rights under Redevelopment Agreement dated December 17, 2004, from MS Residential to Mortgagor; (viii) the Confirmation Concerning Assignment of Rights under Redevelopment Agreement dated December 17, 2004, by and among TDC&JFA, MS Parent, Mortgagor and MS Residential; and (ix) the Assignment of Rights under Redevelopment Agreement dated December 17, 2004, from TDC&JFA to Borrowers.

Redevelopment Documents –

(i) The Redevelopment Agreement dated as of January 6, 2003, by and between the City and TDC&JFA, as assigned by TDC&JFA to Borrowers by one of Redevelopment Agreement Assignments;

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- (ii) The Redevelopment Agreement;
- (iii) The Redevelopment Agreement Assignments;
- (iv) The City Mortgage;
- (v) The Planned Unit Development approved by the City by Ordinance Z-15-04;
- (vi) The agreement of the City to contribute an additional \$1,200,000 to the additional cost of Building D (as defined in the Loan Agreement), as set forth in the minutes of the April 8, 2004, meeting of the City Council of the City;
- (vii) The Letter Agreement dated December 16, 2004 (revising the time schedule exhibits to the Redevelopment Agreement); and
- (viii) Any and all other documents relating to the development of the Improvements which are binding on any of Borrowers, whether by virtue of agreements by such Borrowers with the City, or deed restrictions or other recorded covenants, conditions and restrictions, or otherwise.


TDC&JFA: TDC & JFA Des Plaines LLC, an Illinois limited liability company.

**[SIGNATURE PAGE(S) AND EXHIBIT(S),
IF ANY, FOLLOW THIS PAGE]**

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IN WITNESS WHEREOF, Mortgagor has executed and delivered this Mortgage the day and year first above written.

**METROPOLITAN SQUARE COMMERCIAL,
INC.**

By: 
Name: THOMAS H. FRAERMAN
Title: VP

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STATE OF ILLINOIS)
)
 COUNTY OF COOK) SS

The foregoing instrument was acknowledged before me this 22nd day of December 2004, by THOMAS H. FRAERMAN, Vice President, of Metropolitan Square Commercial, Inc., an Illinois corporation, on behalf of the corporation.



[Handwritten Signature]

 Notary Public

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EXHIBIT B

PERMITTED EXCEPTIONS

1. General real estate taxes for the year 2003 and each year thereafter not yet due and payable.
2. Exceptions listed in Part 1 of Exhibit B to the Loan Agreement.

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EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

PARCEL 1:

LOTS A AND B IN METROPOLITAN SQUARE PHASE I, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 6, 2004, AS DOCUMENT NUMBER 0421944064, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 1 (EXCEPT THE EASTERLY 7 FEET AS MEASURED PERPENDICULAR TO THE EASTERLY LINE THEREOF) IN HENRY C. SENNE'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Tax Index Numbers:

Addresses:

Parcel 1:

09-17-411-001-0000
 09-17-411-005-0000
 09-17-411-006-0000
 09-17-411-007-0000
 09-17-411-008-0000
 09-17-411-009-0000
 09-17-411-010-0000
 09-17-411-011-0000
 09-17-411-012-0000
 09-17-411-013-0000
 09-17-411-014-0000
 09-17-414-003-0000
 09-17-414-004-0000
 09-17-414-005-0000
 09-17-414-006-0000
 09-17-414-007-0000
 09-17-414-008-0000
 09-17-414-012-0000
 09-17-414-016-0000

Parcel 1:

Bounded by Market Street, Des Plaines River
 Road, Perry Street and Lee Street
 Des Plaines, Illinois

Parcel 2:

520 Perry
 Des Plaines, Illinois

Parcel 2:

09-17-404-024-0000