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Cook County Recorder of Deeds
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NET LEASE FUNDING 2005, LP, a Delaware limited partnership, as mortgagor
(Borrower)

to

WELLS FARGO BANK, N.A.,
AS INDENTURE TRUSTEE, as mortgagee
(Lender)

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

Effective Date: As of March 4, 2005

Location: As referenced on annexed
Schedule of Properties

PREPARED BY:

DANIEL F. MCINTOSH, ESQ.
LOWNDES, DROSDICK, DOSTER,
KANTOR & REED, P.A.
450 SOUTH ORANGE AVENUE
SUITE 800
ORLANDO, FLORIDA 32801
(407) 843-4600

UPON RECORDATION RETURN TO:

LANDAMERICA NATIONAL COMMERCIAL SERVICES
450 SOUTH ORANGE AVENUE
SUITE 170
ORLANDO, FLORIDA 32801
ATTENTION: CHRISTI PAWLAK
(407) 835-4373

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SCHEDULE OF PROPERTIES

Asset No.	Franchise Concept	Address	City	County	State	Tax Parcel ID No.	Interest in Parcel
4168	Carlos O'Kelly's	2105 North Veterans Parkway	Bloomington	McLean	IL	41-14-26-402-003	Fee
654	IHOP	7240 West 79th Street	Bridgeview	Cook	IL	18-25-406-016	Fee
807	IHOP	51 McHenry Road	Buffalo Grove	Lake	IL	15-33-301-022	Fee
184	IHOP	101 South Randall Road	Elgin	Kane	IL	06-169-352-008	Fee
94	Chippers Grill	1733 North Bloomington Street	Streator	LaSalle	IL	33-24-300-037	Fee

Property of Cook County Clerk's Office

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THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (the "Security Instrument") is made as of March 4, 2005, by NET LEASE FUNDING 2005, LP, a Delaware limited partnership, having its principal place of business at CNL Center at City Commons, 450 South Orange Avenue, Orlando, Florida 32801-3336, as mortgagor ("Borrower") to WELLS FARGO BANK, N.A., AS INDENTURE TRUSTEE, a national banking association, having an address at 11000 Broken Land Parkway, Columbia, Maryland 21044-3562, as mortgagee ("Lender"), for the benefit of the noteholders (the "Noteholders") pursuant to that certain Indenture of even date herewith between Borrower and Lender (the "Indenture").

RECITALS:

Borrower by certain notes of even date herewith given pursuant to the terms of the Indenture (the notes together with all extensions, renewals or modifications thereof hereinafter collectively referred to as the "Note") is indebted to the Noteholders in the principal sum of TWO HUNDRED SEVENTY-FIVE MILLION AND NO/100 DOLLARS (\$275,000,000.00) (the "Loan") in lawful money of the United States of America, with interest from the date thereof at the rates set forth in the Note and the Indenture, principal and interest to be payable in accordance with the terms and conditions provided in the Note and the Indenture.

Borrower desires to secure the payment of the Debt (as defined in Article 2) and the performance of all of its obligations under the Note and the Indenture and the Other Obligations (as defined in Article 2).

ARTICLE 1 - GRANTS OF SECURITY

Section 1.1 PROPERTY MORTGAGED. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Lender, its successors, assigns and transferees, with power of sale, and grant a security interest to Lender in, the following property, rights, interests and estates now owned, or hereafter acquired by Borrower, if any (collectively, the "Property"):

(a)(i) Fee Parcels. The real property described in Exhibit "A" attached hereto and made a part hereof (the "Fee Parcel(s)");

(a)(ii) Leasehold Parcels. Each lease described in Exhibit "B" annexed hereto (each, a "Ground Lease") and the leasehold estate created thereby in the real property described therein and in Exhibit "B" attached hereto which is made a part hereof (the "Leasehold Parcel(s)" and, together with the Fee Parcel(s), hereinafter sometimes collectively referred to as the "Land"), including all assignments, modifications, extensions and renewals of each Ground Lease and all credits, deposits, options, privileges and rights of Borrower as tenant under each Ground Lease, including, but not limited to, the right, if any, to renew or extend each Ground Lease for a succeeding term or terms, and also including all the right, title, claim or demand whatsoever of Borrower either in law or in equity, in possession or expectancy, of, in and to Borrower's right, as tenant under each Ground Lease, to elect under Section 365(h)(1) of the Bankruptcy Code, Title 11 U.S.C.A. § 101 *et seq.* (the "Bankruptcy Code") to terminate or treat each Ground Lease as terminated, or to retain the tenant's rights under each Ground Lease, in the event (i) of the

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bankruptcy, reorganization or insolvency of the landlord under such Ground Lease (the "Owner"), and (ii) the rejection of such Ground Lease by the Owner, as debtor in possession, or by a trustee for the Owner, pursuant to Section 365 of the Bankruptcy Code;

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (the "Improvements");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and/or the Improvements, including, but not limited to, with respect to each Leasehold Parcel, those arising under and by virtue of the related Ground Lease, and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto, and all rights and easements, expressed or implied, to use and maintain for the benefit of the Property all drains, basins, sewers, pipes, conduits, wires and other facilities that furnish utility or other services to the same;

(e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures, all goods which are or are to become fixtures on the Land, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, and all elevators and related machinery and equipment, fire prevention and extinguishing apparatus, all underground storage tanks, pumps, hoses, canopies, and other petroleum dispensing equipment, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants, and all water, water rights, and water stock appurtenant to the Property), and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Land and the

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Improvements (collectively, the “Personal Property”), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the “Uniform Commercial Code”), and all proceeds and products of the above;

(f) Leases and Rents. All leases, subleases and other agreements affecting the use, enjoyment or occupancy of the Land and/or the Improvements heretofore or hereafter entered into and all extensions, amendments and modifications thereto, whether before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (the “Leases”) and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, any guaranties of the tenants’ obligations thereunder, cash or securities deposited thereunder to secure the performance by the tenants of their obligations thereunder and all rents, additional rents, percentage rents, royalties, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (subject however to the assignment of rents to Lender herein) (the “Rents”), and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt, and all of Borrower’s claims and rights to the payment of damages arising from any rejection by a tenant of any Lease under the Bankruptcy Code.

(g) Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Property (individually, a “Policy” and collectively, the “Policies”), including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(h) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(i) Tax Certiorari. All refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(k) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(l) Agreements. All agreements, contracts, certificates, instruments, guaranties, warranties, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use,

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occupancy, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right to receive and collect any sums payable to Borrower thereunder, and all deposits or other security or advance payments made by Borrower with respect to any of the services related to the Land or the Improvements thereon or the operation thereof;

(m) Intangibles. All trade names, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property; and

(n) Other Rights. Any and all proceeds, and any and all other rights of Borrower in and to the items set forth in Subsections (a) through (m) above and any and all of the proceeds resulting from the foregoing Section 1.1.

Section 1.2 ASSIGNMENT OF LEASES AND RENTS. Borrower hereby absolutely and unconditionally assigns to Lender, Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of this Section 1.2 and Section 10.1(h), Lender grants to Borrower a revocable license to collect and receive the Rents. Such license may only be revoked by Lender in accordance with the provisions of Section 10.1(h). Borrower shall hold a portion of the Rents sufficient to discharge all current sums due on the Debt for use in the payment of such sums.

Section 1.3 SECURITY AGREEMENT. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations (defined in Section 2.3), a security interest in the Personal Property to the full extent that the Personal Property may be subject to the Uniform Commercial Code. Borrower agrees that Lender may file this Security Instrument or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Security Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements as well as extensions, renewals and amendments thereof, and reproductions of this Security Instrument in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto.

Section 1.4 FIXTURE FILING. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Security Instrument, and this Security Instrument, upon being filed for record in the real

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estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

Section 1.5 PLEDGE OF MONIES HELD. Borrower hereby pledges to Lender and grants a security interest in any and all monies now or hereafter held by Lender, including, without limitation, any sums deposited into escrow for the payment of taxes and insurance premiums pursuant to the Indenture, net proceeds of any insurance award, and condemnation awards or payments described in Section 3.5, and all Rents held pursuant to the Indenture, as additional security for the Obligations until expended or applied as provided in this Security Instrument, the Indenture or the Other Security Documents.

Section 1.6 CONDITIONS TO GRANT. TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender, and the successors and assigns of Lender, forever, provided, however, with respect to any Ground Lease and related Leasehold Parcel, such period shall be for and during the rest, residue and remainder of the term of years yet to come and unexpired in the Ground Lease and any renewals therein provided for; subject nevertheless to the rents, covenants, conditions and provisions of such Ground Lease; PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note, the Indenture and this Security Instrument, shall well and truly perform the Other Obligations as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note and the Indenture, these presents and the estate hereby granted shall cease, terminate and be void.

ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 DEBT. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the payment of the following, in such order of priority as Lender may determine in its sole discretion (the "Debt"):

- (a) the indebtedness evidenced by the Note and the Indenture in lawful money of the United States of America;
- (b) interest, default interest, late charges and other sums, as provided in the Note, this Security Instrument, the Indenture or the Other Security Documents (defined below);
- (c) the Defaulted Interest rate (as defined in the Note and in the Indenture), if any;
- (d) all other moneys agreed or provided to be paid by Borrower in the Note, this Security Instrument, the Indenture or the Other Security Documents;
- (e) all sums advanced pursuant to this Security Instrument to protect and preserve the Property and the lien and the security interest created hereby; and
- (f) all sums advanced and costs and expenses incurred by Lender in connection with the Debt or any part thereof, any renewal, extension, or change of or substitution for the Debt or

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any part thereof, or the acquisition or perfection of the security therefor, whether made or incurred at the request of Borrower or Lender.

Section 2.2 OTHER OBLIGATIONS. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the performance of the following (the “Other Obligations”):

- (a) all other obligations of Borrower contained herein;
- (b) each obligation of Borrower contained in the Note, in the Indenture or the Other Security Documents; and
- (c) each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, this Security Instrument, the Indenture or the Other Security Documents.

Section 2.3 DEBT AND OTHER OBLIGATIONS. Borrower’s obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively below as the “Obligations.”

ARTICLE 3 - BORROWER COVENANTS

Borrower covenants and agrees that:

Section 3.1 PAYMENT OF DEBT. Borrower will pay the Debt at the time and in the manner provided in the Note, the Indenture and in this Security Instrument.

Section 3.2 INCORPORATION BY REFERENCE. All the representations, warranties, covenants, conditions and agreements contained in (a) the Note, (b) the Indenture, and (c) all and any of the documents other than the Note, this Security Instrument or the Indenture now or hereafter executed by Borrower and/or others and by or in favor of Lender, including the Other Mortgages (as defined in Section 10.14), which wholly or partially secure or guaranty payment of or relate to the Note (the “Other Security Documents”), are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 INSURANCE. Borrower shall comply with all of the terms and provisions and shall maintain, or cause to be maintained, with respect to the Property the Policies required pursuant to the Indenture.

Section 3.4 PAYMENT OF TAXES, ETC. Subject to the provisions of Articles IX and X of the Indenture, Borrower shall (a) promptly pay or cause each tenant under the Leases to pay (i) all taxes, assessments, water rates, sewer rents, governmental impositions, and other charges, including without limitation vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Land, now or hereafter levied or assessed or imposed against the Property or any part thereof (the “Taxes”), (ii) all maintenance charges and similar charges, now or hereafter levied or assessed or imposed against the Property or any part thereof (the “Other Charges”), and (iii) all charges for utility services provided to the Property as same become due and payable, and (b) promptly pay or cause tenants under the related Leases to pay all ground rents payable under any Ground Lease (“Ground Rent”). Borrower will deliver to Lender,

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promptly upon Lender's request, evidence satisfactory to Lender that the Taxes, Ground Rent, Other Charges and utility service charges have been so paid or are not then delinquent. Borrower shall not suffer and shall promptly cause to be paid and discharged any lien or charge whatsoever which may be or become a lien or charge against the Property.

Section 3.5 CONDEMNATION. Borrower shall promptly give Lender notice of the actual or threatened commencement of any material condemnation or eminent domain proceeding which would result in a permanent reduction in the rents payable by a tenant under the related Lease and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note, the Indenture and in this Security Instrument and the Debt shall not be reduced until any award or payment therefor shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Borrower shall cause the award or payment made in any condemnation or eminent domain proceeding, which is payable to Borrower, to be paid directly to Lender. Lender shall not be limited to the interest paid on the award by the condemning authority but shall be entitled to receive out of the award interest at the rate or rates provided herein, in the Note or in the Indenture. Lender may apply any award or payment in accordance with, and subject to, the terms of the Indenture and that certain property management agreement among Borrower, Lender, and CNL Financial Services, LP dated as of March 4, 2005 (the "Property Management Agreement"). If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the award or payment, Lender shall have the right, whether or not a deficiency judgment on the Note (to the extent permitted in the Note or herein) shall have been sought, recovered or denied, to receive the award or payment, or a portion thereof sufficient to pay the Debt.

Section 3.6 RESTORATION AFTER CASUALTY/CONDEMNATION. If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, or if the Property or any material portion thereof is taken by the power of eminent domain, Borrower shall promptly commence and diligently prosecute or shall cause the tenant under the applicable Lease to promptly commence and diligently prosecute the completion of the repair and restoration of the Property as nearly as possible to the condition the Property was in immediately prior to such fire or other casualty or taking, with such alterations as may be approved by Lender (the "Restoration") in accordance with the terms of the related Lease. Borrower shall give prompt notice of any material taking or casualty to Lender (if required by Section 3.5). Lender shall have the right to apply any insurance proceeds or any condemnation award related to such damage or taking in accordance with, and subject to, the provisions of the Indenture, the related Lease, and the Property Management Agreement.

Section 3.7 LEASES AND RENTS. All proposed Leases shall be subject to Borrower's continued compliance with all of the terms and conditions of the Indenture and the Property Management Agreement. Borrower, at Lender's request, shall furnish Lender with executed copies of all Leases hereafter made of all or any part of the Property. Except to the extent otherwise expressly set forth under the Indenture, Borrower agrees faithfully to perform all its obligations under all present and future Leases at any time assigned to Lender as additional

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security, and to refrain from any action or inaction which would result in termination of any such Leases or in the diminution of the value thereof or of the Rents due thereunder. All future tenants under any Lease made after the date of recording of this Security Instrument shall, at Lender's option and without any further documentation, attorn to Lender as lessor if for any reason Lender becomes lessor thereunder, and, Lender shall not be responsible under such Lease for matters arising prior to Lender becoming lessor thereunder. Borrower hereby agrees to authorize and direct the tenants named in the Leases or any other or future tenants or occupants of the Property and all lease guarantors to pay over to Lender or to such other party as Lender directs all Rents and all sums due under any lease guaranties from and after the date hereof, and to continue so to do until otherwise notified by Lender.

Section 3.8 MAINTENANCE AND USE OF PROPERTY. Borrower shall, or shall cause the tenant under each Lease, to maintain the Property in a good and safe condition and repair. The Improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Personal Property and except as may be permitted under the Leases) without the consent of Lender. Borrower shall, or shall cause the tenant under each Lease (subject to the terms and conditions of such Lease) to, promptly repair, replace or rebuild any part of the Property which may be destroyed by any casualty, or become damaged, worn or dilapidated or which may be affected by any proceeding of the character referred to in Section 3.5 hereof and shall, or shall cause the tenant under each Lease to, complete and pay for any structure at any time in the process of construction or repair on the Land. Borrower shall not subdivide the Property or initiate, join in, acquiesce in, or consent to any change in any zoning classification, private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property or any part thereof. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, (a) Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender and (b) Borrower shall provide an "Ordinance or Law Coverage" or "Enforcement" endorsement to the Policies in accordance with the requirements set forth in the Indenture.

Section 3.9 WASTE. Borrower shall not commit or suffer, nor allow any tenant under any Lease to commit or suffer, any waste of the Property or make, or allow any tenant under any Lease to make, any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action, or allow any tenant under any Lease to take any action, that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way impair the value of the Property or the security of this Security Instrument. Borrower will not, without the prior written consent of Lender, permit (where Borrower's permission is required) any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.10 COMPLIANCE WITH LAWS. Borrower shall, or shall cause the tenant under each Lease to, promptly comply with all existing and future federal, state and local laws, orders, ordinances, governmental rules and regulations or court orders affecting the Property, or the use thereof ("Applicable Laws").

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Section 3.11 PAYMENT FOR LABOR AND MATERIALS. Borrower shall, or shall cause the tenant under each Lease to, promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property and never permit to exist in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof, except for the Permitted Exceptions (defined below).

Section 3.12 PERFORMANCE OF OTHER AGREEMENTS. Borrower shall observe and perform each and every term to be observed or performed by Borrower pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Property (including, without limitation, each Lease) or given by Borrower to Lender for the purpose of further securing an Obligation and any amendments, modifications or changes thereto.

Section 3.13 MAINTAIN EXISTENCE. Borrower shall continuously maintain its existence and right to do business in the state in which the Property is located.

ARTICLE 4 - REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender that:

Section 4.1 WARRANTY OF TITLE. Borrower has good and marketable title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Borrower possesses (a) a fee simple absolute estate in each Fee Parcel and the Improvements thereon, and (b)(i) a leasehold estate in each Leasehold Parcel created by and pursuant to the provisions of the corresponding Ground Lease, and (ii) good title to the Improvements thereon, and that it, in each case, owns the Property free and clear of all liens, encumbrances and charges whatsoever except for those exceptions shown in the title insurance policy insuring the lien of this Security Instrument (the "Permitted Exceptions"). Borrower further represents and warrants that (w) each Ground Lease is in full force and effect and has not been modified or amended in any manner whatsoever except as set forth on Exhibit "B," (x) there are no defaults under any Ground Lease and no event has occurred which but for the passage of time, or notice, or both would constitute a default under any Ground Lease, (y) all rents, additional rents and other sums due and payable under each Ground Lease have been paid in full, and (z) neither Borrower nor the landlord under each Ground Lease has commenced any action or given or received any notice for the purpose of terminating the Ground Lease. Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all persons whomsoever.

Section 4.2 BUSINESS PURPOSES. The Loan is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

Section 4.3 ILLEGAL ACTIVITY. No portion of the Property has been or will be purchased, improved, equipped or furnished with proceeds of any illegal activity and to the best of Borrower's knowledge, there are no illegal activities or activities relating to controlled substance at the Property.

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ARTICLE 5 - OBLIGATIONS AND RELIANCES

Section 5.1 RELATIONSHIP OF BORROWER AND LENDER. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of the Note, the Indenture, this Security Instrument and the Other Security Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

Section 5.2 NO RELIANCE ON LENDER. The members, general partners, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 5.3 NO LENDER OBLIGATIONS. Notwithstanding the provisions of Subsections 1.1(f) and (l) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents. By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Note, the Indenture or the Other Security Documents, including without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 5.4 RELIANCE. Borrower recognizes and acknowledges that in accepting the Note, this Security Instrument, the Indenture and the Other Security Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth herein, in the Indenture and in the Other Security Documents without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof; that the warranties and representations are a material inducement to Lender in accepting the Note, this Security Instrument, the Indenture and the Other Security Documents; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth herein, in the Indenture and in the Other Security Documents.

ARTICLE 6 - FURTHER ASSURANCES

Section 6.1 RECORDING OF SECURITY INSTRUMENT, ETC. Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the Other Security Documents creating a lien or security interest or evidencing the lien hereof upon the Property 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 fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation,

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execution, acknowledgment and/or recording of the Note, this Security Instrument, the Indenture, the Other Security Documents, any note, bond or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 6.2 FURTHER ACTS, ETC. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the Property and rights hereby mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Applicable Laws. Borrower, on demand, will execute and deliver and hereby authorizes Lender, following 10 days' notice to Borrower, to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements, chattel mortgages or other instruments, to evidence more effectively the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender pursuant to this Section 6.2.

Section 6.3 CHANGES IN TAX, DEBT CREDIT AND DOCUMENTARY STAMP LAWS.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender (other than taxes based on Lender's income) or unenforceable or provide the basis for a defense of usury, then Lender shall have the option, exercisable by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes, Ground Rents or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, exercisable by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security

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Instrument, the Indenture or any of the Other Security Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

ARTICLE 7 - DUE ON SALE/ENCUMBRANCE

Section 7.1 NO SALE/ENCUMBRANCE. Except as may be permitted by the terms of the Indenture or the Property Management Agreement, Borrower agrees that Borrower shall not, without the prior written consent of Lender, (a) sell, convey, mortgage, grant, bargain, encumber, pledge, assign, or otherwise transfer the Property or any part thereof or permit the Property or any part thereof to be sold, conveyed, mortgaged, granted, bargained, encumbered, pledged, assigned, or otherwise transferred, other than pursuant to Leases of space in the Improvements to tenants in accordance with the provisions of Section 3.7, or (b) permit the voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, grant of any options with respect to, or any transfer or disposition of (directly or indirectly, by operation of law or otherwise) of a legal or beneficial ownership interest in Borrower or any partners of Borrower.

ARTICLE 8 - PREPAYMENT; RELEASE OF PROPERTY

Section 8.1 PREPAYMENT. The Debt may not be prepaid in whole or in part except in strict accordance with the express terms and conditions of the Note and the Indenture.

Section 8.2 RELEASE OF PROPERTY. Borrower shall not be entitled to a release of any Fee Parcel or Leasehold Parcel from the lien of this Security Instrument except in accordance with terms and conditions of the Indenture and the Property Management Agreement.

ARTICLE 9 - DEFAULT

Section 9.1 EVENTS OF DEFAULT. The term "Event of Default" as used in this Security Instrument shall have the meaning assigned to such term in the Indenture.

ARTICLE 10 - RIGHTS AND REMEDIES

Section 10.1 REMEDIES. Upon the occurrence of any Event of Default, subject to the provisions of the Indenture, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security

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Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;

(d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, in one or more parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Indenture or the Other Security Documents;

(f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument, the Indenture or the Other Security Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower or of any person, firm or other entity liable for the payment of the Debt;

(h) subject to any applicable law, the license granted to Borrower under Section 1.2 shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property first to the costs, if any, of taking control of and managing the Property and collecting the rents (including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligations or liabilities of Borrower as lessor or landlord of the Property), and then to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid

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operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Personal Property or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Personal Property, and (ii) the right to request Borrower at its expense to assemble the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Personal Property sent to Borrower in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) apply any sums held in escrow or otherwise by Lender in accordance with the terms of this Security Instrument, the Indenture or any Other Security Document to the payment of the following items in any order in its sole discretion: (i) Taxes, Ground Rents and Other Charges; (ii) insurance premiums for the Policies; (iii) interest on the unpaid principal balance of the Note; (iv) amortization of the unpaid principal balance of the Note; (v) all other sums payable pursuant to the Note, this Security Instrument, the Indenture and the Other Security Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument, the Indenture and the Other Security Documents;

(k) surrender the Policies maintained pursuant to Article 3 hereof, collect the unearned insurance premiums for the Policies and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Borrower to collect such insurance premiums;

(l) apply the undisbursed balance of any sums deposited with Lender by Borrower to cover deficiencies in connection with a Restoration, as set forth in the Indenture, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion; or

(m) pursue such other remedies as Lender may have under applicable law.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

Section 10.2 APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument, the Indenture or the Other Security Documents, may be applied by Lender to the payment of the Debt according to the terms of the Note, the Indenture or the Other Security Documents.

Section 10.3 RIGHT TO CURE DEFAULTS. Upon the occurrence of any Event of Default or if Borrower fails to make any payment or to do any act as herein provided, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without

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releasing Borrower from any obligation hereunder, make such appearances, disburse such sums and take such actions as Lender deems necessary, in its sole discretion to protect Lender's interest, including, but not limited to (a) disbursement of attorney's fees, (b) entry upon the Property to make repairs, (c) procurement of satisfactory insurance as provided in Section 3.3 hereof, (d) if this Security Instrument is on a leasehold, exercise of any option to renew or extend the ground lease on behalf of Borrower and the curing of any default of Borrower in terms and conditions of the ground lease, and (e) the payment of any taxes and/or assessments levied against the Property and then due and payable, in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt. The cost and expense of any cure hereunder (including reasonable attorneys' fees to the extent permitted by law), and any other amounts disbursed by Lender pursuant to this Section 10.3, with interest as provided in this Section 10.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender pursuant to this Section 10.3 shall bear interest at the rate for Defaulted Interest, for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the rate for Defaulted Interest shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the Other Security Documents and shall be immediately due and payable upon demand by Lender therefor.

Section 10.4 ACTIONS AND PROCEEDINGS. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and, after the occurrence and during the continuance of an Event of Default, to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

Section 10.5 RECOVERY OF SUMS REQUIRED TO BE PAID. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

Section 10.6 EXAMINATION OF BOOKS AND RECORDS. Lender, its agents, accountants and attorneys shall have the right, upon prior written notice to Borrower, to examine and audit, during reasonable business hours, the records, books, management and other papers of Borrower and its affiliates which pertain to their financial condition or the income, expenses and operation of the Property, at the Property or at any office regularly maintained by Borrower, or its affiliates where the books and records are located. Lender and its agents shall have the right to make copies and extracts from the foregoing records and other papers.

Section 10.7 OTHER RIGHTS, ETC.

(a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower to take any action to foreclose this Security Instrument or

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otherwise enforce any of the provisions hereof or of the Note, the Indenture or the Other Security Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, the Indenture, this Security Instrument or the Other Security Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

(d) Any entering upon and taking and maintaining of control of the Property by Lender or a receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or provided herein.

Section 10.8 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 10.9 RIGHT OF ENTRY. Subject to the terms and conditions of the Leases, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

Section 10.10 NO LIABILITY OF LENDER. This Security Instrument shall not be construed to bind Lender to the performance of any of the covenants, conditions or provisions contained in any Lease or otherwise impose any obligation upon Lender. Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let the Property after an Event of Default or from any other act or omission of Lender in managing the Property after an Event of Default. This Security Instrument shall not operate to place any obligation or liability for the

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control, care, management or repair of the Property upon Lender, nor for the carrying out of any of the terms and conditions of the Leases; nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

Section 10.11 NO MORTGAGEE IN POSSESSION. Nothing herein contained shall be construed as constituting Lender a “mortgagee in possession” in the absence of the taking of actual possession of the Property by Lender. In the exercise of the powers herein granted Lender, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Borrower.

Section 10.12 SUBROGATION. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Borrower’s obligations hereunder, under the Note, the Indenture and the Other Security Documents and the performance and discharge of the Other Obligations.

Section 10.13 BANKRUPTCY.

(a) Upon or at any time after the occurrence of an Event of Default, Lender shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the tenant under such Lease under the Bankruptcy Code.

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code, and Borrower, as lessor under any Lease or lessee under any Ground Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Lender not less than ten (10) days’ prior notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject the Lease. Lender shall have the right, but not the obligation, to serve upon Borrower within such ten-day period a notice stating that (i) Lender demands that Borrower assume and assign the Lease (or Ground Lease) to Lender pursuant to Section 365 of the Bankruptcy Code and (ii) Lender covenants to cure or provide adequate assurance of future performance under the Lease (or Ground Lease). If Lender serves upon Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the Lease (or Ground Lease) and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Lender of the covenant provided for in clause (ii) of the preceding sentence.

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Section 10.14 CROSS-COLLATERALIZATION. Borrower acknowledges that the Debt is secured by this Security Instrument which encumbers multiple Fee Parcels and/or Leasehold Parcels. Borrower further acknowledges that the Debt is also secured by additional mortgages/deeds of trust (the "Other Mortgages") given to Lender encumbering properties located in other states, all as described in the Indenture and the Property Management Agreement. Upon the occurrence of an Event of Default, Lender shall have the right to institute a proceeding or proceedings for the total or partial foreclosure of this Security Instrument or the Other Mortgages, whether by court action, power of sale or otherwise, under any applicable provision of law, for all of the Debt or any portion thereof, and the lien and the security interest created by this Security Instrument shall continue in full force and effect without loss of priority as a lien and security interest securing the payment of that portion of the Debt then due and payable but still outstanding. Borrower acknowledges and agrees that the Fee Parcels and/or Leasehold Parcels may be located in more than one county, and therefore Lender shall be permitted to enforce payment of the Debt and exercise any and all rights and remedies under this Security Instrument, or as provided by law or at equity, by one or more proceedings, whether contemporaneous, consecutive or both, to be determined by Lender, in its sole discretion, in any one or more of the counties in which the Property is located. Neither the acceptance of this Security Instrument and the enforcement thereof in any one county, nor the acceptance of the Other Mortgages and the enforcement thereof in any other state, whether by court action, foreclosure, power of sale or otherwise, shall prejudice or in any way limit or preclude enforcement by court action, foreclosure, power of sale or otherwise, of this Security Instrument through one or more additional proceedings in that county or in any other county. Any and all sums received by Lender under the Note, the Indenture, this Security Instrument, the Other Security Documents shall be applied to the Debt in such order and priority as Lender shall determine, in its sole discretion, without regard to the Allocated Loan Amount (as defined in the Indenture) for any individual Fee Parcel or Leasehold Parcel or the appraised value of any individual Fee Parcel or Leasehold Parcel.

Section 10.15 OPERATION OF PROPERTY. If the Rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower secured by this Security Instrument. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payments thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

ARTICLE 11 - ENVIRONMENTAL MATTERS

Section 11.1 ENVIRONMENTAL COVENANTS. Borrower shall comply with the covenants regarding environmental matters set forth in Section 10.07 of the Indenture.

Section 11.2 LENDER'S RIGHTS. Lender and any other person or entity designated by Lender, including but not limited to any representative of a governmental entity, and any environmental consultant, and any receiver appointed by any court of competent jurisdiction, shall have the right, but not the obligation, to enter upon the Property at all reasonable times to assess any and all aspects of the environmental condition of the Property and its use, including

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but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lender's sole discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Borrower shall cooperate with and provide access to Lender and any such person or entity designated by Lender.

ARTICLE 12 - WAIVERS

Section 12.1 WAIVER OF COUNTERCLAIM. Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Note, the Indenture or any of the Other Security Documents, or the Obligations.

Section 12.2 MARSHALLING AND OTHER MATTERS. Borrower hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by Applicable Laws.

Section 12.3 WAIVER OF NOTICE. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except (a) with respect to matters for which this Security Instrument or the Indenture specifically and expressly provides for the giving of notice by Lender to Borrower and (b) with respect to matters for which Lender is required by Applicable Laws to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

Section 12.4 WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 12.5 SOLE DISCRETION OF LENDER. Wherever pursuant to this Security Instrument (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the sole discretion of Lender, except as may be otherwise expressly and specifically provided herein.

Section 12.6 WAIVER OF TRIAL BY JURY. BORROWER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN EVIDENCED BY THE NOTE AND THE INDENTURE, THE APPLICATION FOR THE LOAN, THE NOTE, THE INDENTURE, THIS SECURITY INSTRUMENT OR THE OTHER SECURITY DOCUMENTS OR ANY ACTS OR

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OMISSIONS OF LENDER, ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.

ARTICLE 13 - EXCULPATION

Section 13.1 EXCULPATION. The provisions of Section 12.19 of the Indenture are hereby incorporated by reference to the fullest extent as if the text of such Section was set forth in its entirety herein.

ARTICLE 14 - NOTICES

Section 14.1 NOTICES. All notices or other written communications hereunder shall be delivered in accordance with Sections 12.07 and 12.08 of the Indenture.

ARTICLE 15 - APPLICABLE LAW

Section 15.1 CHOICE OF LAW. This Security Instrument shall be governed, construed, applied and enforced in accordance with the laws of the state in which the Property is located.

Section 15.2 PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any Applicable Laws.

ARTICLE 16 - COSTS

Section 16.1 LEGAL FEES FOR ENFORCEMENT. (a) Borrower shall pay all reasonable legal fees incurred by Lender in connection with the preparation of the Note, the Indenture, this Security Instrument and the Other Security Documents, and (b) Borrower shall pay to Lender on demand any and all expenses, including legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Property or in collecting any amount payable hereunder or in enforcing its rights hereunder with respect to the Property, whether or not any legal proceeding is commenced hereunder or thereunder, together with interest thereon at the Defaulted Interest rate from the date paid or incurred by Lender until such expenses are paid by Borrower.

ARTICLE 17 - DEFINITIONS

Section 17.1 GENERAL DEFINITIONS. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any subsequent mortgagee" the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "person" shall include an individual, corporation, partnership, limited liability company, trust, unincorporated association, government, governmental authority, and any other entity, the word "Property" shall include any portion of the Property and

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any interest therein, and the phrases “attorneys’ fees” and “counsel fees” shall include any and all attorneys’, paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

Section 17.2 HEADINGS, ETC. The headings and captions of various Articles and Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

ARTICLE 18 - MISCELLANEOUS PROVISIONS

Section 18.1 NO ORAL CHANGE. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 18.2 LIABILITY. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 18.3 INAPPLICABLE PROVISIONS. If any term, covenant or condition of the Note, the Indenture, this Security Instrument or any of the Other Security Documents is held to be invalid, illegal or unenforceable in any respect, the Note, the Indenture, this Security Instrument or such Other Security Document shall be construed without such provision.

Section 18.4 DUPLICATE ORIGINALS; COUNTERPARTS. This Security Instrument may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Security Instrument may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Security Instrument. The failure of any party hereto to execute this Security Instrument, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 18.5 NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

ARTICLE 19 - GROUND LEASE PROVISIONS

Section 19.1 THE GROUND LEASE. Borrower shall (i) pay, or cause the tenants under the Leases at the related Leasehold Parcel to pay, all rents, additional rents and other sums required to be paid by Borrower, as tenant under and pursuant to the provisions of each Ground Lease and (ii) diligently perform and observe all of the terms, covenants and conditions of each Ground Lease on the part of Borrower (or tenant), as tenant (or subtenant) thereunder and (iii) promptly notify Lender of the giving of any notice by the landlord under any Ground Lease to Borrower of any default by Borrower, as tenant thereunder, and deliver to Lender a true copy

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of each such notice. Borrower shall not, without the prior consent of Lender, surrender the leasehold estate created by any Ground Lease or terminate or cancel any Ground Lease or modify, change, supplement, alter or amend any Ground Lease, in any respect, either orally or in writing, and if Borrower shall default in the performance or observance of any term, covenant or condition of any Ground Lease on the part of Borrower, as tenant thereunder, Lender shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of such Ground Lease on the part of Borrower to be performed or observed on behalf of Borrower, to the end that the rights of Borrower in, to and under such Ground Lease shall be kept unimpaired and free from default. If any Owner shall deliver to Lender a copy of any notice of default under any Ground Lease, such notice shall constitute full protection to Lender for any action taken or omitted to be taken by Lender, in good faith, in reliance thereon. Borrower shall exercise each individual option, if any, to extend or renew the term of each Ground Lease and give written confirmation thereof to Lender within thirty (30) days after such option becomes exercised, and Borrower hereby expressly authorizes and appoints Lender its attorney-in-fact to exercise any such option in the name of and upon behalf of Borrower, which power of attorney shall be irrevocable and shall be deemed to be coupled with an interest.

Borrower shall (a) give immediate written notice to Lender of any remedial proceedings under the Ground Lease by any party thereto and, if required by Lender, shall permit Lender as Borrower's attorney-in-fact to control and act for Borrower in any such remedial proceedings, and (b) within thirty (30) days after request by Lender obtain from the lessor under the Ground Lease and deliver to Lender the lessor's estoppel certificate required thereunder, if any. Borrower hereby expressly transfers and assigns to Lender the benefit of all covenants contained in any Ground Lease, whether or not such covenants run with the land, but Lender shall have no liability with respect to such covenants nor any other covenants contained in such Ground Lease.

Section 19.2 NO MERGER OF FEE AND LEASEHOLD ESTATES; RELEASES. So long as any portion of the Debt shall remain unpaid, unless Lender shall otherwise consent, the fee title to each Leasehold Parcel and the leasehold estate therein created pursuant to the provisions of the related Ground Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Borrower, Owner, or in any other person by purchase, operation of law or otherwise. Lender reserves the right, at any time, to release portions of the Property, including, but not limited to, the leasehold estate created by any Ground Lease, with or without consideration, at Lender's election, without waiving or affecting any of its rights hereunder or under the Note, the Indenture or the Other Security Documents and any such release shall not affect Lender's rights in connection with the portion of the Property not so released.

Section 19.3 BORROWER'S ACQUISITION OF FEE ESTATE. In the event that Borrower, so long as any portion of the Debt remains unpaid, shall be the owner and holder of the fee title to any Leasehold Parcel, the lien of this Security Instrument shall be spread to cover Borrower's fee title to the such Leasehold Parcel and said fee title shall be deemed to be included in the Property. Borrower agrees, at its sole cost and expense, including without limitation, Lender's reasonable attorney's fees, to (i) execute any and all documents or instruments necessary to subject its fee title to such Leasehold Parcel to the lien of this Security Instrument; and (ii)

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provide a title insurance policy which shall insure that the lien of this Security Instrument is a first lien on Borrower's fee title to such Leasehold Parcel.

Section 19.4 BANKRUPTCY EVENTS CONCERNING THE MORTGAGED LEASE(S).

(a) Borrower shall not surrender its leasehold estate and its interest created under any Ground Lease, nor terminate or cancel any Ground Lease. Any attempted surrender, termination or cancellation by Borrower shall be null and void and of no force or effect. If there shall be filed by or against Borrower a petition under the Bankruptcy Code, Borrower, as tenant under any Ground Lease, or any trustee appointed by the Bankruptcy Court in such proceedings, shall immediately (but in no event more than one (1) day after the filing of such petition) notify Lender in writing of Borrower's or the trustee's intent, as the case may be, to assume or reject such Ground Lease pursuant to Section 365(a) of the Bankruptcy Code. If the intent of Borrower or such trustee is to reject such Ground Lease or to take no action under such Section 365(a), and Borrower or the trustee has received notification from Lender that, if such is the case, Lender desires an assignment of such Ground Lease, then:

(i) Borrower (or Lender upon Borrower's failure to do so promptly) shall file, prior to the expiration of the period provided in Section 365(d)(4) of the Bankruptcy Code, a motion with the Bankruptcy Court to assume and assign such Ground Lease to Lender; and

(ii) Borrower shall bear the burden of establishing with the Bankruptcy Court that Borrower can perform as required by Sections 365(b) and (f) of the Bankruptcy Code.

If Borrower notifies Lender of its intent to assume any Ground Lease, Borrower shall not seek to reject such Ground Lease but shall forthwith (and in all events before the expiration of all applicable time periods for such assumption and assignment) obtain consent from the Bankruptcy Court to assume and assign such Ground Lease for the purposes of this paragraph. Borrower agrees that Lender may at any time apply to the Bankruptcy Court for an extension of any time period for the assumption of such Ground Lease by Borrower and that the protection of Lender's security interest in such Ground Lease shall be deemed sufficient cause for such extension and Borrower shall not oppose any application by Lender for such extension. Borrower agrees that, if for any reason any Ground Lease is rejected pursuant to the provisions of Section 365 of the Bankruptcy Code, Borrower will not take the position that such rejection is a termination of such Ground Lease.

(b) If any Owner rejects any Ground Lease pursuant to the Bankruptcy Code, Borrower agrees that it will not elect to treat such Ground Lease as terminated but will elect to remain in possession of the leasehold interest as provided in 11 U.S.C. § 365(h)(1)(A)(ii), make Ground Rent payments subject to allowable setoffs under 11 U.S.C. § 365(h) and retain its rights under such Ground Lease.

(c) If any Ground Lease is canceled or terminated, and Lender or its nominee shall acquire an interest in any new Ground Lease of the Leasehold Parcel demised thereby, Borrower shall have no right, title or interest in or to the new Ground Lease or to the leasehold estate created by such new Ground Lease.

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(d) If any action, proceeding, motion or notice shall be commenced or filed in respect of Owner or the leasehold estate under any Ground Lease in connection with any case (including a case commenced or filed under the Bankruptcy Code), Lender shall have the option, to the exclusion of Borrower, exercisable upon notice from Lender to Borrower, to conduct and control any such litigation with counsel of Lender's choice. Lender may proceed in its own name or in the name of Borrower in connection with any such litigation, and Borrower agrees to execute any and all powers, authorizations, consents or other documents required by Lender in connection therewith. Borrower shall, upon demand, pay to Lender all costs and expenses (including attorneys' fees) paid or incurred by Lender in connection with the prosecution or conduct of any such proceedings. Any such costs or expenses not paid by Borrower as aforesaid shall be secured by the lien of this Security Instrument and shall be added to the principal amount of the indebtedness secured hereby. Borrower shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Ground Lease in any such case without the prior written consent of Lender which consent shall not be unreasonably withheld.

(e) Borrower shall, promptly after obtaining knowledge thereof, notify Lender of any filing by or against any Owner under any Ground Lease of a petition under the Bankruptcy Code. Borrower shall thereafter forthwith give written notice of such filing to Lender, setting forth any information available to Borrower as to the date of such filing, the court in which such petition was filed, and the relief sought therein. Borrower shall promptly deliver to Lender, following receipt, any and all notices, summonses, pleadings, applications and other documents received by Borrower in connection with any such petition and proceeding related thereto.

[NO FURTHER TEXT ON THIS PAGE]

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ARTICLE 20 - SPECIAL ILLINOIS PROVISIONS

Section 20.1 INCONSISTENCIES. In the event of any inconsistencies between this Article 20 of this Security Instrument and any other terms and provisions of this Security Instrument, the terms and conditions of this Article 20 of this Security Instrument shall control and be binding.

Section 20.2 The words ", accessions to and substitutions and replacements for," are hereby added after the words "all proceeds and products of in subsection (e) of Section 1.1 of this Security Instrument entitled "Property Mortgaged."

Section 20.3 The text of Section 1.3 entitled "Security Agreement" is hereby deleted and the following is substituted therefor:

Borrower and Lender agree that this Security Instrument shall constitute a Security Agreement within the meaning of the Uniform Commercial Code with respect to (i) all sums at any time on deposit for the benefit of Lender or held by Lender (whether deposited by or on behalf of Borrower or anyone else) pursuant to any of the provisions of the Note, the Indenture, this Security Instrument or the Other Security Documents and (ii) with respect to the Personal Property, which Personal Property may not be deemed to be affixed to the Property or may not constitute a "fixture" (within the meaning of Section 9-102(41) of the Uniform Commercial Code) and all replacements of, substitutions for, additions to, and the proceeds thereof (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as the "Collateral"), and that a security interest in and to the Collateral is hereby granted to the Lender, and the Collateral and all of Borrower's right, title and interest therein are hereby assigned to Lender, all to secure payment of the Debt. All of the provisions contained in this Security Instrument pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property; and the following provisions of this Section shall not limit the applicability of any other provision of this Security Instrument but shall be in addition thereto:

(a) Borrower (being the Debtor as that term is used in the Uniform Commercial Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefiting Lender and no other party, and liens and encumbrances, if any, expressly permitted by the Other Security Documents;

(b) The Collateral is to be used by Borrower solely for business purposes;

(c) The Collateral will be kept at the Property (except for normal replacement of Personal Property) and will not be removed therefrom without the consent of Lender (being the Secured Party as that term is used in the Uniform Commercial Code). The Collateral may be affixed to the Property but will not be affixed to any other real estate;

(d) The only persons having any interest in the Property are Borrower, Lender and holders of interests, if any, expressly permitted hereby;

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(e) No financing statement (other than financing statements showing Lender 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 Borrower at its own cost and expense, upon demand, will furnish to Lender such further information and will execute and deliver to Lender such financing statements and other documents in form satisfactory to Lender and will do all such acts as Lender 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 Debt, subject to no other liens or encumbrances, other than liens or encumbrances benefiting Lender and no other party and liens and encumbrances, if any, expressly permitted hereby; and Borrower will pay the cost of filing or recording such financing statements or other documents, and this Security Instrument in all public offices wherever filing or recording is deemed by Lender to be desirable;

(f) Upon an Event of Default, Lender shall have the remedies of a secured party under the Uniform Commercial 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 Borrower 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 Uniform Commercial Code); and Lender 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 Borrower's right of redemption in satisfaction of Borrower's obligations, as provided in the Uniform Commercial Code. Lender may render the Collateral unusable without removal and may dispose of the Collateral on the Property. Lender may require Borrower to assemble the Collateral and make it available to Lender for its possession at a place to be designated by Lender which is reasonably convenient to both parties. Lender will give Borrower at least twenty (20) 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 Borrower hereinabove set forth at least twenty (20) days before the time of the sale or disposition. Lender may buy at any public sale. Lender 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 Property. If Lender so elects, the Property 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 Lender, shall be applied against the Debt in such order or manner as Lender shall select. Lender will account to Borrower for any surplus realized on such disposition;

(g) The terms and provisions contained in this Section 1.3, unless the context otherwise requires, shall have the meanings and be construed as provided in the Uniform Commercial Code;

(h) This Security Instrument is intended to be a financing statement within the purview of Section 9-502(c) of the Uniform Commercial Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Property.

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The addresses of Borrower (Debtor) and Lender (Secured Party) are hereinabove set forth. This Security Instrument is to be filed for recording with the recorder of deeds of the county or counties where the Property is located. Borrower is the record owner of the Property;

(i) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between Borrower or its 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 Borrower, as lessor thereunder; and

(j) The address of Borrower, from which information concerning the security interests in the Collateral may be obtained, is set forth on page 1 of this Security Instrument.

Section 20.4 INTEREST RATE. The following clause shall be added after the word "interest" in the first time it appears in subsection 2.1(b) of this Security Instrument:

", which rate of interest may vary from time to time during the term of the loan secured hereby,"

Section 20.5 The words "by operation of law or otherwise" are hereby added after the words "pledge, assign, or otherwise transfer" and the words "pledged, assigned, or otherwise transferred" in Section 7.1 of this Security Instrument entitled "No Sale/Encumbrance."

Section 20.6 INTENTIONALLY DELETED.

Section 20.7 The text of Section 12.1 of this Security Instrument entitled "WAIVER OF COUNTERCLAIM" is hereby deleted and the following is substituted therefor:

BORROWER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN EVIDENCED BY THE NOTE, THE INDENTURE, THIS SECURITY INSTRUMENT OR THE OTHER SECURITY DOCUMENTS OR ANY ACTS OR OMISSIONS OF LENDER, ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.

Section 20.8 WAIVERS. Section 12.2 of this Security Instrument shall be deemed deleted and replaced with the following:

"12.2 WAIVER OF APPRAISEMENT, VALUATION, STAY, EXTENSION AND REDEMPTION LAWS. Borrower agrees, to the full extent permitted by law, that at all times following an Event of Default, neither Borrower nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, or extension laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Security Instrument or the absolute sale of the Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser there at; and Borrower, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws and any and all right to have the assets comprising the

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Property marshaled upon any foreclosure of the lien hereof and agrees that Lender or any court having jurisdiction to foreclosure such lien may sell the Property in part or as an entirety. To the full extent permitted by law, Borrower hereby waives any and all statutory or other rights of redemption from sale under any order or decree of foreclosure of this Security Instrument, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date hereof."

Section 20.9 USE OF PROCEEDS. Borrower hereby represents and agrees that the proceeds of the Note secured by this Security Instrument will be used for the purposes specified in the Illinois Interest Act, 815 ILCS 205/4(1)(c), and the indebtedness secured hereby constitutes a business loan which comes within the purview of said Section 205/4(c).

Section 20.10 MATURITY DATE. In no event shall the maturity date of the Note be later than February 27, 2012.

Section 20.11 Illinois Security Instrument Foreclosure Law.

(a) In the event any provision in this Security Instrument shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS Sections 5/15-1101 et. seq., Illinois Compiled Statutes) (the "Foreclosure Act"), the provisions of the Foreclosure Act shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Foreclosure Act.

(b) If any provision of this Security Instrument shall grant to Lender any rights or remedies upon default of Borrower which are more limited than the rights that would otherwise be vested in Lender under the Foreclosure Act in the absence of said provision, Lender shall be vested with the rights granted in the Foreclosure Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under Sections 15-1510 and 15-1512 of the Foreclosure Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in Section 11.3 of this Security Instrument, shall be added to the indebtedness secured by this Security Instrument or by the judgment of foreclosure.

Section 20.12 MAXIMUM PRINCIPAL INDEBTEDNESS. Notwithstanding any provision contained herein to the contrary, the maximum principal indebtedness secured by this Security Instrument shall not exceed \$5,360,637.20.

Section 20.13 POWER OF SALE. Any references to "power of sale" in this Security Instrument are permitted only to the extent allowed by law.

Section 20.14 MISCELLANEOUS Borrower acknowledges that the Property does not constitute agricultural real estate as defined in Section 15-1201 of the Foreclosure Act or residential real estate as defined in Section 15-1219 of the Foreclosure Act.

Section 20.15 FUTURE ADVANCES. This Security Instrument is given for the purpose of securing loan advances which the Lender may make to or for Borrower pursuant and subject to

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the terms and provisions of the Indenture. The parties hereto intend that, in addition to any other debt or obligation secured hereby, this Security Instrument shall secure unpaid balances of loan advances made after this Security Instrument is delivered to the Office of the Recorder of the County in which the Property is located, whether made pursuant to an obligation of Lender or otherwise, provided that such advances are within twenty (20) years from the date hereof and in such event, such advances shall be secured to the same extent as if such future advances were made on the date hereof, although there may be no advance made at the time of execution hereof and although there may be no indebtedness outstanding at the time any advance is made. Such loan advances may or may not be evidenced by notes executed pursuant to the Indenture.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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IN WITNESS WHEREOF, THIS SECURITY INSTRUMENT has been executed by Borrower as of the day and year first above written.

Signed, sealed and delivered in the presence of:

NET LEASE FUNDING 2005, LP, a Delaware limited partnership

Name: *Regis T. Shamah*

BY: **NET LEASE FUNDING 2005, LLC**, a Delaware limited liability company, as General Partner

Name: *Keith Cooper*

By: *Robert E. Lawless*
Name: Robert E. Lawless
Title: Senior Vice President

STATE OF New York
COUNTY OF New York

This 3rd day of March, 2005, personally came before me, Jeanne Kwak, Notary Public for said County and State, Robert Lawless, who, being by me duly sworn, says that he/she is the Senior Vice President of **NET LEASE FUNDING 2005, LLC**, a Delaware limited liability company, as General Partner of **NET LEASE FUNDING 2005, LP**, a Delaware limited partnership, and that said writing was signed by him/her on behalf of said limited liability company by its authority duly given. And, he acknowledged the said writing to be the act and deed of said limited liability company.

WITNESS my hand and official seal this 3rd day of March, 2005.

(NOTARY SEAL)

Jeanne Kwak
Notary Public, State of New York

Printed Name: JEANNE KWAK
Notary Commission No. No. 01KW6103901
My Commission Expires: Commission Expires 01/12/20

UNOFFICIAL COPY**EXHIBIT "A"****PARCEL 1:**

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTH 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 25, 604.08 FEET EAST OF THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25; THENCE NORTH 154.03 FEET ALONG A LINE PARALLEL TO THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 25, TO A POINT; THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE WHOSE RADIUS IS 963 FEET CONVEXED SOUTHEASTERLY, AND THE CENTER OF SAID CURVED LINE BEING 1095 FEET NORTH OF THE SOUTH LINE AND 925 FEET WEST OF THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 25, A DISTANCE OF 58.25 FEET, MORE OR LESS, TO THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 25; THENCE SOUTH ON SAID EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, 168.30 FEET TO THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 25; THENCE WEST ALONG SAID SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 25, 57.10 FEET TO THE PLACE OF BEGINNING, ALSO

THE WEST 134 FEET OF THE SOUTH 379.26 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPTING THEREFROM THAT PORTION THEREOF DEDICATED FOR HIGHWAY PURPOSES BY DOCUMENT NUMBER 18158724, RECORDED MAY 10, 1961.

PARCEL 2:

CROSS EASEMENT AGREEMENT FOR THE BENEFIT OF PARCEL 1 RECORDED SEPTEMBER 05, 2001 AS DOCUMENT 0010823804.

IHOP**7240 West 79th Street****Bridgeview, Cook County, IL****Tax Parcel ID#: 18-25-406-016****CNL Asset#: 654****Title Case#: 04-001335**

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EXHIBIT "B"

(Description of the Ground Lease and the Leasehold Parcels)

NONE

