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MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT (this "Mortgage") is made as of the 22 day of December, 2005, by **AMERICAN FREEHOLDS**, a Nevada general partnership, with a mailing address of c/o Grosvenor Atlantic Limited, 3900 One Embarcadero Center, San Francisco, CA 94111, Attention: Jay Helvey ("**Borrower**") to **THE ROYAL BANK OF SCOTLAND plc**, with a mailing address of 101 Park Avenue, 12th Floor, New York, New York 10178, Attention: Bruce Ferguson, Senior Vice President ("**Lender**"), and pertains to the real estate described in **Exhibit A** attached hereto and made a part hereof (the "**Premises**").

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RECITALS

A. Borrower and Lender entered into that certain Amended and Restated Facility Letter Agreement dated of even date herewith (the "**Facility Letter**"), in connection with a certain Amended and Restated Promissory Note dated of even date herewith (together with all renewals, amendments, supplements, restatements, extensions and modifications thereof and thereto, the "**Note**"), wherein Borrower promises to pay to the order of Lender the principal amount of Thirty Six Million and No/100 Dollars (\$36,000,000.00) in repayment of a loan in the principal amount of Thirty Six Million and No/100 Dollars (\$36,000,000.00) (the "**Loan**"), from Lender in like amount, in accordance with the terms of the Facility Letter and the Note, together with interest thereon, at variable rates of interest and otherwise as set forth in the Facility Letter, which Note is due and payable on or before the Repayment Date (as defined in the Facility Letter).

B. As security for the repayment of the Loan, in addition to this Mortgage, certain other loan documents have been executed and delivered to Lender (the Facility Letter, the Note, this Mortgage, that certain Assignment of Rents and Leases of even date herewith executed by Borrower in favor of Lender, and all other documents or instruments executed and/or delivered by Borrower as additional evidence of, or security for repayment of, the Loan, whether now or hereafter existing, and all renewals, amendments, supplements, restatements, extensions, and modifications thereof and thereto, are hereinafter sometimes collectively referred to as the "**Loan**

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Documents"). The terms and provisions of the other Loan Documents are hereby incorporated herein by this reference.

C. In consideration of the extension of the Loan pursuant to the Facility Letter, and the advances, credits and other financial accommodations heretofore or hereinafter made to Borrower by Lender, Lender has required Borrower hereby to deliver, pledge, assign, transfer, mortgage and warrant to Lender the Mortgaged Property (as that term is hereinafter defined) as security for repayment of the Loan as well as any and all other amounts owed to Lender under the terms of the Loan Documents. All capitalized terms not expressly defined herein shall have the same meanings as set forth in the Loan Documents.

II

THE GRANT

NOW, THEREFORE, to secure (i) the payment of the principal amount of the Note and interest thereon (at variable rates and as otherwise provided in the Facility Letter), late charges, prepayment premium (if any), exit fee (if any), interest rate swap or hedge expenses (if any), reimbursement obligations, fees and expenses for letters of credit issued by Lender for the benefit of Borrower (if any), and other indebtedness evidenced by or owing under the Facility Letter or the Note, any of the other Loan Documents, any interest rate swap or hedge agreement now or hereafter entered into between Borrower and Lender, together with any extensions, modifications, renewals or refinancings of any of the foregoing, (ii) the observance and performance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Borrower or any other obligor to or benefiting Lender which are evidenced or secured by or otherwise provided in the Facility Letter, the Note, this Mortgage or any of the other Loan Documents, and (iii) the reimbursement to Lender of any sums advanced, expended or incurred by Lender pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage, the other Loan Documents, any interest rate swap or hedge agreement, with interest thereon as provided therein or in this Mortgage (all of which are sometimes referred to herein collectively as the "**indebtedness secured hereby**"), Borrower hereby **GRANTS, BARGAINS, ASSIGNS, WARRANTS, CONVEYS and MORTGAGES** to Lender, its successors and assigns, forever all of Borrower's estate, right, title and interest, whether now or hereafter acquired, in and to the Premises, together with the following described property, whether now or hereafter acquired (the Premises, together with a security interest in and a lien on the following described property being hereinafter referred to collectively as the "**Mortgaged Property**"), all of which other property is hereby pledged on a parity with the Premises and not secondarily:

(a) All buildings and other improvements of every kind and description now or hereafter erected or placed thereon and all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Mortgaged Property immediately upon the delivery thereof to the Premises;

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(b) All right, title and interest of Borrower, including, without limitation, any after-acquired title or reversion, in and to the beds of the ways, streets, avenues, sidewalks and alleys adjoining the Premises;

(c) Each and all of the tenements, hereditaments, easements, appurtenances, passages, waters, water courses, riparian rights and any and all other rights, liberties and privileges of the Premises or in any way now or hereafter appertaining thereto, including homestead and any other claim at law or in equity, as well as any after-acquired title, franchise or license and the reversions and remainders thereof;

(d) All leases now or hereafter on or affecting the Premises, whether written or oral, and all agreements for use of the Premises, together with all rents, issues, deposits, profits and other benefits now or hereafter arising from or in respect of the Premises accruing and to accrue from the Premises and the avails thereof;

(e) All fixtures and personal property now or hereafter owned by Borrower and attached to, contained in or used in connection with the Premises or the aforesaid improvements thereon, including, without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, inventory, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring and all renewals or replacements thereof or articles in substitution therefor, whether or not the same be attached to such improvements, it being agreed that all such property owned by Borrower and placed on the Premises or used in connection with the operation or maintenance thereof shall, so far as permitted by law, be deemed for the purpose of this Mortgage to be part of the real estate constituting and located on the Premises and covered by this Mortgage;

(f) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Premises and the other Mortgaged Property, or any part thereof, or to any rights appurtenant thereon;

(g) All compensation, awards, damages, claims, rights of actions and proceeds of or on account of (i) any damage or taking, pursuant to the power of eminent domain, of the Premises and the other Mortgaged Property or any part thereof, (ii) damage to all or any portion of the Premises and the other Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Premises and the other Mortgaged Property or of other property, or (iii) the alteration of the grade of any street or highway on or about the Premises and the other Mortgaged Property or any part thereof; and except as otherwise provided herein, Lender is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and to apply the same toward the payment of the indebtedness and other sums secured hereby;

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(h) All contract rights, general intangibles, actions and rights in action, including, without limitation, all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Premises or the other Mortgaged Property or any part thereof;

(i) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Premises or the other Mortgaged Property;

(j) All contracts now or hereafter entered into by and between Borrower, as owner, and any contractor, or any party, as well as all right, title and interest of Borrower in, to and under any subcontracts, providing for the construction (original, restorative or otherwise) of any of the buildings, structures or improvements to or on the Mortgaged Property or any part thereof, or the furnishing of any building materials, supplies, equipment, goods or labor which are procured or to be procured for use on or in connection with any such construction, whether or not such materials and goods have been delivered to the Premises;

(k) All agreements now or hereafter entered into with any party with respect to architectural, engineering, management, brokerage, promotional, marketing or consulting services rendered or to be rendered with respect to the planning, design, inspection or supervision of the construction, development, management, marketing, promotion, leasing, operation or sale of the Mortgaged Property or any portion thereof;

(l) All building materials and goods which are procured or to be procured for use on or in connection with the Premises or the other the Mortgaged Property, whether or not such materials and goods have been delivered to the Premises;

(m) All plans, specifications, architectural renderings, drawings, licenses, permits, soil test reports, other reports of examinations or analyses, contracts for services to be rendered Borrower, or otherwise in connection with the Premises or the other Mortgaged Property and all other property, contracts, reports, proposals, and other materials now or hereafter existing in any way relating to the Premises or the other Mortgaged Property or construction of additional improvements thereto;

(n) All trademarks, trade names or symbols under which the Premises or the Mortgaged Property is operated or the business of Borrower at the Premises or the Mortgaged Property is conducted;

(o) All deposits (including but not limited to Borrower's rights to deposits with respect to utility services to the Mortgaged Property), and any deposits or reserves hereunder or under any other Loan Document for taxes, insurance or otherwise;

(p) All engineering, accounting, title, legal and other technical or business data concerning the Premises or the Mortgaged Property which are in the possession of Borrower or in which Borrower can otherwise grant a security interest;

(q) All permits, licenses, franchises, certificates, development rights, commitments and rights to utilities, and other rights and privileges obtained by Borrower

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in connection with the Premises or the other Mortgaged Property or any of the other property described herein; provided, however, that any of the foregoing which by its terms or by operation of law is not assignable or would become void, voidable, terminable or revocable if pledged or assigned hereunder is expressly excepted and excluded from the terms of this Mortgage to the extent necessary so as to avoid such violation of law or voidness, avoidability, terminability or revocability;

(r) All books, records and computer software concerning the Premises and the other Mortgaged Property, and the property described in clauses (a) through (q) above; and

(s) The proceeds from any sale, transfer, pledge or other disposition of any or all of the foregoing described Mortgaged Property;

To have and to hold the same unto Lender and its successors and assigns forever, for the purposes and uses herein set forth together with all right to possession of the Premises after the occurrence of any Default (as hereinafter defined in **Paragraph 4.01** hereof) hereunder subject only to the schedule of exceptions, if any, listed in the title insurance policy insuring Lender's interest in the Premises (collectively, "**Permitted Encumbrances**"); Borrower hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the state where the Premises are located (the "State").

BORROWER REPRESENTS, WARRANTS AND COVENANTS to Lender that Borrower is lawfully seized of the Premises, that the same is unencumbered except by the Permitted Encumbrances, if any, and that it has good right, full power and lawful authority to convey and mortgage the same, and that Borrower will warrant and forever defend said parcels and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

If and when the principal amount of the Note and all interest as provided in the Facility Letter has been paid, and Borrower has satisfied all obligations thereunder and under the Facility Letter and the other Loan Documents, then this Mortgage shall be released at the cost of Borrower, but otherwise shall remain in full force and effect.

III

GENERAL AGREEMENTS

3.01 Principal and Interest. Borrower shall pay or cause to be paid promptly when due the principal and interest on the indebtedness evidenced by the Note at the times, at the variable rates and in the manner provided in the Facility Letter, the Note, this Mortgage and the other Loan Documents. Any amount not paid when due hereunder shall accrue interest at the interest rate set forth in Clause 3.2 of the Facility Letter (the "**Default Interest Rate**").

3.02 Property Taxes. Unless Borrower has deposited sufficient funds with Lender in accordance with **Section 3.03** of this Mortgage, Borrower shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer charges, and any other charges that may be asserted against the Mortgaged Property or any part thereof or

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interest therein, and furnish to Lender duplicate receipts therefor within thirty (30) days after payment thereof. Borrower may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes or assessments, provided that:

(a) such contest shall have the effect of preventing the collection of the tax or assessment so contested and the sale or forfeiture of the Mortgaged Property or any part thereof or interest therein to satisfy the same;

(b) Borrower has notified Lender in writing of the intention of Borrower to contest the same before any tax or assessment has been increased by any interest, penalties or costs; and

(c) Borrower has accrued and reserved a sum of money that is sufficient to pay in full such contested tax and assessment and all penalties and interest that might become due thereon.

3.03 Tax Escrow. Upon the occurrence of an uncured default and until such time as the default is cured, Borrower shall, simultaneously with Borrower's monthly payments of interest and principal to Lender deposit monthly with Lender one-twelfth (1/12th) of one hundred ten percent (110%) of the annual real estate taxes as reasonably estimated by Lender from time to time in such manner as Lender may prescribe so as to provide for the current year's real estate tax obligation. If the amount estimated to pay said taxes is not sufficient, Borrower shall pay the difference within five (5) days following Lender's demand therefor. Should Borrower fail to deposit sufficient amounts with Lender to pay such obligations, Lender may, but shall not be obligated to, advance monies necessary to make up any deficiency in order to pay such obligations. Any monies so advanced by Lender shall become so much additional indebtedness secured hereby and shall become immediately due and payable with interest due thereon at the Default Interest Rate. Lender is not obligated to inquire into the validity or accuracy of the real estate tax obligations before making payments of the same and nothing herein contained shall be construed as requiring Lender to advance other monies for said purpose nor shall Lender incur any personal liability for anything it may do or omit to do hereunder. It is agreed that all such payments made, at the option of Lender, shall be (a) held in trust by it without earnings for the payment of the real estate tax obligations; (b) carried in a tax account for the benefit of Borrower and withdrawn by Lender to pay the real estate tax obligations; or (c) credited to the unpaid balance of said indebtedness as received, provided that Lender advances upon this obligation sums sufficient to pay said items as the same accrue and become payable. If such items are held in trust or carried in a tax account for Borrower, the same are hereby pledged together with any other account of Borrower held by Lender to further secure the indebtedness secured hereby, and any officer of Lender is authorized to withdraw the same and apply said sums as aforesaid.

3.04 Payments by Lender. In the event of a Default hereunder, Lender is hereby authorized to make or advance, in the place and stead of Borrower, any payment relating to taxes, assessments, water and sewer charges, and other governmental charges, fines, impositions or liens that may be asserted against the Mortgaged Property or any part thereof, and may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy thereof or into the validity of any tax, assessment, lien, sale, forfeiture

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of title or claim relating thereto. In the event of a Default hereunder, Lender is further authorized to make or advance, in the place and stead of Borrower, any payment relating to any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim, charge or payment, as well as take any and all actions which Lender deems necessary or appropriate on Borrower's behalf whenever, in Lender's sole and absolute judgment and discretion, such payments or actions seem necessary or desirable to protect the full security intended to be created by this Mortgage. In connection with any such advance, Lender is further authorized, at its option, to obtain a continuation report of title or title insurance policy prepared by a title insurance company of Lender's choosing. All payments, costs and other expenses incurred by Lender pursuant to this **Paragraph 3.04**, including without limitation reasonable attorneys' fees, expenses and court costs, shall constitute additional indebtedness secured hereby and shall be repayable by Borrower upon demand with interest at the Default Interest Rate.

3.05 Insurance.

Upon Lender's written request, Borrower shall, at its sole cost and expense, carry and maintain or cause to carry and maintain such other insurance coverage(s) that are commercially practicable and customarily obtained for similar properties, as Lender may, in its reasonable discretion, deem necessary or appropriate, in such amounts, with such companies and in such form as Lender deems satisfactory.

3.06 Condemnation and Eminent Domain. Any and all awards heretofore or hereafter made or to be made to the present or any subsequent owner of the Mortgaged Property by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Mortgaged Property (including any award from the United States government at any time after the allowance of a claim therefor, the ascertainment of the amount thereto, and the issuance of a warrant for payment thereof), are hereby assigned by Borrower to Lender, which awards Lender is hereby authorized to negotiate, collect and receive from the condemnation authorities. Lender is hereby authorized to give appropriate receipts and acquittances therefor. Borrower shall give Lender immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings of which it has knowledge affecting all or any part of the Mortgaged Property (including severance of, consequential damage to or change in grade of streets), and shall immediately deliver to Lender copies of any and all papers served in connection with any such proceedings. Borrower further agrees to make, execute and deliver to Lender, free and clear of any encumbrance of any kind whatsoever, any and all further assignments and other instruments deemed necessary by Lender for the purpose of validly and sufficiently assigning all awards and other compensation heretofore, now and hereafter made to Borrower for any taking, either permanent or temporary, under any such proceeding. Any such award shall be applied toward the indebtedness secured by this Mortgage or applied toward restoring the Mortgaged Property in accordance with the provisions of and in the same manner as is provided for insurance proceeds in **Paragraph 3.05** hereof. Notwithstanding the foregoing, any expenses, including, without limitation, attorneys' fees and expenses, incurred by Lender in intervening in such action or compromising and settling such action or claim, or collecting such proceeds, shall be reimbursed to Lender first out of the proceeds.

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3.07 Maintenance of Property. No portion of the Mortgaged Property shall be altered, removed or demolished, severed, sold or mortgaged, without the prior written consent of Lender, except in the ordinary course of business. In the event of the demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered by this Mortgage or by any separate security agreement executed in conjunction herewith, the same shall be replaced promptly by similar fixtures, chattels and articles of personal property at least equal in value, quality and condition to those replaced, free from any other security interest therein, encumbrances thereon or reservation of title thereto. Borrower shall promptly repair, restore or rebuild any building or other improvement or any part thereof now or hereafter situated on the Premises that may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for such purpose. Any such building or other improvement or any part thereof shall be repaired, restored or rebuilt so as to be of at least equal value and of substantially the same character as prior to such damage or destruction.

Borrower further agrees not to permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or any part thereof, to keep and maintain the Mortgaged Property and every part thereof in good repair and condition, to effect such repairs as Lender may reasonably require, and, from time to time, to make all necessary and proper replacements thereof and additions thereto so that the Premises and such buildings, other improvements, fixtures, chattels and articles of personal property will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed.

3.08 Compliance with Laws. Borrower shall: (a) comply with, and shall take all necessary timely action to cause each tenant to comply with, all statutes, ordinances, regulations, rules, orders, decrees and other requirements relating to the Mortgaged Property, or any part thereof, by any federal, state or local authority, including, without limitation, the Americans with Disabilities Act of 1990 (including without limitation enforcing all of its rights as the landlord under the Leases, if necessary to cause such compliance), and (b) observe and comply with, and shall take all necessary timely action to cause each tenant to observe and comply with, all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, without limitation, zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions that are applicable to the Mortgaged Property or that have been granted to or contracted for by Borrower in connection with any existing or presently contemplated use of the Mortgaged Property or any part thereof (including without limitation enforcing all of its rights as the landlord under the Leases, if necessary to cause such compliance). Borrower shall not initiate or acquiesce in any changes to or termination of any of the foregoing or of zoning design actions affecting the use of the Mortgaged Property or any part thereof without the prior written consent of Lender.

3.09 Liens and Transfers. Without Lender's prior written consent, Borrower shall not, directly or indirectly, create, suffer or permit to be created or filed or to remain against the Mortgaged Property, or any part thereof, hereafter any mortgage lien or other lien, encumbrance or charge on, pledge of, or conditional sale or other title retention agreement with respect to the Mortgaged Property, whether superior or inferior to the lien of this Mortgage; provided, however, that Borrower may, within thirty (30) days after the filing thereof, contest in good faith by appropriate legal or administrative proceedings any lien claim arising from any work performed, material furnished or obligation incurred by Borrower upon furnishing Lender, at

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Lender's request, a bond issued by a company approved by Lender in its sole and absolute discretion covering the lien claim, or an endorsement, at Lender's request, to Lender's title insurance policy insuring Lender's interest in the Premises insuring over said lien claim, each in form and substance satisfactory to Lender in its sole and absolute discretion, or such other security and indemnification satisfactory to Lender, in its sole and absolute discretion, for the final payment and discharge thereof. In the event Borrower hereafter creates, suffers or permits any superior or inferior lien to be attached to the Mortgaged Property or any part thereof without such consent or without furnishing security as aforesaid, Lender shall have the unqualified right, at its option, to accelerate the maturity of the Note, causing the entire principal balance thereof and all interest accrued thereon to be immediately due and payable.

If Borrower, without Lender's prior written consent, sells, leases, transfers, conveys, assigns, pledges, hypothecates or otherwise disposes of the title to all or any portion of the Mortgaged Property, whether by operation of law, voluntarily or otherwise, or any interest (beneficial or otherwise) thereto, or enters into any agreement to do any of the foregoing, Lender shall have the unqualified right, at its option, to accelerate the maturity of the Note, causing the entire principal balance and accrued interest to be immediately due and payable. Without limiting the generality of the foregoing, each of the following events shall be deemed a sale, transfer, conveyance, assignment, pledge, hypothecation or other disposition prohibited by the foregoing sentence:

- (a) if Borrower is a corporation, any sale, conveyance, assignment or other transfer of all or any portion of the stock of such corporation, that results in a material change in the identity of the person(s) or entities in control of such corporation, or any corporation which controls any of Borrower;
- (b) if Borrower is a partnership, any sale, conveyance, assignment or other transfer of all or any portion of the partnership interest of Borrower or any entity or entities in control of Borrower, or any partnership which controls Borrower;
- (c) if Borrower is a limited liability company, any sale, conveyance, assignment or other transfer of a controlling interest, directly or indirectly, of a manager interest or membership interest of any manager or member, as the case may be, of Borrower;
- (d) any sale, conveyance, assignment or other transfer of all or any portion of the stock, partnership or membership interest of any entity directly or indirectly in control of any corporation, partnership or limited liability company constituting any of Borrower or any corporation, partnership or limited liability company which controls Borrower;
- (e) any hypothecation of all or any portion of any stock, partnership or membership (or manager, as the case may be) interest of any of Borrower, or of all or any portion of the stock, partnership or membership (or manager, as the case may be) interest of any entity directly or indirectly in control of such corporation, partnership or limited liability company or any corporation, partnership or limited liability company which controls Borrower;

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(f) if Grosvenor Atlantic Limited fails to maintain a minimum of ten percent (10%) equity ownership in Borrower; and

(g) if a Grosvenor Atlantic Limited affiliated entity shall no longer act as manager of the Mortgaged Property; provided, however, that in such event only, Lender shall refrain from accelerating the maturity of the Note for a period not to exceed six (6) months commencing on the date the Grosvenor Atlantic Limited affiliated entity ceases to act as manager of the Mortgaged Property.

Any waiver by Lender of the provisions of this **Paragraph 3.09** shall not be deemed to be a waiver of the right of Lender in the future to insist upon strict compliance with the provisions hereof.

3.10 Subrogation to Prior Lienholder's Rights. If the proceeds of the Loan secured hereby or any part thereof, or any amount paid out or advanced by Lender is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property or any part thereof, then Lender shall be subrogated to the rights of the holder thereof in and to such other lien or encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

3.11 Lender's Dealings with Transferee. In the event of the sale or transfer, by operation of law, voluntarily or otherwise, of all or any part of the Mortgaged Property, Lender shall be authorized and empowered to deal with the vendee or transferee with regard to the Mortgaged Property, the indebtedness secured hereby and any of the terms or conditions hereof as fully and to the same extent as it might with Borrower, without in any way releasing or discharging Borrower from its covenants hereunder, specifically including those contained in **Paragraph 3.09** hereof, and without waiving Lender's right of acceleration pursuant to **Paragraph 3.09** hereof.

3.12 Stamp Taxes. If at any time the United States government or any federal, state or municipal governmental subdivision requires Internal Revenue or other documentary stamps, levies or any tax on this Mortgage or on the Facility Letter or the Note, or requires payment of the United States Interest Equalization Tax on any of the indebtedness secured hereby, then such indebtedness and all interest accrued thereon shall be and become due and payable, at the election of the Lender, thirty (30) days after the mailing by Lender of notice of such election to Borrower; provided, however, that such election shall be unavailing, and this Mortgage, the Facility Letter and the Note shall be and remain in effect, if Borrower may and does lawfully pay for such stamps or tax, including interest and penalties thereon, to or on behalf of Lender.

3.13 Change in Tax Laws. In the event of the enactment, after the date of this Mortgage, of any law of the state in which the Premises are located deducting from the value of the Premises, for the purpose of taxation, the amount of any lien thereon, or imposing upon Lender the payment of all or any part of the taxes, assessments, charges or liens hereby required to be paid by Borrower, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Borrower's interest in the Mortgaged Property, or the manner of collection of taxes, so as to affect this Mortgage or the indebtedness secured hereby or the holder thereof, then Borrower, upon demand by Lender, shall pay such taxes, assessments, charges or

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liens, or reimburse Lender therefor; provided, however, that if, in the opinion of counsel for Lender, it might be unlawful to require Borrower to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Lender may elect, by notice in writing given to Borrower, to declare all of the indebtedness secured hereby to become due and payable thirty (30) days after the giving of such notice. Nothing contained in this **Paragraph 3.13** shall be construed as obligating Lender to pay any portion of Borrower's federal, state and local income tax.

3.14 Inspection of Property. Borrower shall permit Lender and its representatives and agents to inspect the Mortgaged Property from time to time upon reasonable prior telephonic notice during normal business hours and as frequently as Lender considers reasonable.

3.15 Inspection of Books and Records. Borrower shall keep and maintain full and correct books and records showing in detail the income and expenses of the Mortgaged Property and after demand therefor by Lender shall permit Lender and its agents and representatives to visit its offices, discuss its financial affairs with its officers and independent public accountants whether or not any representative of Borrower is present and to examine such books and records and all supporting vouchers and data, copies of any leases, encumbering the Premises and such other information as Lender may deem reasonably necessary or appropriate at any time and from time to time on Lender's request at Borrower's offices, at the address hereinabove identified or at such other location as may be reasonably requested by Lender.

3.16 Financial Information. Borrower shall deliver, or cause to be delivered, to Lender, such financial information as is required under Clause 10.5 of the Facility Letter, and such other information as may be required by Lender from time to time. Borrower agrees, upon Lender's request, to provide Lender, its agents or employees with access to Borrower's business premises, books and records for purposes of auditing such books and records, provided said audit shall be conducted during Borrower's normal business hours.

3.17 Acknowledgment of Debt. Borrower shall furnish from time to time, within ten (10) days after Lender's request, a written statement, duly acknowledged, specifying the amount due under the Note, this Mortgage and any of the other Loan Documents and disclosing whether any alleged offsets or defenses exist against the indebtedness secured hereby.

3.18 Other Amounts Secured; Maximum Indebtedness. Borrower acknowledges and agrees that this Mortgage secures the entire principal amount of the Note and interest accrued thereon, regardless of whether any or all of the loan proceeds are disbursed on or after the date hereof, and regardless of whether the outstanding principal is repaid in whole or part and future advances made at a later date, as well as any amounts owed to Lender pursuant to **Paragraphs 3.02 and 3.04** hereof, any and all litigation and other expenses pursuant to **Paragraphs 4.05 and 4.06** hereof and any other amounts as provided herein or in any of the other Loan Documents, including, without limitation, the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or paid or incurred by Lender in connection with the Loan, all in accordance with the loan commitment issued in connection with this transaction and the Loan Documents; under no circumstances, however, shall the total indebtedness secured hereby exceed \$72,000,000.00. It is agreed that any future advances made by Lender for the benefit of Borrower from time to time under this

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Mortgage or the other Loan Documents and whether or not such advances are obligatory or are made at the option of Lender, made at any time from and after the date of this Mortgage, and all interest accruing thereon, shall be equally secured by this Mortgage and shall have the same priority as all amounts, if any, advanced as of the date hereof and shall be subject to all of the terms and provisions of this Mortgage. This Mortgage shall be valid and have priority to the extent of the full amount of the indebtedness secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Mortgaged Property given priority by law.

3.19 Declaration of Subordination. At the option of Lender, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Mortgaged Property upon the execution by Lender and recording thereof, at any time hereafter, in the appropriate official records of the county wherein the Premises are situated, of a unilateral declaration to that effect.

3.20 Releases. Lender, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens thereon, may release from the liens of Lender all or any part of the Mortgaged Property, or release from liability any person or entity obligated to repay any indebtedness secured hereby, without in any way affecting the liability of any party pursuant to the Note, this Mortgage or any of the other Loan Documents, including, without limitation, any guaranty given as additional security for the indebtedness secured hereby, and without in any way affecting the priority of the lien of this Mortgage, and may agree with any party liable therefor to extend the time for payment of any part or all of such indebtedness. Any such agreement shall not in any way release or impair the lien created by this Mortgage or reduce or modify the liability of any person or entity obligated personally to repay the indebtedness secured hereby, but shall extend the lien hereof as against the title of all parties having any interest, subject to the indebtedness secured hereby, in the Mortgaged Property.

3.21 Borrower's Representations. In addition to the representations and warranties set forth in Clause 9 of the Facility Letter, Borrower hereby represents, warrants and covenants to Lender that:

(a) Borrower is lawfully seized of the Mortgaged Property hereby mortgaged, granted and conveyed and has the right to mortgage, grant and convey the Mortgaged Property, that the Mortgaged Property is unencumbered except by the Permitted Encumbrances, if any, and that Borrower will represent, warrant and defend generally the title to the Mortgaged Property, or any portion thereof, against any and all claims and demands, subject only to the Permitted Encumbrances, if any.

(b) If required by applicable law or title company requirements, Borrower will qualify to do business in the State of Illinois as soon as practicable.

3.22 Utilities. Borrower will (except to the extent paid by lessees) pay all utility charges incurred in connection with the Premises and all improvements thereon, and shall maintain all utility services now or hereafter available for use at the Premises.

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3.23 Hazardous Waste. (a) Borrower represents, warrants, covenants and agrees, to the best of its knowledge, after due inquiry, that:

(i) Except as otherwise set forth in the Environmental Report and except for small amounts of materials and substances customarily and routinely used in office buildings, (A) there are no Hazardous Substances at, upon, over or under the Mortgaged Property, or, to the best of its knowledge, at, upon, over, or under those parcels of real estate adjacent to the Mortgaged Property, and (B) during the period of ownership of the Mortgaged Property by Borrower, and to the best of its knowledge, prior to Borrower's acquisition of its interest therein, there have not been any Hazardous Substances at, upon, over or under the Mortgaged Property or, to the best of its knowledge, at, upon, over or under those parcels of real estate adjacent to the Mortgaged Property; and

(ii) (A) the Mortgaged Property is in compliance with all Environmental Laws; (B) Borrower shall comply with all Environmental Laws and Environmental Permits; (C) Borrower shall require its tenants and others operating on the Mortgaged Property to comply with Environmental Laws and Environmental Permits; (D) Borrower shall provide Lender immediate notice of any correspondence, notices, demands or communications of any nature whatsoever received by Borrower relating to any alleged or actual violation, or any investigation of any alleged or actual violation, of any Environmental Law, or relating to any alleged or actual presence of Hazardous Substances at, under, over or under the Mortgaged Property or adjacent real estate (except for the presence of small amounts of materials and substances customarily and routinely used in office buildings), and to immediately provide Lender copies of any such correspondence, notices, demands or communications which are in writing; and (E) Borrower shall advise Lender in writing as soon as Borrower becomes aware of any condition or circumstance which makes any of Borrower's representations or warranties contained herein incomplete or inaccurate; and

(iii) all necessary Environmental Permits pertaining to the Mortgaged Property have been obtained by the appropriate party, and all reports, notices and other documents required under any Environmental Law in connection with the Mortgaged Property have been filed; and

(iv) Borrower is not a party to any litigation or administrative proceeding arising under any Environmental Law in connection with the Mortgaged Property or adjacent real estate, nor, to the best knowledge of Borrower, is there any such litigation or proceeding contemplated or threatened; and

(v) Borrower and the Mortgaged Property are free from any judgment, decree, order or citation related to or arising out of any Environmental Law.

In the event Lender determines in its reasonable discretion that there is any evidence that any circumstance might exist, whether or not described in any communication or notice

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to either Borrower or Lender, Borrower agrees, at its own expense and at the request of Lender, to permit an environmental audit to be conducted by Lender or an independent agent selected by Lender. This provision shall not relieve Borrower from conducting its own environmental audits or taking any other steps necessary to comply with any Environmental Law or Environmental Permits. If, in the opinion of Lender, there exists any uncorrected violation of any Environmental Law or Environmental Permits or any condition which requires or may require any cleanup, removal or other remedial action under any Environmental Law, and such cleanup, removal or other remedial action is not completed within sixty (60) days from the date of written notice from Lender to Borrower, the same shall, at the option of Lender constitute a Default hereunder, without further notice or cure period.

(b) Borrower hereby represents, warrants and certifies to Lender that: (i) there are no above ground storage tanks ("ASTs") or underground storage tanks ("USTs") at, upon, over or under the Mortgaged Property which are subject to the notification requirements under Section 9002 of the Solid Waste Disposal Act, as amended (42 U.S.C. §6991); (ii) there is no facility located on or at the Mortgaged Property which is subject to the reporting requirements of Section 312 of the Federal Emergency Planning and Community Right to Know Act of 1986, as amended, and the federal regulations promulgated thereunder (42 U.S.C. §11022), (iii) during the periods of ownership of the Mortgaged Property by Borrower and prior to Borrower's acquisition of its interest therein, there have been no ASTs or USTs at, upon, over or under the Mortgaged Property, and (iv) Borrower will not cause or allow any ASTs or USTs to be installed at, upon, over or under the Mortgaged Property.

(c) Borrower agrees to indemnify, defend and hold harmless Lender and any and all current, future or former officers, directors, employees, representatives and agents, and each of their respective successors and assigns, from and against any and all Environmental Losses in any way arising from: (i) any breach of any covenant, representation or warranty in this **Paragraph 3.23**; (ii) any Environmental Liability; (iii) any failure to obtain or comply with any Environmental Permit; (iv) any Release; (v) any Management; (vi) any Environmental Condition; (vii) the presence of any Hazardous Substance at any property other than the Mortgaged Property which is present due to either (A) any direct or indirect transportation whatsoever of a Hazardous Substance from the Mortgaged Property, or by Borrower, to the property at which such Hazardous Substance is present or (B) migration or other movement from the Mortgaged Property to such other property of a Hazardous Substance Released at the Mortgaged Property; and (viii) any Response arising out of or in connection with any of the matters described in this **Paragraph 3.23(c)**. Any and all amounts owed by Borrower to Lender under this **Paragraph 3.23(c)** shall constitute additional indebtedness secured hereby.

(d) The following definitions apply throughout this Mortgage:

(i) The term "**Environmental Condition**" shall mean the presence of any Hazardous Substance at, upon, over, under or emanating from the Mortgaged Property, any other real estate to which any Hazardous Substance has migrated

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from the Mortgaged Property or any other real estate whatsoever to which any Hazardous Substance has been transported from the Mortgaged Property.

(ii) The term "**Environmental Laws**" shall mean all federal, state and local laws, statutes, rules, regulations, ordinances, permits, guides, orders and consent decrees relating to health, safety and environmental matters as now exist and as may be enacted or amended after the date hereof. Such laws and regulations include, but are not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, as amended; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.*, as amended ("**CERCLA**"); the Toxic Substance Control Act, 15 U.S.C. §2601 *et seq.*, as amended; the Clean Water Act 33 U.S.C. §1251 *et seq.*, as amended; the Clean Air Act, 42 U.S.C. §7401 *et seq.*, as amended; federal, state and local environmental cleanup programs; federal, state and local environmental lien programs; the Occupational Safety and Health Act of 1970, 29 U.S.C. §651 *et seq.*, as amended ("**OSHA**"); and U.S. Department of Transportation regulations applicable to the transportation of Hazardous Substances.

(iii) The term "**Environmental Liability**" shall mean any and all liabilities, whether fixed, absolute, or contingent, arising under any Environmental Law or arising under or in connection with any Environmental Permit or Environmental Condition; any and all claims of any nature whatsoever by a third party (including but not limited to governmental agencies) arising in any way under any Environmental Law or arising under or in connection with any Environmental Permit or Environmental Condition, including but not limited to demands for environmental cleanup, investigation or corrective action; any and all Environmental Losses incurred or sustained as a direct or indirect result of alleged or actual violations of Environmental Laws or Environmental Permits; any and all alleged or actual Environmental Conditions; any and all Releases; any and all Management; or any and all Responses.

(iv) The terms "**Environmental Loss**" or "**Environmental Losses**" shall mean any and all costs, expenses and expenditures, including, without limitation, court costs and reasonable attorneys', experts' and consultants' fees and costs of litigation or any other losses whatsoever, including, without limitation, costs and expenses of investigation, cleanup, prevention of migration, monitoring, evaluating, assessment, removal or remediation of Hazardous Substances whether or not such costs or expenses are incurred in response to any governmental or third party action, claim or directive; damages; punitive damages actually awarded; obligations; deficiencies; liabilities, whether fixed, absolute, accrued, contingent or otherwise and whether direct, primary or secondary, known or unknown; claims; encumbrances; penalties; demands; assessments; and judgments.

(v) The term "**Environmental Permit**" shall mean authorization by any governmental entity to conduct activities governed in whole or in part by one or more Environmental Laws.

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(vi) The term "**Hazardous Substance**" shall mean hazardous substances, hazardous wastes, hazardous waste constituents, by-products, hazardous materials, hazardous chemicals, extremely hazardous substances, pesticides, oil and other petroleum products and toxic substances, including, without limitation, asbestos and PCBs, as those terms are defined pursuant to or encompassed by any Environmental Law or by trade custom and usage.

(vii) The terms "**Manage**", "**Managed**" or "**Management**" shall mean the generation, handling, manufacturing, processing, treatment, storing, use, reuse, refinement, recycling, reclaiming, blending, burning, recovery, incineration, accumulation, transportation, transfer, disposal, release or abandonment of any Hazardous Substances, by any person at any property (including but not limited to facilities or properties other than the Mortgaged Property, as applicable).

(viii) The terms "**Release**", "**Released**" or "**Releases**" shall mean any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of any Hazardous Substance at, upon, over or from the Mortgaged Property, any other real estate to which any Hazardous Substance has migrated from the Mortgaged Property or any other real estate whatsoever to which any Hazardous Substance has been transported from the Mortgaged Property.

(ix) The terms "**Respond**" or "**Response**" shall mean any action taken by any person, whether or not in response to a governmental or third party action, claim or directive, to correct, remove, remediate, clean up, prevent migration of, monitor, evaluate, investigate or assess, as appropriate, any Release of a Hazardous Substance, Environmental Condition, Management or actual or alleged violation of an Environmental Law or Environmental Permit.

(e) Any provisions of this Mortgage to the contrary notwithstanding, the representations, warranties, covenants, agreements and indemnification obligations contained in this **Paragraph 3.23** shall survive the foreclosure of the lien of this Mortgage by Lender or a third party or the conveyance thereof by deed in lieu of foreclosure and shall not be limited to the amount of any deficiency in any foreclosure sale of the Mortgaged Property, and all indicia of termination of the relationship between Borrower and Lender, including, but not limited to, the repayment of all amounts due under the Facility Letter and under the Loan evidenced Note, the cancellation of the Note, satisfaction of any guaranty, and the release of this Mortgage.

3.24 Assignment of Rents. (a) As further security for the repayment of the Note, and any amounts due pursuant to this Mortgage, Borrower does hereby sell, assign and transfer to Lender all rents, leases, issues, deposits and profits now due and which may hereinafter become due under or by reason of any lease or any letting of, or any agreement for the use, sale, or occupancy of the Premises or any portion thereof (whether written or verbal), which may have been heretofore or may hereafter be made or agreed to or which may be made or agreed to by Lender under the powers herein granted,

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including without limitation sale contracts, leases, escrow and other agreements, it being Borrower's intention hereby to establish an absolute transfer and assignment of all such leases, contracts, escrows and agreements pertaining thereto (such leases, contracts, escrows and agreements being collectively referred to hereinbelow as "**agreements**" and any such individual lease, contract, escrow or other agreement being referred to hereinbelow as an "**agreement**"), and all the avails thereof, to Lender.

Borrower does hereby irrevocably appoint Lender as its true and lawful attorney in its name and stead (with or without taking possession of the Premises) to rent, lease, let, or sell all or any portion of the Premises to any party or parties at such price and upon such term as Lender in its sole and absolute discretion may determine, to exercise any and all rights including rights of first refusal and options of any Borrower to purchase and otherwise acquire title to all or any part of the Mortgaged Property, and to collect all of such rents, issues, deposits, profits and avails now due or that may hereafter become due under any and all of such agreements or other tenancies now or hereafter existing on the Premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Lender would have upon taking possession of the Premises pursuant to the provisions set forth hereinbelow.

This assignment confers upon Lender a power coupled with an interest and it cannot be revoked by Borrower.

(b) Borrower represents and agrees that without the prior written consent of the Lender, which consent shall not be unreasonably withheld, no rent for right of future possession will be paid by any person in possession of any portion of the Premises in excess of one installment thereof paid in advance and that no payment of rents to become due for any portion of the Premises has been or will be waived, conceded, released, reduced, discounted, or otherwise discharged or compromised by Borrower, except in the ordinary course of business. Borrower waives any right of set-off against any person in possession of any portion of the Premises. Borrower agrees that it will not assign any of such rents, issues, profits, deposits or avails.

(c) Borrower further agrees to assign and transfer to Lender all future leases and agreements pertaining to all or any portion of the Premises and to execute and deliver to Lender, immediately upon demand of Lender, all such further assurances and assignments pertaining to the Premises as Lender may from time to time require.

(d) Borrower shall, at its own cost: (i) at all times perform and observe all of the covenants, conditions and agreements of the lessor under the terms of any or all leases or similar agreements affecting all or any part of the Premises; (ii) at all times enforce and secure the performance and observance of all of the material covenants, conditions and agreements of the lessees under the terms of any or all of said leases or other agreements, except in the ordinary course of business; (iii) appear in and defend any action or other proceeding arising out of or in any manner connected with said leases and other agreements, and to pay any and all costs of Lender incurred by reason of or in connection with said proceedings, including, without limitation, reasonable attorneys' fees, expenses and court costs; and (iv) promptly furnish Lender with copies of any

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notices of default either sent or received by Borrower under the terms of or pursuant to any of said leases or other agreements.

(e) Although it is the intention of Borrower and Lender that the assignment, including, without limitation, the power of attorney appointment, contained in this **Paragraph 3.24** is a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Lender shall not exercise any of the rights and powers conferred upon it herein unless and until a Default hereunder has occurred and is continuing, or a condition which with the passage of time or giving of notice or both, would constitute a Default hereunder.

(f) Lender, in the exercise of the rights and powers conferred upon it herein, shall have full power to use and apply the rents, issues, deposits, profits and avails of the Premises to the payment of or on account of the following, in such order as Lender may, in its sole and absolute discretion determine:

(i) operating expenses of the Premises (including, without limitation, all costs of management, sale and leasing thereof, which shall include reasonable compensation to Lender and its agents, if management be delegated thereto, reasonable attorneys' fees, expenses and court costs, and lease or sale commissions and other compensation and expenses of seeking and procuring tenants or purchasers and entering into leases or sales), establishing any claims for damages, and premiums on insurance authorized hereinabove;

(ii) taxes, special assessments, water and sewer charges on the Premises now due or that may hereafter become due;

(iii) any and all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Premises (including, without limitation, the cost from time to time of installing or replacing personal property therein, and of placing the Premises in such condition as will, in the sole judgment of Lender, make them readily rentable or salable);

(iv) any indebtedness secured hereby or any deficiency that may result from any foreclosure sale pursuant thereto; and

(v) any remaining funds to Borrower or its successors or assigns, as their interests and rights may appear.

(g) Borrower does further specifically authorize and instruct each and every present and future lessee or purchaser of all or any portion of the Premises to pay all unpaid rentals or deposits agreed upon in any lease or agreement pertaining to the Premises to Lender upon receipt of demand from Lender to pay the same without any further notice or authorization by Borrower, and Borrower hereby waives any rights or claims it may have against any lessee by reason of such payments to Lender.

(h) Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any lease or

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agreement pertaining to the Premises, and Borrower shall and does hereby agree to indemnify and hold Lender harmless from and against any and all liability, loss and damage that Lender may or might incur under any such lease or agreement or under or by reason of the assignment thereof, as well as any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on Lender's part to perform or discharge any of the terms, covenants or conditions contained in such leases or agreements. Should Lender incur any such liability, loss or damage under any such lease or agreement, or under or by reason of the assignment thereof, or in the defense of any claims or demands relating thereto, Borrower shall reimburse Lender for the amount thereof (including, without limitation, reasonable attorneys' fees, expenses and court costs) immediately upon demand.

(i) Nothing herein contained shall be construed as making or constituting Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Lender pursuant to the provisions set forth herein. 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.

(j) Borrower may not enter into new leases, or materially amend or modify any of the Majority Leases (as defined in the Facility Letter), terminate or cancel any Majority Lease, or accept a voluntary surrender of any Majority Lease, without the prior written consent of Lender, which shall not be unreasonably withheld.

(k) Without limitation of the provisions of **Section 3.25** of this Mortgage or of the absolute nature of the assignment of the rents, leases, issues, deposits and profits as set forth hereinabove, Borrower and Lender agree that (i) this Mortgage shall constitute a "security agreement" for purposes of Section 552(b) of the Bankruptcy Code, (ii) the security interest created by this Mortgage extends to property of Borrower acquired before the commencement of a case in bankruptcy and to all amounts paid as rents, leases, issues, deposits and profits, and (iii) such security interest shall extend to all rents, leases, issues, deposits and profits acquired by the estate after the commencement of any case in bankruptcy. Without limitation of the provisions of **Section 3.25** of this Mortgage or of the absolute nature of the assignment of the rents, leases, issues, deposits and profits hereunder, to the extent Borrower (or Borrower's bankruptcy estate) shall be deemed to hold any interest in any such rents, leases, issues, deposits and profits after the commencement of a voluntary or involuntary bankruptcy case, Borrower hereby acknowledges and agrees that all such rents, leases, issues, deposits and profits are and shall be deemed to be "cash collateral" under Section 363 of the Bankruptcy Code. Borrower may not use the cash collateral without the consent of Lender and/or an order of any bankruptcy court pursuant to 11 U.S.C. 363(c)(2), and Borrower hereby waives any right it may have to assert that such rents, leases, issues, deposits and profits do not constitute cash collateral. No consent by Lender to the use of cash collateral by Borrower shall be deemed to constitute Lender's approval, as the case may be, of the purpose for which such cash collateral was expended.

3.25 Security Agreement.

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(a) This Mortgage shall be deemed a "Security Agreement" as defined in the Uniform Commercial Code of the State of Illinois (the "**Code**"), and creates a security interest in favor of Lender in all property including, without limitation, (i) all sums at any time on deposit for the benefit of Borrower or held by Lender (whether deposited by or on behalf of Borrower or anyone else) pursuant to any of the provisions of this Mortgage or the other Loan Documents, and (ii) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Mortgaged Property or may not constitute a "fixture" (within the meaning of Section 9-102(41) of the Code) which property is hereinafter referred to as "**Personal Property**", and all replacements of, substitutions for, additions to and the proceeds thereof (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "**Collateral**"), and that a security interest in and to the Collateral is hereby granted to 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 indebtedness secured hereby.

(b) All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Mortgaged Property; and the following provisions of this **Paragraph 3.25** shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

(i) Borrower (being the Debtor as that term is used in the 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 Loan Documents.

(ii) The Collateral is to be used by Borrower solely for business purposes.

(iii) The Collateral will be kept at the Mortgaged Property and will not be removed therefrom without the consent of Lender (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Premises but will not be affixed to any other real estate.

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

(v) 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

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as security for the indebtedness secured hereby, 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 instrument, in all public offices wherever filing or recording is deemed by Lender to be desirable.

(c) Borrower and Lender agree that the filing of such a Financing Statement in the records normally having to do with personal property shall not be construed as in any way derogating from or impairing the intention of the parties hereto that everything used in connection with the production of income from the Mortgaged Property or adapted for use therein or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Lender or (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time. Similarly, the mention in any such Financing Statement of (A) the rights in or the proceeds of any fire or hazard insurance policy, or (B) any award in eminent domain proceedings for a taking or for loss of value, or (C) Borrower's interest as lessor in any present or future lease or rights to income growing out of the use or occupancy of the Mortgaged Property whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Lender under this Mortgage or impugning the priority of Lender's lien granted hereby or by any other recorded document, but such mention in the Financing Statement is declared to be for the protection of Lender in the event any court or judge shall at any time hold with respect to (A), (B) and (C) that notice of Lender's priority of interest to be effective against a particular class of persons, including, but not limited to, the Federal Government and any subdivisions or entity of the Federal Government, must be filed in the Code records.

(d) Upon a Default, Lender shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as 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 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 Code. Lender may render the Collateral unusable without removal and may dispose of the Collateral on the Mortgaged 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 ten (10) days notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of

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reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Borrower hereinafter set forth at least ten (10) 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 Mortgaged Property. If Lender so elects, the Mortgaged 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 indebtedness secured hereby in such order or manner as Lender shall select. Lender will account to Borrower for any surplus realized on such disposition.

(e) Borrower shall execute, acknowledge and deliver to Lender, within ten (10) days after request by Lender, any and all security agreements, financing statements and any other similar security instruments reasonably required by Lender, in form and of content reasonably satisfactory to Lender, covering all property of any kind whatsoever owned by Borrower that, in the reasonable opinion of Lender, is essential to the operation of the Mortgaged Property and concerning which there may be any doubt whether title thereto has been conveyed, or a security interest therein perfected, by this Mortgage under the laws of the state in which the Premises are located. Borrower shall further execute, acknowledge and deliver any financing statement, affidavit, continuation statement, certificate or other document as Lender may request in order to perfect, preserve, maintain, continue and extend such security instruments. Borrower further agrees to pay to Lender all fees, costs and expenses (including, without limitation, all reasonable attorneys' fees and expenses and court costs) incurred by Lender in connection with the preparation, execution, recording, filing and re-filing of any such document.

(f) The terms and provisions contained in this **Paragraph 3.25**, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

3.26 Fixture Financing Statement. From the date of its recording, this Mortgage shall be effective as a fixture financing statement within the purview of Section 9.502(b) of the Code with respect to the Collateral and the goods described herein, which goods are or are to become fixtures related to the Mortgaged Property. The addresses of Borrower (Debtor) and Lender (Secured Party) are set forth below. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or the counties where the Mortgaged Property is located. For this purpose, the following information is set forth:

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(a) Name and Address of Debtor:

American Freeholds, c/o Grosvenor Atlantic Limited
3900 One Embarcadero Center
San Francisco, CA 94111
Attention: Jay Helvey

(b) Name and Address of Secured Party:

The Royal Bank of Scotland plc
101 Park Avenue, 12th Floor
New York, New York 10178
Attention: Bruce Ferguson, Senior Vice President

(c) This document covers goods which are or are to become fixtures.

(d) Debtor is the record owner of the Premises.

(e) Debtor's organizational identification number is 93-1001740.

3.27 Interest Laws. It being the intention of Lender and Borrower to comply with the laws of the State of Illinois, it is agreed that notwithstanding any provision to the contrary in the Facility Letter, the Note, this Mortgage or any of the other Loan Documents, no such provision shall require the payment or permit the collection of any amount ("**Excess Interest**") in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by the Note. If any Excess Interest is provided for, or is adjudicated to be provided for, in the Facility Letter, this Mortgage or any of the other Loan Documents, then in such event: (a) the provisions of this **Paragraph 3.27** shall govern and control; (b) neither Borrower nor any other party obligated under the terms of the Facility Letter or any of the other Loan Documents shall be obligated to pay any Excess Interest; (c) any Excess Interest that Lender may have received hereunder shall, at the option of Lender, be (i) applied as a credit against the then unpaid principal balance under the Note, accrued and unpaid interest thereon not to exceed the maximum amount permitted by law, or both, (ii) refunded to the payor thereof, or (iii) any combination of the foregoing; (d) the interest rate (as described in Clause 3 of the Facility Letter) shall be subject to automatic reduction to the maximum lawful contract rate allowed under the applicable usury laws of the aforesaid State, and the Facility Letter, the Note, this Mortgage and the other Loan Documents shall be deemed to be automatically reformed and modified to reflect such reduction in such interest rate; and (e) neither Borrower nor any other party obligated under the terms of the Note or any of the other Loan Documents shall have any action against Lender for any damages whatsoever arising out of the payment or collection of any Excess Interest.

IV

DEFAULTS AND REMEDIES

4.01 Events Constituting Defaults. An "Event of Default", as defined in Clause 11 of the Facility Agreement, shall constitute a default (a "**Default**") under this Mortgage.

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4.02 Acceleration of Maturity. Upon the occurrence of any Default, and after the expiration of any applicable grace period, at the election of Lender, the entire principal balance then outstanding under the Note, together with all unpaid interest accrued thereon and all other sums due from Borrower thereunder, under the Facility Letter, this Mortgage or any other Loan Document shall become immediately due and payable with interest thereon at the Default Interest Rate.

4.03 Foreclosure of Mortgage. Upon the occurrence of any Default, and after the expiration of any applicable grace period or at any time thereafter that the Default is continuing, Lender may, at its option, proceed to foreclose the lien of this Mortgage by judicial proceedings in accordance with the laws of the state in which the Premises are located and to exercise any other remedies of Lender provided herein or in the other Loan Documents, or which Lender may have at law or in equity. Any failure by Lender to exercise such option shall not constitute a waiver of its right to exercise the same at any other time.

4.04 Lender's Continuing Options. The failure of Lender to declare a Default or exercise any one or more of its options to accelerate the maturity of the indebtedness secured hereby and to foreclose the lien hereof following any Default as aforesaid, or to exercise any other option granted to Lender hereunder in any one or more instances, or the acceptance by Lender of partial payments of such indebtedness, shall neither constitute a waiver of any such Default or of Lender's options hereunder nor establish, extend or affect any grace period for payments due under the Facility Letter or the Note, but such options shall remain continuously in force. Acceleration of maturity, once claimed hereunder by Lender, may, at Lender's option, be rescinded by written acknowledgment to that effect by Lender and shall not affect Lender's right to accelerate maturity upon or after any future Default.

4.05 Litigation Expenses. In any proceeding to foreclose the lien of this Mortgage or enforce any other remedy of Lender under the Facility Letter, the Note, this Mortgage, the other Loan Documents or in any other proceeding whatsoever in connection with the Mortgaged Property in which Lender is named as a party, there shall be allowed and included, as additional indebtedness secured hereby in the judgment or decree resulting therefrom, all expenses paid or incurred in connection with such proceeding by or on behalf of Lender, including, without limitation, reasonable attorneys' fees and expenses and court costs, appraiser's fees, outlays for documentary evidence and expert advice, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of such judgment or decree) of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates and any similar data and assurances with respect to title to the Premises as Lender may deem reasonably necessary, and any other expenses and expenditures which may be paid or incurred by or on behalf of Lender and permitted by the IMF Law (as such term is hereinafter defined in **Paragraph 4.09**) to be included in the decree of sale, either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to any such decree the true condition of the title to or value of the Premises or the Mortgaged Property. All expenses of the foregoing nature, and such expenses as may be incurred in the protection of any of the Mortgaged Property and the maintenance of the lien of this Mortgage thereon, including, without limitation, the reasonable fees and expenses of, and court costs incurred by, any attorney employed by Lender in any litigation affecting the Note, this Mortgage or any of the other Loan Documents or any of the Mortgaged Property, or in preparation for the commencement or

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defense of any proceeding or threatened suit or proceeding in connection therewith, shall be immediately due and payable by Borrower with interest thereon at the Default Interest Rate.

4.06 Performance by Lender. In the event of any Default, or in the event any action or proceeding is instituted which materially affects, or threatens to materially affect, Lender's interest in the Mortgaged Property, Lender may, but need not, make any payment or perform any act on Borrower's behalf in any form and manner deemed expedient by Lender, and Lender may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any; purchase, discharge, compromise or settle any tax lien or other prior or junior lien or title or claim thereof; redeem from any tax sale or forfeiture affecting the Mortgaged Property; or contest any tax or assessment thereon. All monies paid for any of the purposes authorized herein and all expenses paid or incurred in connection therewith, including, without limitation, reasonable attorneys' fees and court costs, and any other monies advanced by Lender to protect the Mortgaged Property and the lien of this Mortgage, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable by Borrower to Lender without notice and with interest thereon at the Default Interest Rate from the date an advance is made to and including the date the same is paid. The action or inaction of Lender shall never be construed to be waiver of any right accruing to Lender by reason of any default by Borrower. Lender shall not incur any personal liability because of anything it may do or omit to do hereunder, nor shall any acts of Lender act as a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage or to proceed to foreclose this Mortgage.

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

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

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

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

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

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

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

4.08 Priority of Payments. Any rents, issues, deposits, profits and avails of the Property received by Lender after taking possession of all or any part of the Mortgaged Property, or pursuant to any assignment thereof to Lender under the provisions of this Mortgage shall be applied in payment of or on account of the following, in such order as Lender or, in case of a receivership, as the court, may in its sole and absolute discretion determine:

(a) operating expenses of the Mortgaged Property (including, without limitation, reasonable compensation to Lender, any receiver of the Mortgaged Property, any agent or agents to whom management of the Mortgaged Property has been delegated, and also including lease commissions and other compensation for and expenses of seeking and procuring tenants and entering into leases, establishing claims for damages, if any, and paying premiums on insurance hereinabove authorized);

(b) taxes, special assessments, water and sewer charges now due or that may hereafter become due on the Mortgaged Property, or that may become a lien thereon prior to the lien of this Mortgage;

(c) any and all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Mortgaged Property (including, without limitation, the cost, from time to time, of installing or replacing any personal property

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therein, and of placing the Mortgaged Property in such condition as will, in the judgment of Lender or any receiver thereof, make it readily rentable or salable);

(d) any indebtedness secured by this Mortgage or any deficiency that may result from any foreclosure sale pursuant hereto; and

(e) any remaining funds to Borrower or its successors or assigns, as their interests and rights may appear.

4.09 Appointment of Receiver. Upon or at any time after the filing of any complaint to foreclose the lien of this Mortgage, the court may appoint upon petition of Lender, and at Lender's sole option, a receiver of the Mortgaged Property pursuant to the Illinois Mortgage Foreclosure Law (as amended from time to time, 735 ILCS 5/15-1101, et. seq.) (the "IMF Law"). Such appointment may be made either before or after sale, without notice; without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby; without regard to the value of the Mortgaged Property at such time and whether or not the same is then occupied as a homestead; without bond being required of the applicant; and Lender hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by the IMF Law, including the power to take possession, control and care of the Mortgaged Property and to collect all rents, issues, deposits, profits and avails thereof during the pendency of such foreclosure suit and apply all funds received toward the indebtedness secured by this Mortgage, and in the event of a sale and a deficiency where Borrower has not waived its statutory rights of redemption, during the full statutory period of redemption, as well as during any further times when Borrower or its devisees, legatees, administrators, legal representatives, successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues, deposits, profits and avails, and shall have all other powers that may be necessary or useful in such cases for the protection, possession, control, management and operation of the Mortgaged Property during the whole of any such period. To the extent permitted by law, such receiver may extend or modify any then existing leases and make new leases of the Mortgaged Property or any part thereof, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Loan, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Mortgaged Property are subject to the lien hereof, and upon the purchaser or purchasers at any such foreclosure sale, notwithstanding any redemption from sale, discharge of indebtedness, satisfaction of foreclosure decree or issuance of certificate of sale or deed to any purchaser.

4.10 Foreclosure Sale. In the event of any foreclosure sale of the Mortgaged Property, the same may be sold in one or more parcels. Lender may be the purchaser at any foreclosure sale of the Mortgaged Property or any part thereof.

4.11 Application of Proceeds. The proceeds of any foreclosure sale of the Mortgaged Property, or any part thereof, shall be distributed and applied in the following order of priority: (a) on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in **Paragraphs 4.05 and 4.06** hereof; (b) all other items that, under

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the terms of this Mortgage, constitute secured indebtedness additional to that evidenced by the Note, with interest thereon at the Default Interest Rate; (c) all principal and interest, together with any prepayment charge, remaining unpaid under the Facility Letter or the Note, in the order of priority specified by Lender in its sole and absolute discretion; and (d) the balance, if any, to Borrower or its successors or assigns, as their interests and rights may appear.

4.12 Application of Deposits. In the event of any Default, Lender may, at its option, without being required to do so, apply any monies or securities that constitute deposits made to or held by Lender or any depository pursuant to any of the provisions of this Mortgage toward payment of any of Borrower's obligations under the Facility Letter, the Note, this Mortgage or any of the other Loan Documents in such order and manner as Lender may elect in its sole and absolute discretion. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Borrower or to the then owner or owners of the Mortgaged Property. Such deposits are hereby pledged as additional security for the prompt payment of the indebtedness evidenced by the Note and any other indebtedness secured hereby and shall be held to be applied irrevocably by such depository for the purposes for which made hereunder and shall not be subject to the direction or control of Borrower.

4.13 Indemnification. Except for matters arising after Lender or its agents have taken possession of the Mortgaged Property, Borrower will indemnify and hold harmless Lender and any and all current, future or former officers, directors, employees, representatives and agents, and each of their respective successors and assigns, from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees, expenses and court costs) incurred by or asserted against Lender by reason of (a) the ownership of the Mortgaged Property or any interest therein or receipt of any rents, issues, proceeds or profits therefrom; (b) any accident, injury to or death of persons, or loss of or damage to property occurring in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent parking areas or streets; (c) any use, nonuse or condition in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent parking areas or streets; (d) any failure on the part of Borrower to perform or comply with any of the terms of this Mortgage; or (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof. Any amounts owed to Lender by reason of this **Paragraph 4.13** shall constitute additional indebtedness which is secured by this Mortgage and shall become immediately due and payable upon demand therefor, and shall bear interest at the Default Interest Rate from the date such loss or damage is sustained by Lender until paid. The obligations of Borrower under this **Paragraph 4.13** shall survive any termination or satisfaction of this Mortgage.

4.14 Waiver of Right of Redemption and Other Rights. To the full extent permitted by law, Borrower agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale, claim or exercise any rights under any statute now or hereafter in force to redeem the Mortgaged Property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other

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enforcement hereof. To the full extent permitted by law, Borrower hereby expressly waives any and all rights it may have to require that the Premises be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Borrower hereby expressly waives any and all rights of reinstatement or redemption under the IMF Law, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Borrower and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Borrower and such other persons are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Borrower agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Lender, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Borrower hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note. Borrower acknowledges that the Premises do not constitute agricultural real estate as defined in Section 5/15-1201 of the IMF Law or residential real estate as defined in Section 5/15-1219 of the IMF Law.

V

MISCELLANEOUS

5.01 Notices. Any notice that Lender or Borrower may desire or be required to give to the other hereunder shall be given in accordance with Clause 19 of the Facility Letter. Except as otherwise specifically required herein, notice of the exercise of any right or option granted to Lender by this Mortgage is not required to be given.

5.02 Time of Essence. It is specifically agreed that time is of the essence of this Mortgage.

5.03 Covenants Run with Land. All of the covenants of this Mortgage shall run with the land constituting the Premises.

5.04 Governing Law; Litigation. THIS MORTGAGE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS (WITHOUT GIVING EFFECT TO ILLINOIS CHOICE OF LAW PRINCIPLES). TO THE EXTENT THAT THIS MORTGAGE MAY OPERATE AS A SECURITY AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE OF THE STATE OF ILLINOIS, LENDER SHALL HAVE ALL RIGHTS AND REMEDIES CONFERRED THEREIN FOR THE BENEFIT OF A SECURED PARTY, AS SUCH TERM IS DEFINED THEREIN, THE ENFORCEMENT OF WHICH SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS (WITHOUT GIVING EFFECT TO ILLINOIS CHOICE OF LAW PRINCIPLES).

TO THE MAXIMUM EXTENT PERMITTED BY LAW, BORROWER HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MORTGAGE SHALL BE TRIED AND DETERMINED ONLY IN THE STATE OR

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FEDERAL COURT LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS OR, AT THE SOLE OPTION OF LENDER, IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY, EXCEPT THAT ANY ACTION TO FORECLOSE THE MORTGAGE, TO OBTAIN POSSESSION OF THE MORTGAGED PROPERTY, TO HAVE A RECEIVER APPOINTED FOR THE PROPERTY OR TO ENFORCE ANY OTHER REMEDY HEREIN AFFECTING THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, INJUNCTIVE RELIEF, SHALL BE BROUGHT ONLY IN THE COUNTY OF COOK, STATE OF ILLINOIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BORROWER HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 5.04.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, BORROWER HEREBY WAIVES PERSONAL SERVICE OF PROCESS UPON BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO BORROWER AT THE ADDRESS STATED IN THE FACILITY LETTER AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

5.05 Rights and Remedies Cumulative. All rights and remedies set forth in this Mortgage are cumulative, and the holder of the Note and of every other obligation secured hereby may recover judgment hereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy afforded hereby.

5.06 Severability. If any provision of this Mortgage or any paragraph, sentence, clause, phrase or word, or the application thereof, is held invalid in any circumstance, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included herein.

5.07 Non-Waiver. Unless expressly provided in this Mortgage to the contrary, no consent or waiver, whether express or implied, by any interested party referred to herein to or of any breach or default by any other interested party referred to herein regarding the performance by such party of any obligations contained herein shall be deemed a consent to or waiver of the party of any obligations contained herein or shall be deemed a consent to or waiver of the performance by such party of any other obligations hereunder or the performance by any other interested party referred to herein of the same, or of any other, obligations hereunder.

5.08 Headings. The headings of sections and paragraphs in this Mortgage are for convenience or reference only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof.

5.09 Grammar. As used in this Mortgage, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so

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requires. Whenever the words "including", "include" or "includes" are used in this Mortgage, they should be interpreted in a non-exclusive manner as though the words " , without limitation," immediately followed the same.

5.10 Successors and Assigns. This Mortgage and all provisions hereof shall be binding upon Borrower, its successors, assigns, legal representatives and all other persons or entities claiming under or through Borrower, and the word "Borrower", when used herein, shall include all such persons and entities and any others liable for the payment of the indebtedness secured hereby or any part thereof, whether or not they have executed the Note or this Mortgage. The word "Lender", when used herein, shall include Lender's successors, assigns and legal representatives, including all other holders, from time to time, of the Note.

5.11 No Joint Venture. Borrower and Lender acknowledge and agree that under no circumstances shall Lender be deemed to be a partner or joint venturer with Borrower or any beneficiary of Borrower, including, without limitation, by virtue of its becoming a mortgagee in possession or exercising any of its rights pursuant to this Mortgage or pursuant to any of the other Loan Documents, or otherwise.

5.12 Additional Fees.

(a) Borrower agrees to pay on demand all of the out-of-pocket costs and expenses of Lender (including, without limitation, the reasonable fees and out-of-pocket expenses of Lender's counsel) in connection with the preparation, negotiation, execution and delivery of the Note, this Mortgage, any of the other Loan Documents and all other instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith (including, without limitation, all amendments, supplements and waivers executed and delivered pursuant hereto or in connection herewith).

(b) The reasonable costs and expenses which Lender incurs in any manner or way with respect to the following shall be part of the indebtedness secured hereby, payable by Borrower on demand, if at any time after the date of this Mortgage, Lender: (i) employs counsel for advice or other representation (A) with respect to the amendment or enforcement of the Note, this Mortgage or any of the other Loan Documents, (B) to represent Lender in any work-out or any type of restructuring of the Loan, or any litigation, contest, dispute, suit or proceeding or to commence, defend or intervene or to take any other action in or with respect to any litigation, contest, dispute, suit or proceeding (whether instituted by Lender, Borrower or any other person or entity) in any way or respect relating to the Note, this Mortgage, any of the other Loan Documents, Borrower's affairs or any collateral securing the indebtedness secured hereby or (C) to enforce any of the rights of Lender with respect to Borrower; and/or (ii) seeks to enforce or enforces any of the rights and remedies of Lender with respect to Borrower. Without limiting the generality of the foregoing, such expenses, costs, charges and fees include: reasonable fees, costs and expenses of attorneys, accountants and consultants; court costs and expenses; court reporter fees, costs and expenses; long distance telephone charges; telegram and telecopier charges; and expenses for travel, lodging and food.

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5.13 Compliance with the Illinois Mortgage Foreclosure Law.

(a) In the event that any provision in this Mortgage shall be inconsistent with any provisions of the IMF Law, the provision of the IMF Law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the IMF Law.

(b) Borrower and Lender shall have the benefit of all of the provisions of the IMF Law, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the IMF Law which is specifically referred to herein may be repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

(c) If any provision of this Mortgage 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 IMF Law in the absence of said provision, Lender shall be vested with the rights granted in the IMF Law to the full extent permitted by law.

(d) All advances, disbursements and expenditures made or incurred by Lender before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage, the other Loan Documents or by the IMF Law (collectively "**Protective Advances**"), shall have the benefit of all applicable provisions of the IMF Law, including, without limitation, those provisions of the IMF Law herein below referred to:

(i) all advances by Lender in accordance with the terms of this Mortgage or the other Loan Documents to: (A) preserve, maintain, repair, restore or rebuild the improvements upon the Mortgaged Property; (B) preserve the lien of this Mortgage or the priority thereof; or (C) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the IMF Law;

(ii) payments by Lender of (A) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance (provided that nothing in this **Section 15.3** shall be construed as authorizing the existence of any senior mortgage or other prior lien or encumbrance); (B) real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Mortgaged Property or any part thereof; (C) other obligations authorized by this Mortgage; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the IMF Law;

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(iii) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens (provided that nothing in this **Section 15.3** shall be construed as authorizing the existence of any senior mortgage or other prior lien);

(iv) attorneys' fees and other costs incurred: (A) in connection with the foreclosure of this Mortgage as referred to in Sections 15-1504(d) and 15-1510 of the IML Law; (B) in connection with any action, suit or proceeding brought by or against Lender for the enforcement of this Mortgage or arising from the interest of Lender hereunder; or (C) in preparation for or in connection with the commencement, prosecution or defense of any other action related to this Mortgage or the Mortgaged Property;

(v) Lender's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Section 15-1508(b)(1) of the IMF Law;

(vi) expenses deductible from proceeds of sales referred to in Section 15-1512(a) and (b) of the IMF Law;

(vii) expenses incurred and expenditures made by Lender for any one or more of the following: (A) premiums for casualty and liability insurance paid by Lender whether or not Lender or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the Mortgaged Property imposed by Section 15-1704(c)(1) of the IMF Law; (B) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (C) payments deemed by Lender to be required for the benefit of the Mortgaged Property or required to be made by the owner of the Mortgaged Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Property; and (D) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Property is a member in any way affecting the Mortgaged Property.

All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Interest Rate.

This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b)(5) of Section 15-1302 of the IMF Law.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the IMF Law, apply to and be included in:

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- (1) any determination of the amount of indebtedness secured by this Mortgage at any time;
- (2) the indebtedness found due and owing to Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (3) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the IMF Law;
- (4) application of income in the hands of any receiver or mortgagee in possession; and
- (5) computation of any deficiency judgment pursuant to Sections 15-1508(b)(2), 15-1508(e) and 15-1511 of the IMF Law.

(e) In addition to any provision of this Mortgage authorizing Lender to take or be placed in possession of the Mortgaged Property, or for the appointment of a receiver, Lender shall have the right, in accordance with Sections 15-1701 and 15-1702 of the IMF Law, to be placed in possession of the Mortgaged Property or at its request to have a receiver appointed, and such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities and duties as provided for in Sections 15-1701 and 15-1703 of the IMF Law.

5.14 Loan Proceeds. The proceeds of the loan are to be disbursed by Lender to Borrower in accordance with the provisions contained in the Facility Letter. All advances and indebtedness arising and accruing under the Facility Letter and the Note from time to time shall be secured hereby to the same extent as though the Facility Letter and the Note were fully incorporated in this Mortgage, and the occurrence of any event of default under the Facility Letter or the Note shall constitute a default under this Mortgage entitling Lender to all of the rights and remedies conferred upon Lender by the terms of this Mortgage or by law, as in the case of any other default. Borrower represents and warrants that (i) the proceeds of the Note secured by this Mortgage will be used for the purposes specified in 815 ILCS 205/4(1) (or any substitute, amended or replacement statute), and that the indebtedness secured hereby constitutes a business loan which comes within the purview of said 815 ILCS 205/4(1) and (ii) the Loan evidenced by the Note is an exempt transaction under the Truth in Lending Act, 15 U.S.C. Section 1601 et seq..

5.15 Recapture. To the extent Lender receives any payment by or on behalf of Borrower, which payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to Borrower or its respective estate, trustee, receiver, custodian or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, the obligation or part thereof which has been paid, reduced or satisfied by the amount so repaid shall be

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reinstated by the amount so repaid and shall be included within the indebtedness hereby secured as of the date such initial payment, reduction or satisfaction occurred.

5.16 No Lien Management Agreements and Broker Agreements. Borrower shall include a "no lien" provision in any property management agreement hereafter entered into by Borrower with a property manager for the Mortgaged Property, whereby the property manager waives and releases any and all mechanics' lien rights that the property manager, or anyone claiming through or under the property manager, may have pursuant to the Illinois Mechanics Lien Act, 770 ILCS 60/1 et. seq. Such property management agreement containing such "no lien" provision or a short form thereof shall, at Lender's request, be recorded with the Recorder of Deeds of Cook County, Illinois, as appropriate. In addition, Borrower shall cause such property manager to enter into a subordination of management agreement with Lender, in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager, to the lien of this Mortgage. Any agreement entered into hereafter by Borrower with any "broker" (as defined in the Real Estate License Act, 225 ILCS 455/1 et. seq.) that is an affiliate of Borrower for the purpose of selling, leasing or otherwise conveying an interest in the Mortgaged Property shall contain a "no lien" provision whereby such broker waives and releases any and all lien rights that such broker, or anyone claiming through or under such broker, may have pursuant to the Commercial Real Estate Broker Lien Act, 770 ILCS 15/1 et. seq. Borrower shall cause each such broker to enter into a subordination agreement with Lender, in recordable form, whereby such broker, on its own behalf or on behalf of any party claiming by, through or under such broker, subordinates present and future lien rights to the lien of this Mortgage.

5.17 Deed in Trust. If title to the Mortgaged Property or any part thereof is now or hereafter becomes vested in a trustee, any prohibition or restriction contained herein against the creation of any lien on the Mortgaged Property shall be construed as a similar prohibition or restriction against the creation of any lien on or security interest in the beneficial interest of such trust.

5.18 JURY WAIVER. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF BORROWER AND LENDER HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MORTGAGE, OR IN ANY WAY CONNECTED WITH, RELATED TO OR INCIDENTAL TO THE DEALINGS OF BORROWER AND LENDER WITH RESPECT TO THIS MORTGAGE, OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF BORROWER AND LENDER HEREBY AGREES THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT BORROWER OR LENDER MAY FILE A COPY OF THIS MORTGAGE WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OF BORROWER AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST

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LENDER ON THE THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

5.19 Collateral Protection Act. Unless Borrower provides Lender with evidence of the insurance required by this Mortgage or any other Loan Document, Lender may purchase insurance at Borrower's expense to protect Lender's interest in the Mortgaged Property or any other collateral for the indebtedness secured hereby. This insurance may, but need not, protect Borrower's interests. The coverage Lender purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Mortgaged Property or any other collateral for the indebtedness secured hereby. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has obtained insurance as required under by this Mortgage or any other Loan Document. If Lender purchases insurance for the Mortgaged Property or any other collateral for the indebtedness secured hereby, Borrower shall be responsible for the costs of that insurance, including interest in any other charges that Lender may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the indebtedness secured hereby. The costs of the insurance may be more than the cost of insurance that Borrower may be able to obtain on its own. For purposes of the Illinois Collateral Protection Act, 815 ILCS 180/1 *et. seq.*, Borrower hereby acknowledges Lender's right pursuant to this Section 5.19 to obtain collateral protection insurance.

5.20 Adjustable Mortgage Loan Provisions. The Note which this Mortgage secures is an adjustable note on which the interest rate may be adjusted from time to time in accordance with the terms and provisions set forth in the Facility Letter.

5.21 Non-recourse Nature of the Loan. The Loan shall be non-recourse to Borrower and its members and, in the event of any default under the terms of this Mortgage, the Facility Letter, or the Note, the Mortgaged Property shall be the sole collateral and exclusive source of repayment of the Loan; provided, however, that nothing contained in this Paragraph 5.21 shall be deemed to prejudice Lender's rights to institute an action to foreclose any or all of its collateral or specifically to enforce any covenant, condition, or agreement contained in the Facility Letter. The foregoing restriction shall not apply to, and Borrower shall be personally liable for, any losses, damages, costs and expenses incurred by Lender as a result of:

- (a) any material misstatement of fact by Borrower or any person or entity constituting Borrower to induce Lender to make the Loan or contained in any Loan Document,
- (b) fraud committed by Borrower or any person or entity constituting Borrower,
- (c) misapplication of rents, security deposits, income, insurance proceeds, condemnation awards or trust funds from the Premises and other collateral,
- (d) any loss, damage, expense or liability on the part of Lender (including attorneys' fees and disbursements and diminution in value of the Premises) due to the existence of hazardous substances, or if required in the reasonable judgment of Lender,

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the preparation of an environmental audit on the Premises, whether conducted or authorized by Borrower, Lender, or a third party or the implementation of any environmental audit's recommendations,

(e) all losses, damages or liability suffered by Lender arising from any acts of commission or omission by Borrower that result in waste upon the Premises, or

(f) failure to use available proceeds from the Premises to pay real property taxes when due.

(signatures begin on next page)

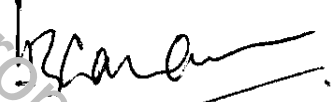
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IN WITNESS WHEREOF, Borrower has executed this Mortgage as of the date and year first above written.

AMERICAN FREEHOLDS, a Nevada general partnership

By: GROSVENOR INTERNATIONAL (AMERICAN FREEHOLDS) LIMITED, A NEVADA CORPORATION

Its: General Partner

By: 
(manual signature)

ANDREW B. GALBRAITH
(typed or printed name)

Its: SR. VICE PRESIDENT
(title)

By: 
(manual signature)

CHERI L. HALL
(typed or printed name)

Its: SECRETARY
(title)

[all signatures must be acknowledged]

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STATE OF District of Columbia
) SS.
 COUNTY OF _____)

I, Belkis Cueto, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Andrew Brian, personally known to me to be the SR. VICE PRESIDENT of GROSVENDOR INTERNATIONAL (AMERICAN FREEHOLDS) LIMITED is the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act of such company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 21st day of December, 2005.

Belkis Cueto
 Notary Public

My commission expires: **BELKIS A. CUETO**
~~Notary Public, District of Columbia~~
 My Commission Expires August 31, 2010

STATE OF District of Columbia
) SS.
 COUNTY OF _____)

I, Belkis Cueto, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Cheri L. Hall, personally known to me to be the SECRETARY of GROSVENDOR INTERNATIONAL (AMERICAN FREEHOLDS) LTD, is the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act of such company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 21st day of December, 2005.

Belkis Cueto
 Notary Public

My commission expires: **BELKIS A. CUETO**
~~Notary Public, District of Columbia~~
 My Commission Expires August 31, 2010

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

THAT PART OF LOTS 1 AND 2, TAKEN AS A TRACT, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 1; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG THE SOUTH LINE OF LOTS 1 AND 2, A DISTANCE OF 186.19 FEET; THENCE NORTH 0 DEGREES, 02 MINUTES, 05 SECONDS WEST 107.26 FEET TO THE NORTH LINE OF LOT 2; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST, ALONG THE NORTH LINE OF LOTS 1 AND 2, A DISTANCE OF 186.65 FEET TO THE NORTHEAST CORNER OF LOT 1; THENCE SOUTH 0 DEGREES, 12 MINUTES, 49 SECONDS WEST, ALONG THE EAST LINE OF LOT 1, A DISTANCE OF 107.26 FEET TO THE SOUTHEAST CORNER OF SAID LOT BEING THE POINT OF BEGINNING OF THE HEREINABOVE DESCRIBED TRACT, ALL IN FERRY'S SUBDIVISION OF PART OF BLOCK 20 IN CANAL TRUSTEE'S SUBDIVISION OF THE SOUTH FRACTIONAL 1/4 OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CONTAINED IN EASEMENT AGREEMENT DATED NOVEMBER 19, 1993 AND RECORDED NOVEMBER 26, 1993 AS DOCUMENT 93965528, MADE BY AND BETWEEN LASALLE NATIONAL TRUST, N.A., AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 20, 1993 AND KNOWN AS TRUST NUMBERS 118065 AND 118066 (COLLECTIVELY, THE "CHESTNUT TRUSTEE") AND AMERICAN FREEHOLDS, A NEVEDA GENERAL PARTNERSHIP ("AMERICAN FREEHOLDS") GRANTING A NON-EXCLUSIVE EASEMENT IN FAVOR OF AMERICAN FREEHOLDS AND TO THE OWNERS AND TENANTS FROM TIME TO TIME OF THE AMERICAN PROPERTY AND THEIR RESPECTIVE TENANTS, SUBTENANTS, LICENSEES, CONCESSIONAIRES, SUPPLIERS, AGENTS, EMPLOYEES AND INVITEES THE EASEMENT AREA LOCATED UPON THE CHESTNUT PROPERTY FOR THE PURPOSE OF INGRESS AND EGRESS, DELIVERIES, LOADING AND UNLOADING, TRASH REMOVAL, TEMPORARY PARKING OF DELIVERY AND SERVICE TRUCKS AND VEHICLES, AND PROVIDING ACCESS TO AND FROM THE SERVICeways, CORRIDORS AND FREIGHT ELEVATORS LOCATED ON THE AMERICAN PROPERTY, (SUCH EASEMENT AREA, AND ALL REPLACEMENT AREAS THEREOF, BEING HEREINAFTER COLLECTIVELY CALLED THE "LOADING DOCK").

PARCEL 3:

EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CONTAINED IN EASEMENT AGREEMENT DATED NOVEMBER 19, 1993 AND RECORDED NOVEMBER 26, 1993 AS DOCUMENT 93965531, MADE BY AND BETWEEN LASALLE NATIONAL TRUST, N.A., AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 20, 1993 AND KNOWN AS TRUST NUMBERS 118065 AND 118066 (COLLECTIVELY, THE "CHESTNUT TRUSTEE") AND AMERICAN FREEHOLDS, A NEVEDA GENERAL PARTNERSHIP ("AMERICAN FREEHOLDS") GRANTING A NON-EXCLUSIVE EASEMENT IN FAVOR OF AMERICAN FREEHOLDS AND TO THE OWNERS FROM TIME TO TIME OF THE AMERICAN PROPERTY, THEIR RESPECTIVE TENANTS, SUBTENANTS, LICENSEES, CONCESSIONAIRES, SUPPLIERS, AGENTS, EMPLOYEES AND INVITEES, AN EASEMENT AND THE RIGHT AND PRIVILEGE TO USE THE EASEMENT AREA FOR: (i) PEDESTRIAN INGRESS AND EGRESS TO AND FROM THE FIFTH FLOOR OF THE RETAIL BUILDING, AND (ii) THE CONSTRUCTION, MAINTENANCE, REPAIR AND REPLACEMENT OF THE ABOVE DESCRIBED ENTRANCE AND DOORS (SUCH ENTRANCE IMPROVEMENTS AND DOORS, AND ALL REPLACEMENTS THEREOF, BEING HEREAFTER COLLECTIVELY CALLED THE "PEDESTRIAN ENTRANCE IMPROVEMENTS")

PARCEL 4:

EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CONTAINED IN EASEMENT AGREEMENT DATED NOVEMBER 19, 1993 AND RECORDED NOVEMBER 26, 1993 AS DOCUMENT 93965530, MADE BY AND BETWEEN LASALLE NATIONAL TRUST, N.A., AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 20, 1993 AND KNOWN AS TRUST NUMBERS 118065 AND 118066 (COLLECTIVELY, THE "CHESTNUT TRUSTEE") AND AMERICAN FREEHOLDS, A NEVEDA GENERAL PARTNERSHIP ("AMERICAN FREEHOLDS") IN FAVOR OF AMERICAN FREEHOLDS AND TO THE OWNERS FROM TIME TO TIME OF THE AMERICAN PROPERTY, A NON-EXCLUSIVE EASEMENT AND THE RIGHT AND PRIVILEGE TO USE THE EASEMENT AREA, IN COMMON WITH THE OWNERS, OCCUPANTS, TENANTS, AND INVITEES OF THE CHESTNUT PROPERTY AND THEIR SUCCESSORS AND ASSIGNS, FOR: (i) THE USE OF THE EASEMENT AS A MEANS OF EMERGENCY EGRESS FROM THE AMERICAN PROPERTY AND THE CHESTNUT PROPERTY, TO PEARSON STREET, AND (ii) FOR THE CONSTRUCTION, MAINTENANCE, REPAIR AND REPLACEMENT OF THE FIRE WALL AND ALARM EQUIPMENT AND SYSTEMS AS MAY BE REASONABLY LOCATED WITHIN THE EASEMENT AREA (SUCH WALL, DOORS, AND LIGHTING

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AND ALARM EQUIPMENT AND SYSTEMS, AND ALL REPLACEMENT THEREOF, BEING HEREINAFTER COLLECTIVELY CALLED THE "EMERGENCY CORRIDOR IMPROVEMENTS")

PARCEL 5:

EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CONTAINED IN EASEMENT AGREEMENT DATED NOVEMBER 19, 1993 AND RECORDED NOVEMBER 26, 1993 AS DOCUMENT 93965529, MADE BY AND BETWEEN LASALLE NATIONAL TRUST, N.A., AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 20, 1993 AND KNOWN AS TRUST NUMBERS 118065 AND 118066 (COLLECTIVELY, THE "CHESTNUT TRUSTEE") AND AMERICAN FREEHOLDS, A NEVEDA GENERAL PARTNERSHIP ("AMERICAN FREEHOLDS") IN FAVOR OF AMERICAN FREEHOLDS AND TO THE OWNERS FROM TIME TO TIME OF THE AMERICAN PROPERTY, AN EXCLUSIVE EASEMENT AND THE RIGHT AND PRIVILEGE TO USE THE EASEMENT AREA FOR THE OPERATION, MAINTENANCE, REPAIR, SERVICING, AND REPLACEMENT OF THE FIRE PROTECTION EQUIPMENT AND SYSTEMS, A STAIRWAY AND WATER MAIN SERVING PARCEL 1 LOCATED IN THE EASEMENT AREA WHICH SERVICE THE AMERICAN PROPERTY.

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