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Doc#: 0610043224 Fee: \$128.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 04/10/2006 11:45 AM Pg: 1 of 53

Recording Requested By and
When Recorded Mail To:
Best & Flanagan LLP
225 South Sixth Street
Suite 4000
Minneapolis, Minnesota 55402
Attn: Duane L. Paulson
GLIC Loan No. 100000328

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 this 4th day of April, 2006, between 85 ALGONQUIN L.L.C., an Illinois limited liability company, as Mortgagor, whose address is c/o Hamilton Partners, 300 Park Boulevard, Itasca, Illinois 60143; and GENWORTH LIFE INSURANCE COMPANY, a Delaware corporation, as Mortgagee, whose address is 707 East Main Street, Suite 1300-A, Richmond, Virginia 23219-3310.

Mortgagee is making a loan (the "Loan") in the principal amount of Six Million Seven Hundred Thousand and No/100 Dollars (\$6,700,000.00) to be secured by that certain real property (the "Realty") described in Exhibit A attached hereto. The Loan, if not sooner paid, is due and payable in full on April 30, 2015. The terms of the Promissory Note referred to below evidencing the Loan provide for:

Box 400-CTCC

427494 v3/Mortgage/Algonquin Road Office/016278-260009
Common Address: 85 Algonquin Road, Arlington Heights, Illinois
Tax Parcel I.D. Number: 08-16-200-102-0000

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- (i) adjustment of the interest rate on the Third and Sixth Anniversary Dates as defined in the Promissory Note evidencing the Loan ("Note") as provided in said Note, a copy of which Note is attached hereto as Exhibit C; and
- (ii) adjustment in the amount of installment payments to reflect interest rate adjustments.

In consideration of the Loan and the sum of One and No/100 Dollar (\$1.00) in hand paid by the Mortgagee, the receipt of which is hereby acknowledged, and to secure the payment of the principal and interest and premium, if any, on the Note, hereinafter defined, according to its tenor and effect and to secure payment of all other indebtedness secured hereby and the performance and observance of all the covenants, provisions and agreements herein and in the Note contained (whether or not the Mortgagor is personally liable for such payment, performance and observance) Mortgagor does hereby MORTGAGE, GRANT, BARGAIN, SELL AND CONVEY to Mortgagee, its successors and assigns, forever, AND GRANT TO THE MORTGAGEE A SECURITY INTEREST IN, all of Mortgagor's estate, rights, title, claim, interest and demand, either in law or in equity, of, in and to the following property, whether the same be now owned or hereafter acquired (the "Property"):

- (a) The Realty and all rights to the land lying in alleys, streets and roads adjoining or abutting the Realty;
- (b) All buildings, improvements and tenements now or hereafter located on the Realty;
- (c) All fixtures and articles of property now or hereafter attached to, or used or adapted for use in the ownership, development, operation or maintenance of, the buildings, improvements and Realty (whether such items are leased, are owned or subject to any title retaining or security instrument, or are otherwise used or possessed), including without limitation all heating, cooling, air-conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, cleaning, fire prevention and extinguishing, security and access control, cooking, gas, electric and communication fixtures, equipment and apparatus, all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters and furnaces, all ranges, stoves, disposers, refrigerators and other appliances, all escalators and elevators, all baths and sinks, all cabinets, partitions, mantels, built-in mirrors, window shades, blinds, screens, awnings, storm doors, windows and sash, all carpeting, underpadding, floor covering, paneling and draperies, all furnishings of public spaces, halls and lobbies, and all shrubbery and plants; all of which items shall be deemed part of the real property and not severable wholly or in part without material injury to the freehold; provided, however, that personal property and trade fixtures owned or supplied by tenants of the Property with the right of removal at the termination of their tenancies shall not be included within the scope of this paragraph;

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- (d) All easements, all access, air and development rights, all minerals and oil, gas and other hydrocarbon substances, all royalties, all water, water rights and water stock, and all other rights, hereditaments, privileges, permits, licenses, franchises and appurtenances now or hereafter belonging or in any way appertaining to the Realty;
- (e) All present and future contracts and policies of insurance which insure the Realty or any building, structures or improvements thereon, or any such fixtures or personal property, against casualties and theft, and all monies and proceeds and rights thereto which may be or become payable by virtue of any such insurance contracts or policies;
- (f) All of the rents, revenues, issues, profits and income of the Property, and all present and future leases and other agreements for the occupancy or use of all or any part of the Realty, including without limitation all cash or security deposits, advance rentals and deposits or payments of similar nature and all guaranties of tenants' or occupants' performances under such leases and agreements; SUBJECT, HOWEVER, to the assignment of rents and other property to Mortgagee herein contained;
- (g) Except for the name "Hamilton" and "Hamilton Partners", all general intangibles relating to the development or use of the Property, including without limitation all permits, licenses and franchises, all names under or by which the Property may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks, trade names, logos and good will in any way relating to the Property;
- (h) All awards, compensation and settlements in lieu thereof made as a result of the taking by power of eminent domain of the whole or any part of the Property, including any awards for damages sustained to the Property for a temporary taking, change in grade of streets or taking of access;
- (i) All shares of stock or other evidence of ownership of any part of the Property that is owned by Mortgagor in common with others, and all documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Property; and
- (j) All products and proceeds of all of the foregoing.

TO SECURE THE FOLLOWING (collectively the "Secured Obligations"):

- (1) Payment of the sum of Six Million Seven Hundred Thousand and No/100 Dollars (\$6,700,000.00) with interest thereon, according to the terms and provisions of a Promissory Note of even date herewith, in the form attached hereto as Exhibit C, payable to Mortgagee, or order, and made by Mortgagor, and all modifications, extensions, renewals and replacements thereof (collectively the "Note");

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- (2) Payment of all sums advanced to protect the security of this Mortgage, together with interest thereon as herein provided;
- (3) Payment of all other sums which are or which may become owing under the Loan Documents;
- (4) Performance of all of Mortgagor's other obligations under the Loan Documents; and
- (5) Payment of the principal and interest on all other future loans or advances made by Mortgagee to Mortgagor when the promissory note evidencing the loan or advance specifically states that it is secured by this Mortgage, including all modifications, extensions, renewals, and replacements of any such future loan or advance.

However, the maximum amount secured by this Mortgage shall not exceed Thirteen Million Four Hundred Thousand and No/100 Dollars (\$13,400,000.00).

As used herein, the term "Loan Documents" means the Note, this Mortgage, an Assignment of Rents and Leases (the terms of which shall control in the event of any conflict with the terms of Article 6 of this Mortgage), any loan agreement and Uniform Commercial Code Financing Statements filed in connection herewith, and any other instrument or document evidencing or securing the Loan or otherwise executed in connection therewith, together with all modifications, extensions, renewals and replacements thereof.

MORTGAGOR HEREBY REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

1. TITLE AND USE

- 1.1 Warranty of Title. Mortgagor represents and warrants to Mortgagee that:
- (a) except as may otherwise be expressly stated in this Mortgage, Mortgagor has good and marketable title in fee simple to the Realty and is the sole and absolute owner of all other Property;
 - (b) the Property is free from liens, encumbrances, exceptions or other charges of any kind other than non-delinquent installments of property taxes and assessments, the exceptions, if any, permitted under the policy of mortgagee's title insurance issued to Mortgagee in connection with this Mortgage and any other liens, encumbrances, exceptions or charges expressly permitted by the terms of this Mortgage ("Permitted Exceptions"), and no others, whether superior or inferior to this Mortgage, will be created or suffered to be created by Mortgagor during the life of this Mortgage without the prior written consent of Mortgagee;
 - (c) no default on the part of Mortgagor or, to the best of Mortgagor's knowledge, any other person exists under any of the Permitted Exceptions and all are in full force and effect and without modification;

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- (d) Mortgagor will comply with the terms of the Permitted Exceptions which will not be modified by the Mortgagor without the Mortgagee's written consent; and
- (e) Mortgagor has the right to grant, transfer, convey and assign the Property as herein provided and will forever warrant and defend the Property unto Mortgagee against all claims and demands of any other person, subject only to said non-delinquent installments of taxes and assessments and the Permitted Exceptions.

1.2 Hazardous Substances.

- (a) Representations and Warranties. Mortgagor hereby represents and warrants to Mortgagee that:
 - (i) to the best of Mortgagor's knowledge, no asbestos has ever been used in the construction, repair or maintenance of any building, structure or other improvement now or heretofore located on the Property;
 - (ii) to the best of Mortgagor's knowledge, no Hazardous Substance (as defined below) is currently being generated, manufactured, refined, transported, treated, stored, handled or disposed of, transferred, produced or processed on, under or in the Property, except in compliance with all applicable federal, state and local statutes, ordinances, rules, regulations and other laws;
 - (iii) neither Mortgagor nor, to the best of Mortgagor's knowledge, any other person or entity has ever caused or permitted any Hazardous Substance to be generated, manufactured, refined, transported, treated, stored, handled or disposed of, transferred, produced or processed on, under or in the Property, except in compliance with all applicable federal, state and local statutes, ordinances, rules, regulations and other laws;
 - (iv) Mortgagor has not received any notice of, nor is Mortgagor aware of, any actual or alleged violation with respect to the Property of any federal, state or local statute, ordinance, rule, regulation or other law pertaining to Hazardous Substances; and
 - (v) neither Mortgagor nor the Property is subject to any governmental or judicial claim, order, judgment or lien with respect to the clean-up of Hazardous Substances at or with respect to the Property.

Mortgagor further represents and warrants to Mortgagee that the foregoing representations and warranties contained in this paragraph 1.2(a) are made after and are based upon inspection of the Property by Mortgagor and due inquiry by Mortgagor as to the prior uses of the Property.

- (b) Definition. As used herein, the term "Hazardous Substance" means any hazardous, toxic or dangerous substance, waste or material which is or becomes

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regulated under any federal, state or local statute, ordinance, rule, regulation or other law now or hereafter in effect pertaining to environmental protection, contamination or clean up, including without limitation any substance, waste or material which now or hereafter is:

- (i) designated as a "hazardous substance" under or pursuant to the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.),
- (ii) defined as a "hazardous waste" under or pursuant to the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), or
- (iii) defined as a "hazardous substance" in or for the purposes of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.).

2. MORTGAGOR'S COVENANTS

2.1 Payment and Performance of Secured Obligations. Mortgagor will pay when due all sums which are now or which may become owing on the Note, and will pay and perform all other Secured Obligations, in accordance with their terms.

2.2 Payment of Taxes, Utilities, Liens and Charges.

- (a) Taxes and Assessments. Except as the same may otherwise be paid under Article 3 relating to reserves, Mortgagor will pay when due directly to the payee thereof all taxes and assessments (including without limitation non-governmental levies or assessments such as maintenance charges, owner association dues or charges, or fees, levies or charges resulting from covenants, conditions or restrictions) levied, assessed or charged against or with respect to the Property or this Mortgage. Upon request, Mortgagor shall promptly furnish to Mortgagee all notices of amounts due under this subparagraph and all receipts evidencing such payments. However, Mortgagor may contest any such taxes or assessments by appropriate proceedings duly instituted and diligently prosecuted at Mortgagor's expense. Mortgagor shall not be obligated to pay such taxes or assessments while such contest is pending if the Property is not thereby subjected to imminent loss or forfeiture and, if Mortgagor has not provided evidence that it has deposited the entire amount assessed with the applicable governmental authority, it deposits the entire amount together with projected penalties and interest with the Mortgagee or provides other security satisfactory to the Mortgagee in its reasonable discretion.
- (b) Utilities. Mortgagor will pay when due all utility charges and assessments for services furnished the Property.
- (c) Liens and Charges. Mortgagor will pay when due the claims of all persons supplying labor or materials to or in connection with the Property. Without waiving the restrictions of paragraph 4.1, Mortgagor will promptly discharge any lien or other charge, whether superior or inferior to this Mortgage, which may be claimed against the Property.

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- (d) Contest of Liens or Encumbrances. In the event Mortgagor desires to contest the validity of any lien, encumbrance or charge attributable to or assessed against the Property, it shall:
- (i) on or before fifteen (15) days prior to the due date thereof, notify Mortgagee, in writing, that it intends to so contest the same;
 - (ii) on or before the due date thereof on demand, deposit with Mortgagee security (in form and content satisfactory to Mortgagee) for the payment of the full amount of such lien, encumbrance or charge, or any balance thereof then remaining unpaid (or provide to Mortgagee such other indemnity as may be reasonably acceptable to it); and
 - (iii) from time to time, deposit additional security or indemnity, so that, at all times, adequate security or indemnity will be available for the payment of the full amount of the lien, encumbrance or charge remaining unpaid, together with all interest, penalties, costs and charges accrued or accumulated thereon.

If the foregoing deposits are made and Mortgagor continues, in good faith, to contest the validity of such lien, encumbrance or charge, by appropriate legal proceedings which shall operate to prevent the collection thereof and the sale of the Property, or any part thereof to satisfy the same, Mortgagor shall be under no obligation to pay such lien, encumbrance or charge until such time as the same has been decreed, by court order, to be a valid lien on the Property. Mortgagee shall have full power and authority to reduce any such security or indemnity to cash and apply the amount so received to the payment of any unpaid lien, encumbrance or charge to prevent the sale or forfeiture of the Property for non-payment of such lien, encumbrance or charge, without liability on Mortgagee for any failure to apply the security or indemnity so deposited, unless Mortgagor, in writing, requests the application thereof to the payment of the particular lien, encumbrance or charge from which such deposit was made. Any surplus deposit retained by Mortgagee, after the payment of the lien, encumbrance or charge for which the same was made, shall be repaid to Mortgagor, unless an event of default exists, in which event, such surplus shall be applied by Mortgagee to cure such default.

2.3 Insurance.

- (a) Coverages Required. Mortgagor will keep the following insurance coverages in effect with respect to the Property:
- (i) Insurance against loss by fire, vandalism, malicious mischief and the hazards that now or may hereafter be embraced by the standard "special form" or "all risk" form of insurance, in an amount equal at all times to the full replacement value of the improvements then located on the Property. All such insurance coverage must contain a "Replacement Cost

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Endorsement,” without deduction for depreciation satisfactory to Mortgagee.

- (ii) Insurance covering the perils of terrorism and acts of terrorism.
 - (iii) Flood risk insurance in the maximum amount of insurance coverage available or the full replacement cost of the buildings on the Realty, whichever is less, if the Realty is now or hereafter designated as being located within a special flood hazard area under the Flood Disaster Protection Act of 1973 and if flood insurance is available.
 - (iv) Loss of rental value insurance and/or business interruption insurance, as follows: If all or any portion of the Property is rented or leased, loss of rental value insurance in an amount equal to six (6) months' aggregate gross rents from the Property as is so occupied. If all or any portion of the Property is occupied by Mortgagor, business interruption insurance in an amount equal to six (6) months' net income from such portion of the Property as is so occupied. The amount(s) of such coverage(s) shall be subject to adjustment, from time to time at Mortgagee's request, to reflect changes in the rental and/or income levels during the term of the Loan.
 - (v) Commercial general public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Property (including coverage for elevators and escalators, if any, on the Property), with the coverage being in an amount of not less than One Million and No/100 Dollars (\$1,000,000.00) combined single-limit liability coverage, or in such greater amount(s) as Mortgagee may reasonably require.
 - (vi) Boiler and machinery insurance covering pressure vessels, air tanks, boilers, machinery, pressure piping, heating, air conditioning and elevator and escalator equipment, provided the improvements contain equipment of such nature, and insurance against loss of occupancy or use arising from breakdown of any of such items, in such amounts as Mortgagee may reasonably require.
 - (vii) Building ordinance coverage endorsement including contingent liability from operation of building laws, demolition cost and increased cost of construction, if and at any time the Property constitutes a nonconforming but permitted use under applicable zoning or other governmental laws.
 - (viii) Insurance against such similar or other hazards, casualties, liabilities and contingencies, in such forms and amounts, as Mortgagee may from time to time reasonably require.
- (b) Policies. Each insurance policy must be in form and content acceptable to Mortgagee, and must be issued by a company acceptable to Mortgagee, which company must, among other things, be:

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- (i) duly authorized to provide such insurance in the state in which the Property is located, and
- (ii) rated "A-" or better with a size rating of "V" or larger by A.M. Best Company in its most recent publication of ratings (provided, however, that if A.M. Best Company changes its designations, the basis for its ratings or ceases to provide ratings, Mortgagee shall be entitled to select replacement ratings in the exercise of its reasonable business judgment).

Each hazard insurance policy will include a Form 438BFU or equivalent mortgagee endorsement in favor of and in form acceptable to Mortgagee, and each liability insurance policy will name Mortgagee as an additional insured. For any policy containing a co-insurance clause, an "Agreed Amount Endorsement" must be included. For any blanket policy of insurance, an "Agreed Value Endorsement" or "Agreed Amount Endorsement" must be included or the Mortgagee must be provided with an acceptable insurer's "statement of value" for the Property. All required policies will provide for at least thirty (30) days' written notice to Mortgagee prior to the effective date of any cancellation or material amendment, which term shall include any reduction in the scope or limits of coverage. Mortgagor shall furnish to Mortgagee (i) the complete original of each required insurance policy, (ii) a certified copy thereof (including all declaration pages, policy forms and endorsements) which include an original signature of an authorized officer or agent of the insurer, or (iii) an uncertified memorandum copy thereof (including all declaration pages, policy forms and endorsements) together with an original evidence of insurance or certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date. As security for the Secured Obligations, Mortgagor hereby assigns to Mortgagee all required insurance policies, together with all proceeds thereof, rights thereto and all unearned premiums returnable upon cancellation.

- (c) Payment; Renewals. Mortgagor shall promptly furnish to Mortgagee all renewal notices relating to insurance policies. Except as the same may otherwise be paid under Article 3 relating to reserves, Mortgagor will pay all premiums on insurance policies directly to the carrier. At least thirty (30) days prior to the expiration date of each such policy, Mortgagor shall furnish to Mortgagee a renewal policy in a form acceptable to Mortgagee, together with evidence that the renewal premium has been paid.
- (d) Insurance Proceeds.
 - (i) In the event of any loss, Mortgagor will give prompt written notice thereof to the insurance carrier and Mortgagee. With respect to losses below Two Hundred Thousand and No/100 Dollars (\$200,000.00), Mortgagor may adjust and settle such claims without Mortgagor's consent or approval. With respect to losses of Two Hundred Thousand and No/100 Dollars (\$200,000.00) or more, Mortgagor hereby authorizes Mortgagee as

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Mortgagor's irrevocable attorney-in-fact (coupled with an interest) to make proof of loss, to adjust and compromise any claim, to commence, appear in and prosecute, in Mortgagee's or Mortgagor's name, any action relating to any claim, and to collect and receive insurance proceeds; provided, however, that Mortgagee shall have no obligation to do so. If an event of default is not continuing, the preceding sentence shall apply except that the Mortgagee shall not be entitled to be the Mortgagor's attorney-in-fact and the Mortgagor shall be entitled to jointly participate with the Mortgagee in adjusting any loss and appearing in any proceeding.

- (ii) Except as may otherwise be required by applicable law, Mortgagee shall apply any insurance proceeds received hereunder first to the payment of the costs, fees and expenses incurred in the collection of the proceeds and shall then apply the balance (the "Net Proceeds"), in its absolute discretion and without regard to the adequacy of its security, to:
- (A) The payment of indebtedness secured hereby, whether then due and payable or not. Any such application of proceeds to principal on the Note shall be without the imposition of any prepayment fee otherwise payable under the Note, but shall not extend or postpone the due dates of the installment payments under the Note, or change the amounts thereof; or
 - (B) The reimbursement of Mortgagor, under Mortgagee's prescribed disbursement control procedures, for the cost of restoration or repair of the Property. Mortgagee may, at its option, condition the reimbursement on Mortgagee's approval of the plans and specifications of the reconstruction, contractor's cost estimates, construction budget and schedule, architects' certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage completion of construction, application of payments and satisfaction of liens as Mortgagee may reasonably require.
- (iii) Notwithstanding the provisions of paragraph 2.3(d)(ii) above, Mortgagee agrees that the Net Proceeds from a loss described in this paragraph 2.3(d) will be made available under clause (ii)(B) above to reimburse Mortgagor for the cost of restoration or repair of the Property, provided that each of the following conditions is satisfied:
- (A) No event of default has occurred and is continuing at the time the proceeds are received;
 - (B) The Net Proceeds are less than the indebtedness then secured by this Mortgage;

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- (C) The proceeds are received more than one (1) year prior to the maturity date of the Note;
- (D) Mortgagor gives Mortgagee written notice within thirty (30) days after the proceeds are received that it intends to restore or repair the Property and requests that the Net Proceeds be made available therefor, and Mortgagor thereafter promptly commences the restoration or repair and completes the same with reasonable diligence in accordance with plans and specifications approved by Mortgagee, which approval shall not be unreasonably withheld;
- (E) The Net Proceeds are sufficient, in Mortgagee's reasonable business judgment, to restore or repair the Property substantially to its condition prior to the damage or destruction or, if in Mortgagee's reasonable business judgment they are not, Mortgagor deposits with Mortgagee funds in an amount equal to the deficiency, which funds Mortgagee may, at its option, require be expended prior to use of the Net Proceeds; and
- (F) Mortgagee receives evidence reasonably satisfactory to Mortgagee that the Property can be lawfully restored or repaired and that, upon completion of the restoration or repair, the Property will be in the same or better condition than prior to the damage or destruction and can be operated substantially as it was before and will produce substantially as much income from tenant leases as it did before the damage or destruction.
- (iv) Except to the extent, if any, that insurance proceeds are applied to payment of the Secured Obligations, Mortgagor's obligation to restore, repair and maintain the Property as provided in paragraph 2.4 shall not be excused, regardless of whether insurance proceeds are available or sufficient.
- (e) Transfer of Title. If the Property is sold pursuant to Article 8 or if Mortgagee otherwise acquires title to the Property, Mortgagee shall have all of the right, title and interest of Mortgagor in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.
- (f) Acknowledgement of Notice of Rights Under Collateral Protection Act. The Mortgagor acknowledges that, pursuant to the Collateral Protection Act 815 ILCS 180/1, *et seq.* ("Act"), the Mortgagor has been advised that unless it provides the Mortgagee with evidence of the insurance coverage required by this Mortgage, the Mortgagee may purchase insurance at the Mortgagor's expense to protect the Mortgagee's interests in the Property. This insurance may, but need not, protect the Mortgagor's interests. The coverage that the Mortgagee purchases may not pay any claim that the Mortgagor makes or any claim that is made against the

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Mortgagor in connection with the Property. The Mortgagor may later cancel any insurance purchased by the Mortgagee but only after providing the Mortgagee with evidence that the Mortgagor has purchased insurance for the Property. The Mortgagor will be responsible for the cost of that insurance, including interest on the cost of any of the insurance, until the effective date of the cancellation or expiration of the insurance premiums. The cost of the insurance, including interest thereon, may be added to the Secured Obligations. The cost of the insurance may be more than the cost of the insurance the Mortgagor may be able to obtain on its own.

2.4 Preservation and Maintenance of Property; Right of Entry.

(a) Preservation and Maintenance. Mortgagor:

- (i) will not commit or suffer any waste or permit any impairment or deterioration of the Property,
- (ii) will not abandon the Property,
- (iii) will restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Mortgagee may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair,
- (iv) will keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon, in good condition and repair and shall replace fixtures, equipment, machinery and appliances of the Property when necessary to keep such items in good condition and repair, and
- (v) will generally operate and maintain the Property in a commercially reasonable manner.

(b) Alterations. No building or other improvement on the Realty will be structurally altered, removed or demolished, in whole or in part, without Mortgagee's prior written consent, nor will any fixture or chattel covered by this Mortgage and adapted to the use and enjoyment of the Property be removed at any time without like consent unless actually replaced by an article of equal suitability, owned by Mortgagor, free and clear of any lien or security interest except such as may be approved in writing by Mortgagee.

(c) Right of Entry. Mortgagee is hereby authorized to enter the Property, including the interior of any structures, at reasonable times and after reasonable notice, for the purpose of inspecting the Property and for the purpose of performing any of the acts it is authorized to perform hereunder.

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2.5 Hazardous Substances.

- (a) No Future Hazardous Substances. Mortgagor will not cause or permit the Property to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process any Hazardous Substance, except in compliance with all applicable federal, state and local statutes, ordinances, rules, regulations and other laws, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any tenant, subtenant or other user or occupier of the Property, a releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of any Hazardous Substance onto the Property or any other property or into any waters, except in compliance with all such laws.
- (b) Notification; Clean Up. Mortgagor will immediately notify Mortgagee if Mortgagor:
- (i) becomes aware of any Hazardous Substance or other environmental problem or liability with respect to the Property,
 - (ii) receives any notice of, or becomes aware of, any actual or alleged violation with respect to the Property of any federal, state or local statute, ordinance, rule, regulation or other law pertaining to Hazardous Substances, or
 - (iii) becomes aware of any lien or action with respect to any of the foregoing.

Mortgagor will, at its sole expense, take all actions as may be necessary or advisable for the clean-up of Hazardous Substances on or with respect to the Property, including without limitation all removal, containment and remedial actions in accordance with all applicable laws and in all events in a manner satisfactory to Mortgagee, and shall further pay or cause to be paid all clean-up, administrative and enforcement costs of governmental agencies with respect to Hazardous Substances on or with respect to the Property if obligated to do so by contract or by law.

- (c) Verification. For the purposes of inspecting the Property to ascertain the accuracy of all representations and warranties in this Mortgage relating to Hazardous Substances, and the observance of all covenants contained in this paragraph 2.5:
- (i) subject to the rights of Tenants unrelated to Mortgagor, Mortgagee is hereby authorized to enter and inspect the Property, including the interior of any structures, at reasonable times and after reasonable notice, and
 - (ii) if and at any time Hazardous Substances are being handled on the Property, Mortgagor shall furnish Mortgagee with such information and documents as may be reasonably requested by Mortgagee to confirm that such Hazardous Substances are being handled in compliance with all

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applicable federal, state and local statutes, ordinances, rules, regulations and other laws.

In the event Mortgagee either had a reasonable concern that there was an environmental problem or, in fact, discovered an environmental problem, Mortgagor shall reimburse Mortgagee upon demand for all costs and expenses, including without limitation attorneys' fees, incurred by Mortgagee in connection with any such entry and inspection and the obtaining of such information and documents.

2.6 Parking. If any part of the automobile parking areas included within the Property is taken by condemnation or are otherwise reduced, Mortgagor will, before such taking or reduction, take all actions as are necessary to provide parking facilities in kind, size and location to comply with all governmental zoning and other regulations and all leases. Before making any contract for substitute parking facilities, Mortgagor will furnish to Mortgagee satisfactory assurance of completion thereof free of liens and in conformity with all government zoning and other regulations.

2.7 Use of Property. Mortgagor will comply with all laws, ordinances, regulations and requirements of any governmental body, and all other covenants, conditions and restrictions, applicable to the Property, and pay all fees and charges in connection therewith. Mortgagor shall not cause or permit the installation, operation or presence on the Realty of any underground storage tank or system used or to be used for the storage, handling or dispensing of petroleum or any other substance regulated under Resource Conservation and Recovery Act (42 USC § 6901 et seq.), as now or hereafter amended, or any state or local statute, ordinance, rule, regulation or other law now or hereafter in effect regulating underground storage tanks or systems. Mortgagor shall not cause or permit all or any of the Realty to be used for a gasoline station, service station or other fueling facility which in whole or in part handles, sells or distributes gasoline, diesel fuel, gasohol or any other substance used in self-propelled motor vehicles. Unless required by applicable law or unless Mortgagee has otherwise agreed in writing, Mortgagor will not allow changes in the use for which all or any part of the Property was intended at the time this Mortgage was executed. Mortgagor will not initiate or acquiesce in a change in the zoning classification of the Property without Mortgagee's prior written consent.

2.8 Condemnation.

- (a) Proceedings. Mortgagor will promptly notify Mortgagee of any action or proceeding relating to any condemnation or other taking (including without limitation change of grade), whether direct or indirect, of the Property or part thereof or interest therein, and Mortgagor will appear in and prosecute any such action or proceeding unless otherwise directed by Mortgagee in writing. Mortgagor authorizes Mortgagee, at Mortgagee's option, as attorney-in-fact for Mortgagor (irrevocable and coupled with an interest), to commence, appear in and prosecute, in Mortgagee's or Mortgagor's name, any action or proceeding relating to any such condemnation or other taking, and to settle or compromise any claim in connection with such condemnation or other taking; provided, however, that Mortgagee shall have no obligation to do so. If an event of default has not

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occurred, the preceding sentence shall apply except that the Mortgagee shall not be entitled to be the Mortgagor's attorney in fact and the Mortgagor shall be entitled to jointly participate with the Mortgagee in settling or comprising any claim and in appearing in any proceeding. All awards, payments, damages, direct, consequential and otherwise, claims, and proceeds thereof, in connection with any such condemnation or other taking, or for conveyances in lieu of condemnation, are hereby assigned to Mortgagee, and all proceeds of any such awards, payments, damages or claims shall be paid to Mortgagee.

- (b) Application of Condemnation Proceeds. Except as may otherwise be required by applicable law, Mortgagee shall apply any condemnation proceeds received hereunder first to the payment of the costs and expenses incurred in the collection of the condemnation proceeds and shall then apply the balance (the 'Net Condemnation Proceeds', in its absolute discretion and without regard to the adequacy of its security, to:
- (i) The payment of indebtedness secured hereby, whether then due and payable or not. Any such application of proceeds to principal on the Note shall be without the imposition of any prepayment fee otherwise payable under the Note, but shall not extend or postpone the due dates of the installment payments under the Note, or change the amounts thereof, or
 - (ii) The reimbursement of Mortgagor, under Mortgagee's prescribed disbursement control procedures, for the cost of restoration or repair of the Property. Mortgagee may, at its option, condition the reimbursement on Mortgagee's approval of the plans and specifications of the reconstruction, contractor's cost estimates, construction budget and schedule, architects' certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage completion of construction, application of payments and satisfaction of liens as Mortgagee may reasonably require.
- (c) Availability of Condemnation Proceeds for Restoration Purposes. Notwithstanding the provisions of paragraph 2.8 (b) above, Mortgagee agrees that the Net Condemnation Proceeds from a taking by condemnation described in this paragraph 2.8 will be made available under clause (b)(ii) above to reimburse Mortgagor for the cost of restoration or repair of the Property, provided that each of the following conditions is satisfied:
- (i) No event of default has occurred and is continuing at the time the proceeds are received,
 - (ii) The Net Condemnation Proceeds are less than the indebtedness then secured by this Mortgage;

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- (iii) The proceeds are received more than one (1) year prior to the maturity date of the Note;
 - (iv) Mortgagor gives Mortgagee written notice within thirty (30) days after the proceeds are received that it intends to restore or repair the Property and requests that the Net Condemnation Proceeds be made available therefore, and Mortgagor thereafter promptly commences the restoration or repair and completes the same with reasonable diligence in accordance with plans and specifications approved by Mortgagee, which approval shall not be unreasonably withheld;
 - (v) The Net Condemnation Proceeds are sufficient, in Mortgagee's reasonable business judgment, to restore or repair the Property substantially to its condition prior to the damage or destruction or, if in Mortgagee's reasonable business judgment they are not, Mortgagor deposits with Mortgagee funds in an amount equal to the deficiency, which funds Mortgagee may, at its option, require be expended prior to use of the Net Condemnation Proceeds;
 - (vi) Mortgagee receives evidence reasonably satisfactory to Mortgagee that, upon completion of the restoration or repair, the Property can be operated substantially as it was before and will produce substantially as much income from tenant leases as it did before the taking by condemnation; and
 - (vii) The leases described on Exhibit B attached hereto (or replacement leases acceptable to the Mortgagee for such purpose) remain in full force and effect.
- (d) Except to the extent, if any, that Net Condemnation Proceeds are applied to payment of the Secured Obligations, Mortgagor's obligation to restore, repair and maintain the Property as provided in paragraph 2.4 shall not be excused, regardless of whether condemnation proceeds are available or insufficient.

2.9 Protection of Mortgagee's Security. Mortgagor will give notice to Mortgagee of and will, at its expense, appear in and defend any action or proceeding that might affect the Property or title thereto or the interests of Mortgagee therein or the rights or remedies of Mortgagee. If any such action or proceeding is commenced or if Mortgagee is made a party to any such action or proceeding by reason of this Mortgage, or if Mortgagor fails to perform any obligation on its part to be performed hereunder, then Mortgagee, in its own discretion, may make any appearances, disburse any sums, make any entries upon the Property and take any actions as may be necessary or desirable to protect or enforce the security of this Mortgage, to remedy Mortgagor's failure to perform its obligations (without, however, waiving any default by Mortgagor) or otherwise to protect Mortgagee's interests. Mortgagor agrees to pay all loss, damage, costs and expenses, including reasonable attorneys' fees, of Mortgagee thus incurred. This paragraph shall not be construed to require Mortgagee to incur any expenses, make any appearances or take any actions.

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2.10 Reimbursement of Mortgagee's Expenses. All amounts disbursed by Mortgagee pursuant to paragraph 2.9 or any other provision of this Mortgage, with interest thereon, shall be additional indebtedness of Mortgagor secured by this Mortgage. All such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the interest rate in effect on the Note from time to time, or at the maximum rate which may be collected from Mortgagor on such amounts by the payee thereof under applicable law if that is less.

2.11 Books and Records; Financial Statements. Mortgagor will keep and maintain at Mortgagor's address stated above, or such other place as Mortgagee may approve in writing, books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination, inspection and copying at any reasonable time by Mortgagee upon reasonable notice by Mortgagee. Mortgagor will furnish to Mortgagee, within twenty (20) days after Mortgagee's request therefor, the following documents, each certified to Mortgagee by Mortgagor as being true, correct and complete:

- (a) a copy of all leases and other agreements for the occupancy or use of all or any part of the Property,
- (b) a rent roll for the Property, showing the name of each tenant, and for each tenant, the suite occupied, the number of square feet rented, the lease expiration date, the rent payable, the date through which rent has been paid, the amount of any security deposit and the number and term of any renewal options,
- (c) a copy of the most recent real and personal property tax statements for the Property,
- (d) a copy of the most recent statements for the insurance coverages maintained under paragraph 2.3(a) of this Mortgage, and
- (e) a statement of income and expenses of the Property for the most recently ended fiscal year of Mortgagor.

In addition, Mortgagor and any general partner therein and any guarantor of the Loan must furnish to Mortgagee, within twenty (20) days after Mortgagee's request therefor, a complete and current financial statement, in reasonable detail and certified as correct by Mortgagor or such partner or guarantor except that neither Ronald C. Lunt nor Allan Hamilton shall be required to provide such financial statements unless an event of default occurs under this Mortgage. However, the Mortgagor also covenants that Ronald C. Lunt and Allan Hamilton will deliver to the Mortgagee the Financial Information at the times required by paragraph 20 of their Unconditional Guaranty dated of even date delivered to the Mortgagee in connection with the Loan. Mortgagor and any general partner therein hereby irrevocably authorize Mortgagee to obtain credit reports on Mortgagor and any such general partner on one or more occasions during the term of the Loan.

2.12 Prohibited Person Compliance. Mortgagor warrants, represents and covenants that neither Mortgagor, any guarantor nor any of their respective affiliated entities are or will be

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an entity or person (i) that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order 13224 issued on September 24, 2001 (“EO13224”); (ii) whose name appears on the United States Treasury Department’s Office of Foreign Assets Control (“OFAC”) most current list of “Specifically Designed National and Blocked Persons,” (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>, or successor website); (iii) who commits, threatens to commit or supports “terrorism”, as that term is defined in EO 13224; or (iv) who is otherwise affiliated with any entity or person listed above (any and all parties or persons described in subparts [i] – [iv] above are herein referred to as a “Prohibited Person”). Mortgagor covenants and agrees that neither Mortgagor, any guarantor nor any of their respective affiliates entities will (i) conduct any business, nor engage in any transaction or dealing, with any Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (ii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO 13224. Mortgagor further covenants and agrees to deliver (from time to time) to Mortgagee any such certification or other evidence as may be requested by Mortgagee in its sole and absolute discretion, confirming that (i) neither Mortgagor nor any guarantor are a Prohibited Person and (ii) neither Mortgagor nor any guarantor have engaged in any business, transaction or dealings with a Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person.

3. RESERVES

3.1 Deposits. If Mortgagee so requires, Mortgagor will, at the time of making each installment payment under the Note, deposit with Mortgagee a sum, as estimated by Mortgagee, equal to:

- (a) the rents under any ground lease,
- (b) the taxes and special assessments next due on the Property, and
- (c) the premiums that will next become due on insurance policies as may be required under this Mortgage,

less all sums already deposited therefor, divided by the number of months to elapse before two (2) months prior to the date when such rents, taxes, special assessments and premiums will become delinquent. Mortgagee may require Mortgagor to deposit with Mortgagee, in advance, such other sums for other taxes, assessments, premiums, charges and impositions in connection with Mortgagor or the Property as Mortgagee reasonably deems necessary to protect Mortgagee’s interests (herein “Other Impositions”). Such sums for Other Impositions shall be deposited in a lump sum or in periodic installments, at Mortgagee’s option. If required by Mortgagee, Mortgagor will promptly deliver to Mortgagee all bills and notices with respect to any rents, taxes, assessments, premiums and Other Impositions. All sums deposited with Mortgagee under this paragraph 3.1 are hereby pledged as additional security for the Secured Obligations.

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3.2 Application of Deposits. All such deposited sums shall be held by Mortgagee and applied in such order as Mortgagee elects to pay such rents, taxes, assessments, premiums and Other Impositions or, in the event of default hereunder, may be applied in whole or in part, to the Secured Obligations. The arrangement provided for in this Article 3 is solely for the added protection of Mortgagee and entails no responsibility on Mortgagee's part beyond the allowing of due credit, without interest, for the sums actually received by it. Upon any assignment of this Mortgage by Mortgagee, any funds on hand shall be turned over to the assignee and any responsibility of Mortgagee with respect thereto shall terminate. Each transfer of the Property shall automatically transfer to the grantee all rights of Mortgagor with respect to any funds accumulated hereunder. Upon payment in full of the Secured Obligations, Mortgagee shall promptly refund to Mortgagor the remaining balance of any deposits then held by Mortgagee.

3.3 Adjustments to Deposits. If the total deposits held by Mortgagee exceed the amount deemed necessary by Mortgagee to provide for the payment of such rents, taxes, assessments, premiums and Other Impositions as the same fall due, then such excess shall, provided no event of default then exists hereunder, be credited by Mortgagee on the next due installment or installments of such deposits. If at any time the total deposits held by Mortgagee is less than the amount deemed necessary by Mortgagee to provide for the payment thereof as the same fall due, then Mortgagor will deposit the deficiency with Mortgagee within thirty (30) days after written notice to Mortgagor stating the amount of the deficiency.

4. RESTRICTIONS ON TRANSFER OR ENCUMBRANCE

4.1 Restrictions on Transfer or Encumbrance of the Property.

- (a) A "Transfer" is: any sale (by contract or otherwise), encumbrance, conveyance or other transfer of all or any part of or interest in the Property; or any change in the ownership of any stock interest in a corporate Mortgagor, in the ownership of any membership interest or in the manager of a limited liability company Mortgagor, in the ownership of any general partnership interest in any general or limited partnership Mortgagor, or in the ownership of any beneficial interest in any other Mortgagor which is not a natural person or persons (including without limitation a trust); or any change in the ownership of any stock, membership, general partnership or other beneficial interest in any corporation, limited liability company, partnership, trust or other entity, organization or association directly or indirectly owning an interest in Mortgagor, or a change in the manager of a limited liability company. A change in the ownership of a limited partnership interest in a limited partnership shall not be deemed a "Transfer."
- (b) In the event of a Transfer without Mortgagee's prior written consent, Mortgagee may at its sole option declare the Transfer to be an event of default under this Mortgage and invoke any remedy or remedies provided for in paragraph 8.1 hereof, or may at its sole option consent to such Transfer. Mortgagee may condition its consent to a Transfer upon the payment of a fee to Mortgagee, or an increase in the rate of interest due under the Note, or the items in paragraph 4.1(e) below, or any combination of the foregoing. Neither of the foregoing options shall apply, however, in the case of a Transfer under any will, trust or applicable

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law of descent arising because of the death of an individual so long as Mortgagee is given prompt notice of the Transfer and the transferee. Mortgagee's consent to a Transfer or its waiver of an event of default by reason of a Transfer shall not constitute a consent or waiver of any right, remedy or power accruing to Mortgagee by reason of any subsequent Transfer.

- (c) Mortgagee will give its written consent to Transfers of interests in Mortgagor or of interests in an entity with an ownership interest in Mortgagor to the transferor's spouse or lineal descendant or to an estate planning trust whose trustees and beneficiaries are the transferor or the transferor's spouse or lineal descendant if Mortgagor gives Mortgagee prior written notice accompanied by copies of the proposed Transfer documents and a \$1,500.00 transfer review fee.
- (d) Notwithstanding the prohibitions on Transfers in paragraph 4.1(b), Transfers of membership interests in HP 85 Algonquin L.L.C., an Illinois limited liability company shall be permitted subject to:
 - (i) The Managing Members of HP 85 Algonquin L.L.C., Ronald C. Lunt, Allan Hamilton and Patrick J. McKillen, maintaining an aggregate ownership interest of the greater than 50%;
 - (ii) Mortgagee being given notice thirty (30) days prior to such Transfers;
 - (iii) Mortgagee has reviewed and approved the transfer documents;
 - (iv) the payment of an administrative fee and any Mortgagee's out of pocket expenses;
 - (v) the Managing Members of HP 85 Algonquin L.L.C. maintain their expertise in management and ownership of office properties; and
 - (vi) there have been no changes of the individuals who are the Guarantors under the Loan.

Transfers pursuant to this Paragraph 4.1. d) shall not be a violation of the restrictions in this Mortgage on Transfers and the Mortgagee shall not be entitled to change the interest rate, charge a fee [except as stated in this Paragraph 4.1d)] or accelerate the payment of the Loan on account of Transfers made pursuant to this paragraph 4.1(d).

- (e) For any Transfer permitted under this Mortgage or requested by Mortgagor, Mortgagee may condition its consent upon: the Property having been and assurances that it shall continue to be well maintained and managed in a manner satisfactory to Mortgagee; Mortgagee's approval of the Transfer terms, documents and background materials; there being no uncured event of default under this Mortgage; Mortgagor furnishing an endorsement to Mortgagee's title insurance policy insuring the continued validity and priority of the lien of this Mortgage following the Transfer and such subordination agreements and other

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documents as may be required by Mortgagee or its title company to issue the endorsement; and any transferee and parties in interest in the transferee meeting the requirements of this Mortgage, including paragraph 2.12 above. Unless Mortgagee in its sole discretion otherwise agrees in writing at that time, no Transfer shall release the transferor from any liability under the Loan Documents or the Environmental Indemnity. By accepting a Transfer, the transferee assumes any and all liability of the transferor under the Loan Documents and the Environmental Indemnity to the extent the transferor has any personal liability. At Mortgagee's request, the parties shall execute agreements, guaranties and indemnities in form and substance acceptable to Mortgagee. Regardless whether Mortgagee consents to a Transfer request, Mortgagor agrees to pay all of Mortgagee's out-of-pocket expenses incurred in connection with any Transfer request, including without limitation title fees and attorneys' fees and costs, and Mortgagee may condition its willingness to consider a Transfer request upon a deposit to pay for Mortgagee's expenses.

4.2 Loan Assumption Provision. Notwithstanding any provision of this Mortgage to the contrary, Mortgagee will consent to one sale of the Property and assumption by the purchaser of the indebtedness secured hereby, provided that:

- (a) Mortgagor is not then in default under this Mortgage;
- (b) The purchaser of the Property, the financial statements, financial strength, tax returns and credit history of the purchaser, the sale agreement and related documents, and all aspects of the sale are satisfactory to Mortgagee;
- (c) The purchaser evidences a history of property management satisfactory to Mortgagee or contracts for management of the Property with a property management firm satisfactory to Mortgagee;
- (d) If the unpaid principal balance of the Note then exceeds seventy-five percent (75%) of the sale price of the Property, the principal balance due on the Note, at the Mortgagee's election, must be reduced, by a prepayment of such principal, to an amount resulting in such principal balance not exceeding seventy-five percent (75%) of the sale price at the time of the assumption;
- (e) Mortgagee receives in cash an assumption fee of the greater of Five Thousand and No/100 Dollars (\$5,000.00) or One Percent (1.00%) of the outstanding loan balance at the time of the assumption, plus, in either case, its legal and administrative expenses, incurred in connection with such sale and assumption;
- (f) Mortgagor furnishes to Mortgagee, at Mortgagor's expense, an endorsement to Mortgagee's title insurance policy insuring the continued validity, enforceability and priority of the Mortgage following the assumption. The form and content of the endorsement must be satisfactory to Mortgagee. If required by the Mortgagee or the title insurer issuing such endorsement, the Mortgagor shall furnish

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subordination agreements from tenants of the Property and other necessary parties in form and substance acceptable to the Mortgagee and the title insurer;

- (g) Mortgagee's approval of the assumption and release of the Mortgagor and guarantor shall be subject to the Mortgagee's approval, in its sole discretion, of the assuming purchaser and any applicable new guarantor or guarantors;
- (h) If the Loan was made with a requirement imposed upon the Mortgagor to complete any specified repairs of the Property, the Mortgagor shall not be entitled to a consent by Mortgagee pursuant to the terms of this provision until such repairs have been completed to Mortgagee's satisfaction;
- (i) The Mortgagee may, at its option, require tax reserves as referred to in paragraph 3.1 of this Mortgage, whether or not previously waived conditionally or otherwise, as a condition to its consent; and
- (j) The Mortgagor has delivered to the Mortgagee acceptable evidence that not less than eighty-five percent (85%) of the net rentable area of the improvements at the Property has been leased to and is occupied by tenants unrelated to the Mortgagor currently paying rent pursuant to the terms of the corresponding leases providing for total in place base rental income of no less than Two Million One Hundred Twenty-Five Thousand and No/100 Dollars (\$2,125,000.00) per year.

5. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT

5.1 Grant to Mortgagee. This Mortgage constitutes a security agreement pursuant to the Uniform Commercial Code with respect to:

- (a) Any of the Property which, under applicable law, is not real property or effectively made part of the real property by the provisions of this Mortgage; and
- (b) Any and all other property now or hereafter described on any Uniform Commercial Code Financing Statement naming Mortgagor as Debtor and Mortgagee as Secured Party and affecting property in any way connected with the use and enjoyment of the Property (any and all such other property constituting "Property" for purposes of this Mortgage);

and Mortgagor hereby grants Mortgagee a security interest in all property described in clauses (a) and (b) above as additional security for the Secured Obligations. Mortgagor and Mortgagee agree, however, that neither the foregoing grant of a security interest nor the filing of any such financing statement shall ever be construed as in any way derogating from the parties' hereby stated intention that everything used in connection with the production of income from the Property or adapted for use therein or which is described or reflected in this Mortgage and all assets of Mortgagor at the Realty are and at all times shall be regarded for all purposes as part of the real property.

5.2 Mortgagee's Rights and Remedies. With respect to Property subject to the foregoing security interest, Mortgagee has all of the rights and remedies

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- (a) of a secured party under the Uniform Commercial Code,
- (b) provided herein, and
- (c) provided by law.

In exercising its remedies, Mortgagee may proceed against the items of real property and any items of personal property separately or together and in any order whatsoever, without in any way affecting the availability of Mortgagee's remedies. Upon demand by Mortgagee following an event of default hereunder, Mortgagor will assemble any items of personal property and make them available to Mortgagee at the Property, a place which is hereby deemed to be reasonably convenient to both parties. Mortgagee shall give Mortgagor at least ten (10) days' prior written notice of the time and place of any public sale or other disposition of such Property or of the time of or after which any private sale or any other intended disposition is to be made. Any person permitted by law to purchase at any such sale may do so. Such Property may be sold at any one or more public or private sales as permitted by applicable law. All expenses incurred in realizing on such Property shall be borne by Mortgagor.

5.3 Mortgagor Name(s); Matters Affecting Financing Statement Filings. At the request of Mortgagee, Mortgagor shall execute a certificate in form satisfactory to Mortgagee listing the trade-names or fictitious business names under which Mortgagor intends to operate the Property or any business located thereon and representing and warranting that Mortgagor does business under no other trade names or fictitious business names with respect to the Property. Mortgagor will not change any of the following without notifying the Mortgagee of such change in writing at least thirty (30) days prior to the effective date of such change and without first obtaining the prior written consent of the Mortgagee:

- (a) Mortgagor's name or identity (including its trade name or names);
- (b) if Mortgagor is an individual, Mortgagor's principal residence;
- (c) if Mortgagor is an organization, Mortgagor's corporate, partnership or other structure;
- (d) if Mortgagor is an organization, Mortgagor's jurisdiction of organization (i.e., the jurisdiction [State] under whose law the Mortgagor is organized); or
- (e) if Mortgagor is an organization, Mortgagor's place of business (if Mortgagor has only one place of business) or Mortgagor's chief executive office (if Mortgagor has more than one place of business);

Upon any change in the matters referred to above (if permitted hereunder), Mortgagor will, upon request of Mortgagee, execute any financing statement amendments, additional financing statements and other documents required by Mortgagee to reflect such change.

5.4 Fixture Filing. This Mortgage shall be effective as a Financing Statement filed as a fixture filing with respect to all goods which are or are to become fixtures related to the Property. The information below is provided in connection with the filing of this instrument as a

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Financing Statement, and the Mortgagor hereby represents and warrants it to be true and correct as of the date of this instrument.

- (a) The name and address of the record owner of the real estate described in this instrument is:

85 Algonquin L.L.C., an Illinois limited liability company
c/o Hamilton Partners
300 Park Boulevard
Itasca, Illinois 60143

- (b) the name, mailing address and, if Debtor is not an individual, type of organization, jurisdiction of organization and organizational number (if any) of the Debtor is:

85 Algonquin L.L.C., an Illinois limited liability company
c/o Hamilton Partners
300 Park Boulevard
Itasca, Illinois 60143

Organizational Number: IL-00064726

- (c) the name and address of the Secured Party is:

Genworth Life Insurance Company, a Delaware corporation
707 East Main Street
Suite 1300-A
Richmond, Virginia 23219-3310

- (d) Information concerning the security interest evidenced by this instrument may be obtained from the Secured Party at its address above.
- (e) This document covers goods which are or are to become fixtures.
- (f) Proceeds and products of collateral are also covered.

6. **ASSIGNMENT OF RENTS AND LEASES; LEASES OF PROPERTY;
APPOINTMENT OF RECEIVER; MORTGAGEE IN POSSESSION**

6.1 Assignment of Rents and Leases. As further security for the Secured Obligations, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee a separate instrument entitled Assignment of Rents and Leases dated as of the date of this Mortgage wherein, among other things, the Mortgagor has assigned to the Mortgagee all of the rents, issues, profits and leases of the Property as more specifically set forth in that document. That Assignment of Rents and Leases is incorporated herein by reference as fully and with the same effect as if it were set forth herein in its entirety. Mortgagor represents and warrants that Exhibit B attached hereto is an accurate listing of all leases and tenancies of the Property and each of

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them is in good standing and not in default by any party to the same, nor is there any condition which with notice or the passage of time, or both, would be a default thereunder.

6.2 Mortgagor to Comply with Leases. Mortgagor will, at its own cost and expense:

- (a) Faithfully abide by, perform and discharge each and every obligation, covenant and agreement under any leases or other agreements for the occupancy or use of the Property (collectively "Leases") to be performed by the landlord thereunder to preserve all Leases in force free from any right of counterclaim, defense or setoff;
- (b) Enforce or secure the performance of each and every material obligation, covenant, condition and agreement of said Leases by the tenants thereunder to be performed;
- (c) Not borrow against, pledge or further assign any rentals due under said Leases;
- (d) Not permit the prepayment of any rents due under any of the Leases for more than two months in advance nor for more than the next accruing installment of rents, nor anticipate, discount, compromise, forgive or waive any such rents;
- (e) Not waive, excuse, condone or in any manner release or discharge any tenants of or from the obligations, covenants, conditions and agreements by said tenants to be performed under the Leases;
- (f) Not permit any tenant to assign or sublet its interest in any of the Leases unless required to do so by the terms of the Lease and then only if such assignment does not work to relieve the tenant of any liability for payment of and performance of its obligations under such Lease;
- (g) Not terminate any Lease or accept a surrender thereof or a discharge of the tenant providing for a term (assuming that all renewal options, if any, are exercised) of more than five (5) years nor shall Mortgagor terminate or accept a surrender in any single twelve (12) month period more than twenty-five percent (25%) of the aggregate total net rentable area without the written consent of the Mortgagee;
- (h) Not consent to a subordination of the interest of any tenant to any party other than Mortgagee and then only if specifically consented to by the Mortgagee; and
- (i) Not amend or modify any Lease or alter the obligations of the parties thereunder, excepting in the ordinary and prudent course of business with due regard for the security afforded the Mortgagee by the Lease, and will not, without the Mortgagee's written consent, enter into, execute, modify, or extend any Lease now existing or hereafter made providing for a term (assuming that all renewal options, if any, are exercised) of more than five (5) years unless the leased premises is less than twenty-five percent (25%) of the net rentable area of the building improvements at the Property.

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6.3 Mortgagee's Right to Perform under Leases. Should the Mortgagor fail to perform, comply with or discharge any obligations of Mortgagor under any Lease or should the Mortgagee become aware of or be notified by any tenant under any lease of a failure on the part of Mortgagor to so perform, comply with or discharge its obligations under said Lease, Mortgagee may, but shall not be obligated to, and without further demand upon the Mortgagor, and without waiving or releasing Mortgagor from any obligation in this Mortgage contained, remedy such failure, and the Mortgagor agrees to repay upon demand all sums incurred by the Mortgagee in remedying any such failure together with interest at the then rate in effect on the Note. All such sums, together with interest as aforesaid shall become so much additional indebtedness secured by this Mortgage, but no such advance shall be deemed to relieve the Mortgagor from any default hereunder.

6.4 Leases of the Property. Without the Mortgagee's written consent, the Mortgagor will not enter into, execute, modify, or extend any Lease now existing or hereafter made providing a term (assuming that all renewal options, if any, are exercised) of more than five (5) years unless the leased premises is less than twenty-five percent (25%) of the net rentable area of the building improvements at the Property. Mortgagor shall not surrender or terminate any Lease now existing or hereafter made providing a term (assuming that all renewal options, if any, are exercised) of more than five (5) years nor shall Mortgagor surrender or terminate in any single twelve-month period more than twenty-five percent (25%) of the aggregate total net rentable area without the written consent of the Mortgagee. If Mortgagee has approved a Lease submitted by Mortgagor, Mortgagee shall, upon written request of Mortgagor, provide the Tenant of such approved Lease with a subordination, Nondisturbance and Attornment Agreement using Mortgagee's then current customary form. Each lease of the Property, at the election of the Mortgagee, will be either superior or subordinate to the lien of the Mortgage, and each tenant shall execute an appropriate subordination or attornment agreement as required by the Mortgagee. Also, to the extent required by the Mortgagee, each tenant shall execute an estoppel certificate and acknowledge receipt of a notice of the assignment of its lease, all satisfactory in form and content to the Mortgagee.

7. EVENTS OF DEFAULT

7.1 Events of Default. Any one or more of the following is an event of default hereunder:

- (a) Failure to make any payment when due under the Note, this Mortgage or any of the other Loan Documents, followed by the failure to make such payment within ten (10) days after written notice thereof given to Mortgagor by Mortgagee; provided, however, that Mortgagee shall not be obligated to give Mortgagor written notice prior to exercising its remedies with respect to such default if Mortgagee had previously given Mortgagor during that calendar year a notice of default for failure to make a payment of similar type.
- (b) Failure to duly observe or perform any other covenant, condition, agreement or obligation under the Note, this Mortgage or any of the other Loan Documents, other than a payment obligation, followed by the failure to cure such default within thirty (30) days after written notice thereof given to Mortgagor by

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Mortgagee (or if such cure cannot be completed within such thirty (30) day period through the exercise of diligence, the failure by Mortgagor to commence the required cure within such thirty (30) day period and thereafter to continue the cure with diligence and to complete the cure within a reasonable period of time, but not exceeding ninety (90) days following Mortgagee's notice of default).

- (c) Mortgagor, or any trustee of Mortgagor files a petition in bankruptcy or for an arrangement, reorganization or any other form of debtor relief; or such a petition is filed against Mortgagor or any trustee of Mortgagor and the petition is not dismissed within forty-five (45) days after filing.
- (d) A decree or order is entered for the appointment of a trustee, receiver or liquidator for Mortgagor or Mortgagor's property, and such decree or order is not vacated within forty-five (45) days after the date of entry.
- (e) Mortgagor commences any proceeding for dissolution or liquidation; or any such proceeding is commenced against Mortgagor and the proceeding is not dismissed within forty-five (45) days after the date of commencement.
- (f) Mortgagor makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due.
- (g) There is an attachment, execution or other judicial seizure of any portion of Mortgagor's assets and such seizure is not discharged within ten (10) days.
- (h) Any representation or disclosure made to Mortgagee by Mortgagor or any guarantor of the Loan proves to be materially false or misleading when made, whether or not that representation or disclosure is contained in the Loan Documents.

8. REMEDIES

8.1 Acceleration Upon Default; Additional Remedies. In the event of default hereunder, Mortgagee may, at its option and without notice to or demand upon Mortgagor, take any one or more of the following actions:

- (a) Declare any or all indebtedness secured by this Mortgage to be due and payable immediately.
- (b) Bring a court action to enforce the provisions of this Mortgage or any of the indebtedness or obligations secured by this Mortgage.
- (c) Bring a court action to foreclose this Mortgage.
- (d) Exercise any or all of the rights and remedies provided for herein and in the other Loan Documents in the event of default hereunder.
- (e) Exercise any other right or remedy available under law or in equity.

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8.2 Right to Foreclose. If an event of default shall occur hereunder, the Mortgagee may, either with or without entry or taking possession, proceed by suit or suits at law or in equity or by any other appropriate proceedings or remedy to enforce payment of the indebtedness secured by this Mortgage or the performance of any other term hereof or any other right and the Mortgagor hereby authorizes and fully empowers the Mortgagee to foreclose this Mortgage by judicial proceedings, either in one parcel or separate lots and parcels, all in accordance with and in the manner prescribed by law, and out of the proceeds arising from sale and foreclosure to retain the principal and interest due on the Note and the indebtedness secured by this Mortgage, together with all such sums of money as Mortgagee shall have expended or advanced pursuant to this Mortgage or pursuant to statute together with interest thereon at the Note rate of interest and all costs and expenses of such foreclosure, including lawful attorney's fees, with the balance, if any, to be paid to the persons entitled thereto by law. In any such proceeding the Mortgagee may apply all or any portion of the indebtedness secured by this Mortgage to the amount of the purchase price. Mortgagor hereby covenants and agrees that Mortgagee shall have and be entitled to, and hereby affords Mortgagee, all rights and remedies provided mortgagees in and under the Illinois Mortgage Foreclosure Act 735 ILCS 5/15-1101 *et seq.*, whether or not such rights and remedies are specifically set forth herein.

8.3 Receiver. If an event of default shall occur hereunder, the Mortgagee shall be entitled as a matter of right without notice and without giving bond and without regard to the solvency or insolvency of the Mortgagor, or waste of the Property, or adequacy of the security of the Property, to apply for the appointment of a Receiver who shall have all the rights, powers and remedies as provided by law and who:

- (a) shall apply the rents, issues and profits as provided by law and thereafter to all expenses for maintenance of the Property and to the costs and expenses of the receivership, including reasonable attorneys fees and to the payment of the indebtedness secured by this Mortgage or
- (b) pursuant to the Assignment of Rents and Leases executed by the Mortgagor to the Mortgagee given contemporaneously with this Mortgage, who shall in addition to the rights, powers and remedies as provided by law have such rights, powers and remedies as provided in such Assignment of Rents and Leases and who shall apply the rents, issues and profits as provided therein.

8.4 Waiver of Order of Sale and Marshaling. Mortgagee shall have the right to determine the order in which any and all portions of the Secured Obligations are satisfied from the proceeds realized upon the exercise of any of the remedies to the extent permitted by applicable law, and Mortgagor, and any other party consenting to this Mortgage or acquiring a security interest in the Property shall be deemed, to the extent permitted by applicable law, to have waived all rights to require marshaling of assets in connection with any remedies herein or to direct the order in which any of the Property will be sold in the event of any sale under this Mortgage.

8.5 Non-Waiver of Defaults. The entering upon and taking possession of the Property, the collection of Rents or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release

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thereof as herein provided, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

8.6 Expenses During Redemption Period. If this Mortgage is foreclosed, the purchaser may during any redemption period allowed, make such repairs or alterations on the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the default rate of interest stated in the Note or the highest lawful rate if that is less shall be added to and become a part of the amount required to be paid for redemption from such sale to the extent allowed by applicable law.

8.7 Foreclosure Subject to Tenancies. Mortgagee shall have the right at its option to foreclose this Mortgage subject to the rights of any tenant or tenants of the Property.

8.8 Evasion of Prepayment Terms. If an event of default hereunder has occurred and is continuing, a tender of payment of the amount necessary to satisfy the Secured Obligations made at any time prior to foreclosure sale (including sale under power of sale) by Mortgagor, its successors or assigns or by anyone in behalf of Mortgagor, its successors or assigns, shall constitute an evasion of the prepayment terms of the Note and be deemed to be a voluntary prepayment thereunder and any such payment to the extent permitted by law, will, therefore, include the additional payment required under the prepayment privilege, if any, contained in the Note.

8.9 Remedies Cumulative. To the extent permitted by law, every right and remedy provided in this Mortgage is distinct and cumulative to all other rights or remedies under this Mortgage or afforded by law or equity or any other agreement between Mortgagee and Mortgagor, and may be exercised concurrently, independently or successively, in any order whatsoever. Mortgagee may exercise any of its rights and remedies at its option without regard to the adequacy of its security.

8.10 Mortgagee's Expenses. Mortgagor will pay all of Mortgagee's expenses incurred in any efforts to enforce any terms of this Mortgage, whether or not any suit is filed, including without limitation legal fees and disbursements, foreclosure costs and title charges. All such sums, with interest thereon, shall be additional indebtedness of Mortgagor secured by this Mortgage. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the default rate of interest stated in the Note, or the maximum rate which may be collected from Mortgagor under applicable law if that is less.

8.11 Waiver of Appraisal, Homestead, Redemption. The Mortgagor hereby covenants and agrees that it will not at any time insist or plead, or in any manner whatever claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor claim, take or insist upon any benefit of advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or after such sale or sales claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the

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marshaling thereof, upon foreclosure sale or other enforcement hereof. The Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of 735 ILCS 5/5-1601, *et seq.* currently in effect or other applicable law or replacement statutes. The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power or remedy herein or otherwise granted or delegated to the Mortgagee, but will suffer and permit the execution of every other right, power and remedy as though no such law or laws had been made or enacted. If the Mortgagor is a trustee, Mortgagor represents that the provisions of this Section (including the waiver of redemption rights) were made at the express direction of Mortgagor's beneficiaries and the persons having the power of direction over Mortgagor and are made on behalf of the Trust Estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other persons mentioned above.

9. GENERAL

9.1 Application of Payments. Except as applicable law or this Mortgage may otherwise provide, all payments received by Mortgagee under the Note or this Mortgage shall be applied by Mortgagee in the following order of priority:

- (a) Mortgagee's expenses incurred in any efforts to enforce any terms of this Mortgage;
- (b) amounts payable to Mortgagee by Mortgagor under Article 3 for reserves;
- (c) interest and late charges payable on the Note;
- (d) principal of the Note;
- (e) interest payable on advances made to protect the security of this Mortgage;
- (f) principal of such advances; and
- (g) any other sums secured by this Mortgage in such order as Mortgagee, at its option, may determine;

provided, however, that Mortgagee may, at its option, apply any such payments received to interest on and principal of advances made to protect the security of this Mortgage prior to applying such payments to interest on or principal of the Note.

9.2 Release of Mortgage. Upon payment of all sums secured by this Mortgage, this Mortgage and all assignments contained herein shall be void, and this Mortgage shall be released by the Mortgagee at the cost and expense of the Mortgagor, otherwise to remain in full force and effect.

9.3 Mortgagee's Powers. Without affecting the liability of any person for payment or performance of the Secured Obligations or any of Mortgagee's rights or remedies, or the priority

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of the Mortgage, Mortgagee, at its option, may extend the time for payment of the indebtedness secured hereby or any part thereof, reduce payment thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of the indebtedness, release the lien of this Mortgage on any part of the Property, take or release other or additional security, release or cause to be released all or any part of the Property, or consent to the making of any map or plat of the Property, consent to the granting of any easement or creating of any restriction on the Property, or join in any subordination or other agreement affecting this Mortgage or the lien or charge hereof. Mortgagor shall pay Mortgagee a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Mortgagee's option, for any such action if taken at Mortgagor's request.

9.4 Subrogation. Mortgagee shall be subrogated for further security to the lien, although released of record, of any and all encumbrances discharged, in whole or in part, by the proceeds of the Loan or any other indebtedness secured hereby.

9.5 No Violation of Usury Laws. Interest, fees and charges collected or to be collected in connection with the Secured Obligations shall not exceed the maximum, if any, permitted by any applicable law. If any such law is interpreted so that said interest, fees and/or charges would exceed any such maximum and Mortgagor is entitled to the benefit of such law, then:

- (a) such interest, fees and/or charges shall be reduced by the amount necessary to reduce the same to the permitted maximum; and
- (b) any sums already paid to Mortgagee which exceeded the permitted maximum will be refunded.

Mortgagee may choose to make the refund either by treating the payments, to the extent of the excess, as prepayments of principal or by making a direct payment to the person(s) entitled thereto. No prepayment premium shall be assessed on prepayments under this paragraph. The provisions of this paragraph shall control over any inconsistent provision of this Mortgage or the Note or any other Loan Documents.

9.6 Additional Documents; Power of Attorney. Mortgagor, from time to time, will execute, acknowledge and deliver to Mortgagee upon request, and hereby irrevocably appoints Mortgagee its attorney-in-fact, coupled with an interest, to execute, acknowledge, deliver and if appropriate file and record, such security agreements, assignments for security purposes, assignments absolute, financing statements, affidavits, certificates and other documents, in form and substance satisfactory to Mortgagee, as Mortgagee may request in order to perfect, preserve, continue, extend or maintain the assignments herein contained, the lien and security interest under this Mortgage, and the priority thereof. Mortgagor will pay to Mortgagee upon request therefor all reasonable costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document. Mortgagor specifically authorizes Mortgagee to file such Uniform Commercial Code Financing Statements before, on or after the date hereof, and to file such amendments and continuation statements, all as Mortgagee determines necessary or desirable from time to time to perfect or continue the lien of Lender's security interest in the Property.

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9.7 Waiver of Statute of Limitations. To the full extent Mortgagor may do so, Mortgagor hereby waives the right to assert any statute of limitations as a defense to the enforcement of the lien of this Mortgage or to any action brought to enforce the Note or any other obligation secured by this Mortgage.

9.8 Forbearance by Mortgagee Not a Waiver. Any delay, omission or forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy, and no waiver by Mortgagee of any particular default by Mortgagor shall constitute a waiver of any other default or of any similar default in the future. Without limiting the generality of the foregoing, the acceptance by Mortgagee of payment of any sum secured by this Mortgage after the due date thereof shall not be a waiver of Mortgagee's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this Mortgage, nor shall Mortgagee's receipt of any awards, proceeds or damages under paragraphs 2.3 and 2.8 hereof operate to cure or waive Mortgagor's default in payment of sums secured by this Mortgage.

9.9 Modifications and Waivers. This Mortgage cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

9.10 Notice. Except as applicable law may otherwise require, all notices and other communications shall be in writing and shall be deemed given when delivered by personal service or when mailed, by certified or registered mail, postage prepaid, addressed to the address set forth at the beginning of this Mortgage. Any party may at any time change its address for such purposes by delivering or mailing to the other parties hereto as aforesaid a notice of such change.

9.11 Governing Law; Severability; Captions. This Mortgage shall be governed by the laws of the State of Illinois. If any provision or clause of this Mortgage conflicts with applicable law, such conflicts shall not affect other provisions or clauses hereof which can be given effect without the conflicting provision, and to this end the provisions hereof are declared to be severable. The captions and headings of the paragraphs and articles of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

9.12 Definitions. As used herein: the term "Mortgagor" means the Mortgagor herein named, together with any subsequent owner of the Property or any part thereof or interest therein, and the term "Mortgagee" means the Mortgagee herein named, together with any subsequent owner or holder of the Note or any interest therein, including pledgees, assignees and participants.

9.13 Successors and Assigns Bound; Joint and Several Liability; Agents. This Mortgage shall bind and inure to the benefit of the parties hereto and their respective heirs, devisees, legatees, administrators, executors, successors and assigns, subject to the provisions of Article 4 hereof. All obligations of Mortgagor hereunder are joint and several. In exercising any

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rights hereunder or taking actions provided for herein, Mortgagee may act through its employees, agents or independent contractors as authorized by Mortgagee.

9.14 Number; Gender. This Mortgage shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

9.15 Time. Time is of the essence in connection with all obligations of Mortgagor herein.

9.16 Business Loan. Mortgagor represents that the Loan is a business loan for the business purpose of Mortgagor within the purview and intent of the Illinois Interest Act, 815 ILCS 205/4.

9.17 WAIVER OF JURY TRIAL. MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS AGREEMENT, THE NOTE OR ANY OF THE OTHER LOAN DOCUMENTS, OR ANY OTHER STATEMENTS OR ACTIONS OF MORTGAGOR OR MORTGAGEE. MORTGAGOR ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS DISCUSSED THIS WAIVER WITH SUCH LEGAL COUNSEL. MORTGAGOR FURTHER ACKNOWLEDGES THAT (I) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, (II) THIS WAIVER HAS BEEN REVIEWED BY MORTGAGOR AND MORTGAGOR'S COUNSEL AND IS A MATERIAL INDUCEMENT FOR MORTGAGEE TO ENTER INTO THE AGREEMENT AND THE OTHER LOAN DOCUMENTS (III) THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF SUCH OTHER LOAN DOCUMENT AS IF FULLY INCORPORATED THEREIN.

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

85 ALGONQUIN L.L.C.,
an Illinois limited liability company

By: HP 85 ALGONQUIN L.L.C.,
an Illinois limited liability company

By: *Ronald C. Lunt*
RONALD C. LUNT

Its: Managing Member

Its: Manager

Property of Cook County Clerk's Office

STATE OF ILLINOIS

COUNTY OF *DeWitt*

The foregoing instrument was acknowledged before me this *3rd* day of *April*, 2006, by Ronald C. Lunt, the Managing Member of HP 85 Algonquin L.L.C., an Illinois limited liability company, Manager of 85 Algonquin L.L.C., an Illinois limited liability company, on behalf of the limited liability company.

Susan D. Voney
Notary Public

(SEAL)

Printed Name:



My Commission Expires:

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THIS DOCUMENT WAS DRAFTED BY:

BEST & FLANAGAN LLP
225 South Sixth Street
Suite 4000
Minneapolis, Minnesota 55402

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EXHIBIT A TO MORTGAGE

LEGAL DESCRIPTION

The property which is the subject of this Mortgage is situated in the County of Cook, State of Illinois, and is legally described as follows:

PARCEL 1:

LOT 2 IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN SECTION 16, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPT THAT PART TAKEN IN FEE SIMPLE TITLE BY THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS IN CASE NUMBER 93L51190, AS FOLLOWS:

THAT PART OF LOT 2 IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN PART OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF, RECORDED NOVEMBER 29, 1979 AS DOCUMENT 25261219, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE ON AN ASSUMED BEARING OF SOUTH 32 DEGREES 56 MINUTES 00 SECONDS WEST ALONG THE EASTERLY LINE OF SAID LOT 2 A DISTANCE OF 14.43 FEET TO A POINT ON A 2551.07 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 53 DEGREES, 27 MINUTES 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2551.07 FEET, CENTRAL ANGLE 1 DEGREE 33 MINUTES 00 SECONDS 69.07 FEET TO THE WESTERLY LINE OF SAID LOT 2, BEING ALSO A POINT ON A 30.00 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS SOUTH 89 DEGREES 23 MINUTES 15 SECONDS WEST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, BEING ALSO THE SAID WESTERLY LINE OF LOT 2, RADIUS OF 30.00 FEET, CENTRAL ANGLE 55 DEGREES 09 MINUTES 09 SECONDS 28.83 FEET TO THE NORTHWEST CORNER OF SAID LOT 2, BEING ALSO A POINT ON A 2541.29 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 34 DEGREES 19 MINUTES 04 SECONDS EAST FROM SAID POINT; THENCE SOUTHEASTERLY ALONG SAID CURVE, BEING ALSO THE NORTHERLY LINE OF SAID LOT 2, RADIUS 2541.29 FEET, CENTRAL ANGLE 2 DEGREES 06 MINUTES 11 SECONDS 93.28 FEET (93.29 FEET, RECORDED) TO THE POINT OF BEGINNING.

PARCEL 2:

RECIPROCAL EASEMENT FOR INGRESS AND EGRESS AS CREATED BY THAT CERTAIN AGREEMENT DATED AUGUST 2, 1979 AND RECORDED OCTOBER 1, 1979 AS DOCUMENT 25171074 AND REGISTERED WITH THE REGISTRAR OF TITLES ON OCTOBER 1, 1979 AS DOCUMENT LR3121973 AND AS AMENDED BY AGREEMENT DATED JANUARY 27, 1981 AND RECORDED JUNE 4, 1981 AS DOCUMENT 25893428 AND FILED AS DOCUMENT LR3218008.

PARCEL 3:

EASEMENT FOR CREATION AND MAINTENANCE OF A DETENTION/RETENTION POND CREATED BY THAT CERTAIN AGREEMENT DATED DECEMBER 1, 1979 AND RECORDED WITH THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS JANUARY 4, 1980 AS DOCUMENT 25306980 AND REGISTERED WITH THE REGISTRAR OF TITLES JANUARY 4, 1980 AS DOCUMENT LR3139276 AND AS AMENDED BY DOCUMENT RECORDED MARCH 7, 1983 AS DOCUMENT NUMBER 26527048, AND AS AMENDED BY DOCUMENT RECORDED MARCH 7, 1983 AS DOCUMENT NUMBER 26527048 AND FILED AS DOCUMENT NUMBER 3296792, PERTAINING TO LOT 1 AND LOT 2 IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN SECTION 16, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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EXHIBIT B TO MORTGAGE

LEASES

<u>Tenant</u>	<u>Lease Date</u>	<u>Expiration Date</u>
@ Mortgage, Inc.	August 21, 2002, amended by First Amendment to Lease Agreement dated February 28, 2003, Second Amendment to Lease Agreement dated February 9, 2004, Third Amendment to Lease Agreement dated February 25, 2005, and Fourth Amendment to Lease Agreement dated February 13, 2006	February 28, 2007
Alliance H.R. Network	September 27, 2005, and amended by First Lease Amendment dated October 17, 2005	November 30, 2010
Ameritech Advanced Data Services, Inc.	Executed April 14, 1997	July 31, 2006
Brighton Engineering Company	June 29, 1993, amended by First Lease Extension dated November 6, 1998, and Second Lease Amendment dated March 11, 2003	November 30, 2006
Chicago Title Insurance Company	August 15, 2005, and amended by First Amendment to Lease Agreement dated September 1, 2005	April 30, 2011
Chicago Title Insurance Company	November 14, 2005	April 30, 2011
Dataco LLC	December 1, 2004	July 31, 2008

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Executive Administration, Inc.	September 4, 1998, amended by First Lease Amendment dated March 13, 2000, Second Lease Amendment dated August 20, 2002, and Third Lease Amendment dated September 30, 2004	December 31, 2011
Friends of the Orphans, USA	Executed February 1, 2005, as amended by First Amendment dated _____	Month-to-Month
Comptroller of the Currency	_____, amended by First Amendment to Lease dated November 24, 1993, and by _____	December 31, 2007
Healthserve, L.L.C.	February 18, 2004	March 31, 2006
J.M. Wilson, Inc.	Executed May 4, 2003	May 31, 2008
Dickler, Kahn, Slowikowski & Zavell, Ltd.	August 1, 2000, and amended by First Amendment to Lease Agreement dated April 7, 2005	July 31, 2010
Maxam Assurance Agency, Inc.	January 22, 1993, amended by First Lease Extension dated November 21, 1997, Second Lease Extension dated January 18, 2001, and Third Extension to Lease Agreement dated April 19, 2004	July 31, 2006
Menke & Associates	April 13, 2000, and amended by First Amendment to Lease Agreement dated February 25, 2005	May 31, 2008
Municipal Insurance Company of America	February 7, 2003, and amended by First Amendment to Lease Agreement dated September 1, 2005	December 31, 2007

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Nationwide Hospitality, Inc.	October 7, 2000, and amended by First Amendment to Lease Agreement dated August 1, 2005	July 31, 2008
National Accident Insurance Underwriters, Inc.	February 5, 1999, and amended by First Lease Amendment dated September 28, 2004	February 28, 2009
Sharp Electronics Corporation	May 17 2004	October 31, 2007
Shima Trading Company (USA), Ltd.	September 29, 2004	January 31, 2008
Silver XIS, Corp.	December 30, 2005	March 31, 2009
Uniglobe, Inc.	February 1, 1999, amended by First Amendment to Lease Agreement dated January 9, 2004, and by Second Amendment to Lease Agreement dated December 28, 2004	February 28, 2007

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EXHIBIT C
TO
MORTGAGE

PROMISSORY NOTE

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THIS INSTRUMENT WAS PREPARED BY AND WHEN
RECORDED RETURN TO:

Duane L. Paulson
BEST & FLANAGAN LLP
225 South Sixth Street
Suite 4000
Minneapolis, Minnesota 55402

Property of Cook County Clerk's Office

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PROMISSORY NOTE

\$6,700,000.00

April 4, 2006
Arlington Heights, Illinois
GLIC Loan No. 100000328

1. Promise to Pay.

FOR VALUE RECEIVED, the undersigned, 85 ALGONQUIN L.L.C., an Illinois limited liability company ("Borrower"), promises to pay in lawful money of the United States of America to the order of GENWORTH LIFE INSURANCE COMPANY, a Delaware corporation ("Lender"), at 767 East Main Street, Suite 1300-A, Richmond, Virginia 23219-3310, or such other place either within or without the State of Virginia as Lender may designate in writing from time to time, the principal sum of Six Million Seven Hundred Thousand and No/100 Dollars (\$6,700,000.00), with interest from the date hereof on the unpaid principal balance at the rate set forth below.

2. Interest.

Interest shall accrue on the unpaid principal balance at a variable rate as follows:

- (a) From the date hereof to but not including the Third Anniversary Date, the rate of interest shall be Five and Eighty-Seven Hundredths Percent (5.87%) per annum.
- (b) On the Third Anniversary Date and Sixth Anniversary Date (each a "Rate Adjustment Date"), the rate of interest shall be adjusted to a rate per annum equal to the Lender's then current interest rate for loans with similar quality security, leasing, loan to value ratio, term, amortization and prepayment terms; provided, however, that in no event shall the interest rate be adjusted to a rate of less than Five and One-Half Percent (5.50%) per annum, and in the event the formula referred to in this paragraph results in a rate of less than Five and One-Half Percent (5.50%), the rate shall be adjusted to Five and One-Half Percent (5.50%) per annum; and provided further that in no event shall the interest rate be adjusted to a rate in excess of the maximum rate, if any, permitted by applicable law. The period of Three (3) years of fixed interest rate following each Rate Adjustment Date is referred to as the "Adjusted Rate Period." The Lender will notify the Borrower of the interest rate for each Rate Adjustment Date not less than sixty (60) days prior to such Rate Adjustment Date. The rate of interest, as so adjusted, shall take effect on the Rate Adjustment Date and shall remain in effect until the next to occur of the Sixth Anniversary Date or Maturity Date. For any amount due on this Note after the Maturity Date, interest shall accrue at the Default Rate, as defined below but which shall, for any such time period, be the interest rate in effect on the Maturity Date plus Five Percent (5%). For purposes hereof, May 1st of each year shall be an "Anniversary Date" hereunder, with the first Anniversary Date being May 1, 2007.

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3. Payments and Term.

Principal and interest shall be due and payable as follows:

- (a) A payment of all interest to accrue hereon from the date on which disbursement of loan proceeds occurs ("Disbursement Date") to and including the last day of the month during which the Disbursement Date occurs shall be due and payable on the Disbursement Date.
- (b) Monthly payments of principal and interest in the sum of Thirty-Nine Thousand Six Hundred Eleven and 62/100 Dollars (\$39,611.62) each shall be due and payable on the first day of each calendar month, based upon the Amortization Period, commencing on the first day of the second calendar month following the Disbursement Date and continuing on the first day of each calendar month thereafter to and including the Third Anniversary Date.
- (c) On the first day of the first calendar month following the Third Anniversary Date and on the first day of each calendar month thereafter to the Ninth (9th) Anniversary Date, a monthly payment of principal and interest, determined in accordance with this paragraph, shall be due and payable. On the Third Anniversary Date and on the Sixth Anniversary Date, the monthly payment shall be adjusted to that amount which would be sufficient to amortize the then-remaining principal balance hereon at the interest rate (as adjusted on said Third and Sixth Anniversary Date, as applicable) over the balance of the Amortization Period. The monthly payment, as so adjusted on such Anniversary Date, shall be due and payable beginning with the first monthly payment due after said Anniversary Date and continuing on the first day of each calendar month thereafter to and including the next to occur of either the Sixth Anniversary Date or April 1, 2015. For purposes hereof, the term "Amortization Period" means the Thirty (30) year period commencing on May 1, 2006.
- (d) The entire indebtedness evidenced by this Note, if not sooner paid, shall be due and payable on April 30, 2015 ("Maturity Date").

All payments on account of the indebtedness evidenced by this Note shall be first applied to interest, costs and prepayment fees (if any) and then to principal. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. For purposes of this Note, the term "Loan Year" means each successive period of twelve (12) months, with the first such period beginning on May 1, 2006.

4. Prepayment.

This Note may be prepaid in full but not in part on a scheduled payment date, upon giving the holder of this Note ("Holder") thirty (30) days prior written notice, by paying, in addition to the outstanding principal balance at the date of prepayment (plus all accrued interest and other sums due under the terms of the Loan Documents, as defined in the Mortgage referred to below), a Prepayment Fee.

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The Prepayment Fee is equal to the greater of:

- (i) 1% of the principal prepaid (principal outstanding after application of payment due on date of prepayment) at the date of prepayment or
- (ii) the present value computed on a monthly basis as of the date of prepayment of all future principal and interest payments due under this Note (starting with the first monthly payment due after the prepayment date and including any balloon payments) using the Discount Rate (as defined below) less the principal prepaid. For the purpose of calculating the Prepayment Fee it is assumed that a balloon payment of the remaining unpaid principal balance would be made at the earlier of the next Rate Adjustment Date or the Maturity Date.

No Prepayment Fee shall be due if this Note is prepaid (a) during the 90 days prior to the Maturity Date or any Rate Adjustment Date or (b) in connection with the application of insurance proceeds or any condemnation award.

Discount Rate (defined)

The Discount Rate (DR) is the rate which when compounded monthly, is equivalent to the Reinvestment Rate (RR) when compounded semi-annually. The DR shall be rounded to the nearest one hundredth of one percent. For example, if the RR equaled 2.35%, then the DR would equal 2.34%. This is further defined as

$$DR = (((1+RR/2)^2)^{(1/12)}-1)*12$$

Reinvestment Rate (defined)

The Reinvestment Rate (RR) is the yield in percent per annum of the Treasury Constant Maturity Nominal 10 (TCM) that equals the remaining Weighted Average Life (WAL) of the Note as published 5 business days prior to the date of prepayment in the Federal Reserve Statistical Release H.15 Selected Interest Rates. If the remaining WAL of this Note does not equal any of the published TCM's then the Reinvestment Rate will be determined by interpolating linearly between two TCM's, one having a maturity as close as possible to, but greater than the remaining WAL of the Note and one having a maturity as close as possible to, but less than the remaining WAL of the Note. The RR shall be rounded to the nearest one hundredth of one percent.

For example, if the remaining WAL of the Note on June 24, 2004 was 1.38 years then the RR would equal 2.35%. In this example interpolating the 1-year and 2-year TCM's arrives at the RR. On June 24, 2004 the 1-year TCM equaled 2.11% and the 2-year TCM equaled 2.74%.

In the event the Federal Reserve Statistical Release H.15 Selected Interest Rates is discontinued or no longer published, the Holder of the Note shall, in its sole discretion, designate some other daily financial or governmental publication of national circulation to determine the Reinvestment Rate which most nearly corresponds to the yield of the TCM.

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Weighted Average Life (defined)

The Weighted Average Life (WAL) of the Note is the average number of years that each dollar of unpaid principal due on the Note remains outstanding. WAL is computed as the weighted-average time to the receipt of all future cash flows, using as the weights the dollar amounts of the principal paydowns. The WAL shall be rounded to the second decimal place (for example: 1.38).

For example, for a loan with 17 months remaining and principal payments as detailed in Column B in the chart below, the WAL would equal 1.38 years.

A		B	C
Month	X	Principal Payment =	Weighted Principal Payment
1	X	\$4,495 =	\$4,495
2	X	\$4,521 =	\$9,042
3	X	\$4,547 =	\$13,641
4	X	\$4,574 =	\$18,295
5	X	\$4,600 =	\$23,002
6	X	\$4,627 =	\$27,763
7	X	\$4,654 =	\$32,579
8	X	\$4,631 =	\$37,451
9	X	\$4,709 =	\$42,378
10	X	\$4,736 =	\$47,361
11	X	\$4,764 =	\$52,401
12	X	\$4,792 =	\$57,498
13	X	\$4,819 =	\$62,653
14	X	\$4,848 =	\$67,866
15	X	\$4,876 =	\$73,138
16	X	\$4,904 =	\$78,469
17	X	\$1,577,601 =	\$26,819,214
Totals:		\$1,652,747	\$27,467,245

Column C = Column A X Column B

WAL = (Total Column C / Total Column B) / 12

Borrower waives any right of prepayment except as expressly provided herein.

Lender shall notify Borrower of the amount and the basis of determination for the Prepayment Fee, which absent manifest error, shall be conclusive and binding upon Lender and Borrower.

Borrower expressly understands, acknowledges and agrees that (i) the Prepayment Fee is fair and reasonable and represents a reasonable estimate of the fair compensation for the loss that Lender shall sustain due to the early pre-payment of the outstanding principal under the Note, (ii) its agreement to pay the Prepayment Fee is a material inducement to Lender to make the loan, without which inducement Lender would not make the loan and (iii) the Prepayment Fee shall be paid without prejudice to the right of Lender to collect and retain any and all other amounts or charges provided to be paid hereunder or under the other Loan Documents.

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Any and all prepayments of the principal amount of this Note, whether voluntary or involuntary, shall be subject to the terms of this provision 4, and include receipt by the Lender of the principal balance and the outstanding interest due pursuant to this Note prior to the date when same is due, irrespective of the source of such payment and irrespective of whether same was paid by the Borrower "voluntarily" or "involuntarily". Without limiting the generality of the foregoing, prepayment shall include such payments from the Borrower, irrespective of whether before or after default, acceleration of the entire principal balance by virtue of default, and any payment of the principal balance and outstanding interest after the institution of foreclosure proceedings and upon sale in foreclosure.

In the event that such prepayment of the principal amount of this Note is tendered, whether as a result of foreclosure proceedings or otherwise, then Borrower shall pay Lender in full at any time during the term of this Note, the applicable Prepayment Fee referred to above.

5. Restrictions on Transfer and Encumbrance.

Borrower and Lender acknowledge and agree that the Mortgage referred to in paragraph 9 below contains the following paragraphs 4.1 and 4.2:

4.1 Restrictions on Transfer or Encumbrance of the Property.

- (a) A "Transfer" is: any sale (by contract or otherwise), encumbrance, conveyance or other transfer of all or any part of or interest in the Property; or any change in the ownership of any stock interest in a corporate Mortgagor, in the ownership of any membership interest or in the manager of a limited liability company Mortgagor, in the ownership of any general partnership interest in any general or limited partnership Mortgagor, or in the ownership of any beneficial interest in any other Mortgagor which is not a natural person or persons (including without limitation a trust); or any change in the ownership of any stock, membership, general partnership or other beneficial interest in any corporation, limited liability company, partnership, trust or other entity, organization or association directly or indirectly owning an interest in Mortgagor, or a change in the manager of a limited liability company. A change in the ownership of a limited partnership interest in a limited partnership shall not be deemed a "Transfer."
- (b) In the event of a Transfer without Mortgagee's prior written consent, Mortgagee may at its sole option declare the Transfer to be an event of default under this Mortgage and invoke any remedy or remedies provided for in paragraph 8.1 hereof, or may at its sole option consent to such Transfer. Mortgagee may condition its consent to a Transfer upon the payment of a fee to Mortgagee, or an increase in the rate of interest due under the Note, or the items in paragraph 4.1(e) below, or any combination of the foregoing. Neither of the foregoing options shall apply, however, in the case of a Transfer under any will, trust or applicable law of descent arising because of the death of an individual so long as Mortgagee is given prompt notice of the Transfer and the transferee. Mortgagee's consent to a Transfer or its waiver of an event of default by reason of a Transfer shall not

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constitute a consent or waiver of any right, remedy or power accruing to Mortgagee by reason of any subsequent Transfer.

- (c) Mortgagee will give its written consent to Transfers of interests in Mortgagor or of interests in an entity with an ownership interest in Mortgagor to the transferor's spouse or lineal descendant or to an estate planning trust whose trustees and beneficiaries are the transferor or the transferor's spouse or lineal descendant if Mortgagor gives Mortgagee prior written notice accompanied by copies of the proposed Transfer documents and a \$1,500.00 transfer review fee.
- (d) Notwithstanding the prohibitions on Transfers in paragraph 4.1(b), Transfers of membership interests in HP 85 Algonquin L.L.C., an Illinois limited liability company shall be permitted subject to:
 - (i) The Managing Members of HP 85 Algonquin L.L.C., Ronald C. Lunt, Allan Hamilton and Patrick J. McKillen, maintaining an aggregate ownership interest of the greater than 50%;
 - (ii) Mortgagee being given notice thirty (30) days prior to such Transfers;
 - (iii) Mortgagee has reviewed and approved the transfer documents;
 - (iv) the payment of an administrative fee and any Mortgagee's out of pocket expenses;
 - (v) the Managing Members of HP 85 Algonquin L.L.C. maintain their expertise in management and ownership of office properties; and
 - (vi) there have been no changes of the individuals who are the Guarantors under the Loan.

Transfers pursuant to this Paragraph 4.1. d) shall not be a violation of the restrictions in this Mortgage on Transfers and the Mortgagee shall not be entitled to change the interest rate, charge a fee [except as stated in this Paragraph 4.1d)] or accelerate the payment of the Loan on account of Transfers made pursuant to this paragraph 4.1(d).

- (e) For any Transfer permitted under this Mortgage or requested by Mortgagor, Mortgagee may condition its consent upon: the Property having been and assurances that it shall continue to be well maintained and managed in a manner satisfactory to Mortgagee; Mortgagee's approval of the Transfer terms, documents and background materials; there being no uncured event of default under this Mortgage; Mortgagor furnishing an endorsement to Mortgagee's title insurance policy insuring the continued validity and priority of the lien of this Mortgage following the Transfer and such subordination agreements and other documents as may be required by Mortgagee or its title company to issue the endorsement; and any transferee and parties in interest in the transferee meeting

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the requirements of this Mortgage, including paragraph 2.12 above. Unless Mortgagee in its sole discretion otherwise agrees in writing at that time, no Transfer shall release the transferor from any liability under the Loan Documents or the Environmental Indemnity. By accepting a Transfer, the transferee assumes any and all liability of the transferor under the Loan Documents and the Environmental Indemnity to the extent the transferor has any personal liability. At Mortgagee's request, the parties shall execute agreements, guaranties and indemnities in form and substance acceptable to Mortgagee. Regardless whether Mortgagee consents to a Transfer request, Mortgagor agrees to pay all of Mortgagee's out-of-pocket expenses incurred in connection with any Transfer request, including without limitation title fees and attorneys' fees and costs, and Mortgagee may condition its willingness to consider a Transfer request upon a deposit to pay for Mortgagee's expenses.

- 4.2 Loan Assumption Provision. Notwithstanding any provision of this Mortgage to the contrary, Mortgagee will consent to one sale of the Property and assumption by the purchaser of the indebtedness secured hereby, provided that:
- (a) Mortgagor is not then in default under this Mortgage;
 - (b) The purchaser of the Property, the financial statements, financial strength, tax returns and credit history of the purchaser, the sale agreement and related documents, and all aspects of the sale are satisfactory to Mortgagee;
 - (c) The purchaser evidences a history of property management satisfactory to Mortgagee or contracts for management of the Property with a property management firm satisfactory to Mortgagee;
 - (d) If the unpaid principal balance of the Note then exceeds seventy-five percent (75%) of the sale price of the Property, the principal balance due on the Note, at the Mortgagee's election, must be reduced, by a prepayment of such principal, to an amount resulting in such principal balance not exceeding seventy-five percent (75%) of the sale price at the time of the assumption;
 - (e) Mortgagee receives in cash an assumption fee of the greater of Five Thousand and No/100 Dollars (\$5,000.00) or One Percent (1.00%) of the outstanding loan balance at the time of the assumption, plus, in either case, its legal and administrative expenses, incurred in connection with such sale and assumption;
 - (f) Mortgagor furnishes to Mortgagee, at Mortgagor's expense, an endorsement to Mortgagee's title insurance policy insuring the continued validity, enforceability and priority of the Mortgage following the assumption. The form and content of the endorsement must be satisfactory to Mortgagee. If required by the Mortgagee or the title insurer issuing such endorsement, the Mortgagor shall furnish subordination agreements from tenants of the Property and other necessary parties in form and substance acceptable to the Mortgagee and the title insurer;

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- (g) Mortgagee's approval of the assumption and release of the Mortgagor and guarantor shall be subject to the Mortgagee's approval, in its sole discretion, of the assuming purchaser and any applicable new guarantor or guarantors;
- (h) If the Loan was made with a requirement imposed upon the Mortgagor to complete any specified repairs of the Property, the Mortgagor shall not be entitled to a consent by Mortgagee pursuant to the terms of this provision until such repairs have been completed to Mortgagee's satisfaction;
- (i) The Mortgagee may, at its option, require tax reserves as referred to in paragraph 3.1 of this Mortgage, whether or not previously waived conditionally or otherwise, as a condition to its consent; and
- (j) The Mortgagor has delivered to the Mortgagee acceptable evidence that not less than eighty-five percent (85%) of the net rentable area of the improvements at the Property has been leased to and is occupied by tenants unrelated to the Mortgagor currently paying rent pursuant to the terms of the corresponding leases providing for total in place base rental income of no less than Two Million One Hundred Twenty-Five Thousand and No/100 Dollars (\$2,125,000.00) per year.

6. Default.

- (a) The occurrence of any one or more of the following shall constitute an event of default under this Note:
 - (i) Failure to make any payment of principal or interest when due hereon, followed by the failure to make such payment within ten (10) days after written notice thereof given to Borrower by Lender; provided, however, that Lender shall not be obligated to give Borrower written notice prior to exercising its remedies with respect to such default if Lender had previously given Borrower during that calendar year a notice of default for failure to make a payment of principal or interest hereon.
 - (ii) The occurrence of any other event of default under the Mortgage referred to in paragraph 9 below.
- (b) Time is of the essence. If an event of default occurs under this Note,
 - (i) the entire principal balance hereof and all accrued interest shall, at the option of Lender, without notice, bear interest at a rate from time to time equal to five (5) percentage points over what would otherwise be the Note rate (or the maximum rate permitted by applicable law if that is less) from the date of the event of default until such event of default is cured ("Default Rate"), provided, however, that the Default Rate shall not apply to any month for which the Borrower has incurred a Late Charge; and

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- (ii) the entire principal balance hereof and all accrued interest shall immediately become due and payable at the option of Lender, without notice. Lender's failure to exercise any option hereunder shall not constitute a waiver of the right to exercise the same for any subsequent event of default.

7. Late Charges.

Borrower acknowledges that, if any payment under this Note is not made when due, Lender will as a result thereof incur costs not contemplated by this Note, the exact amount of which would be extremely difficult or impracticable to ascertain. Such costs include without limitation processing and accounting charges. Accordingly, Borrower hereby agrees to pay to Lender with respect to each payment which is not received by Lender within five (5) days of (and including) the date when due (four (4) days after the due date) a late charge equal to Five Percent (5%) of the amount of the payment except that such amount shall be reduced and the time after which such amount is imposed shall be extended if required by applicable law ("Late Charge"). The Late Charge shall not apply to the amount due on this Note as a result of acceleration of the entire principal balance amount due under paragraph 6(b)(ii) above nor to the payment due on the Maturity Date. Borrower and Lender agree that such Late Charge represents a fair and reasonable estimate of the costs Lender will incur by reason of such late payment. Acceptance of such Late Charge by Lender shall in no event constitute a waiver of the default with respect to the overdue amount, and shall prevent Lender from exercising any of the other rights and remedies available to Lender.

8. Costs and Attorneys' Fees.

If an event of default occurs under this Note and Lender consults an attorney regarding the enforcement of any of its rights under this Note or the Mortgage, or if this Note is placed in the hands of an attorney for collection, or if suit is brought to enforce this Note or the Mortgage, Borrower promises to pay all costs thereof, including reasonable attorneys' fees. Said costs and reasonable attorneys' fees shall include, without limitation, costs and attorneys' fees in preparation for any trial, any appeal or review, or in a proceeding under any present or future federal bankruptcy act or state receivership and any post-judgment collection proceedings.

9. Security.

This Note is secured by a Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Financing Statement ("Mortgage") and a separate Assignment of Rents and Leases ("Assignment") covering property located in Cook County, Illinois ("Property"). It is also secured by an Unconditional Guaranty executed by ALLAN HAMILTON and RONALD C. LUNT ("Guarantors") as the joint and several obligation of each.

10. Waiver of Presentment, Etc.

Borrower hereby waives presentment, protest, and demand for payment, notice of protest, demand, dishonor and notice of nonpayment of this Note.

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11. Limited Recourse Debt.

- (a) The Borrower is hereby released from all personal liability under the Loan Documents to the extent such release does not operate to invalidate the lien of the Mortgage. In the event of foreclosure of the Mortgage or other enforcement of the collection of the indebtedness evidenced by this Note, Lender agrees, and any holder hereof shall be deemed by acceptance hereof to have agreed, not to take a deficiency judgment against Borrower with respect to said indebtedness except as may be provided as follows in this paragraph 11.
- (b) Notwithstanding the terms of subparagraph (a), the Borrower shall be fully and personally liable to the holder of this Note for all claims, demands, damages, losses, liabilities, fines, penalties, fees, liens, costs and expenses suffered or incurred by Lender on account of or in connection with the following:
- (i) Waste to the Property or fraud or willful misrepresentation committed by Borrower;
 - (ii) Any retention of rental income or other income of the Property after an event of default has occurred under this Note which remains uncured after any applicable notice and opportunity to cure, to the extent that any such amount retained is not applied to the capital and operating expenses of the Property, and the retention of security deposits or other deposits made by tenants of the Property which are not paid to tenants when due or transferred to Lender or any other party acquiring the Property at a foreclosure sale or any transfer in lieu of foreclosure;
 - (iii) Any taxes or assessments related to the Property accrued prior to the Lender's acquisition of title to the Property;
 - (iv) The removal or disposition by Borrower of any personal property or fixtures encumbered by the Mortgage that are material to the operation of the building or buildings at the Property and which are not replaced as required by the Mortgage;
 - (v) The misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage or destruction to any portion of the Property or any building or buildings located thereon;
 - (vi) Borrower's failure to maintain hazard, liability and other insurance as required under the terms of the Mortgage;
 - (vii) Due to the presence of any hazardous, toxic and dangerous wastes, substances and materials, including asbestos, on the Property and due to any breach of covenant, breach of warranty or misrepresentation by Borrower under the Mortgage, the Environmental Indemnity, or any of the

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other loan documents delivered in connection with the loan evidenced by this Note with respect to hazardous, toxic and dangerous wastes, substances and materials, and Borrower's failure to perform any obligations under the Environmental Indemnity. There will be no liability of the Borrower for such waste, substances and materials which are introduced to the Property subsequent to a permitted transfer of the Property by the Borrower or to the Lender's acquisition of title as a result of foreclosure or a deed in lieu of foreclosure; provided, however, the Borrower shall bear the burden of proof that the introduction and initial release of such hazardous waste, substances or materials (i) occurred subsequent to the transfer date, (ii) did not occur as a result of any action of the Borrower, and (iii) did not occur as a result of continuing migration or release of any hazardous waste, substances or materials introduced prior to the transfer date, in, on, under or near the Property; and

- (viii) Any fees and costs including reasonable attorney fees incurred in connection with and in enforcing and collecting any amounts due under this provision 11.
- (b) The Borrower shall not be entitled to the limitations of subparagraph (a) and subparagraph (a) shall be of no force or effect upon the occurrence of either of the following:
 - (i) There is a transfer of title to the Property or any part thereof or interest therein without the Lender's written consent unless expressly permitted by the terms of the Mortgage without such consent; or
 - (ii) Subordinate financing is placed against the Property, any part of the Property or interest in the Property, without the Lender's written consent.

The foregoing limitation on personal liability is not intended and shall not be deemed to constitute a forgiveness of the indebtedness evidenced by this Note or a release of the obligation to repay said indebtedness according to the terms and provisions hereof, but shall operate solely to limit the remedies otherwise available to the holder hereof for the enforcement and collection of such indebtedness. As used in this paragraph, the term "Borrower" includes

- I. Borrower (and each of them, if more than one),
- II. all general partners of any Borrower which is a partnership, and
- III. all joint venturers of any Borrower which is a joint venture.

The personal liability hereunder of all persons included within the term "Borrower" shall be joint and several. The provisions of this paragraph shall control over any conflicting provisions of this Note, the Mortgage or the Assignment.

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12. Loan Charges.

Interest, fees and charges collected or to be collected in connection with the indebtedness evidenced hereby shall not exceed the maximum, if any, permitted by any applicable law. If any such law is interpreted so that said interest, fees and/or charges would exceed any such maximum and Borrower is entitled to the benefit of such law, then:

- (i) such interest, fees and/or charges shall be reduced by the amount necessary to reduce the same to the permitted maximum; and
- (ii) any sums already collected from Borrower which exceeded the permitted maximum will be refunded. Lender may choose to make the refund either by treating the payments, to the extent of the excess, as prepayments of principal or by making a direct payment to Borrower. No Prepayment Fee shall be assessed on prepayments under this paragraph. The provisions of this paragraph shall control over any inconsistent provision of this Note or the Mortgage or any other document executed in connection with the indebtedness evidenced hereby.

13. Governing Law.

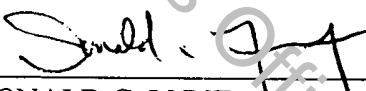
This Note shall be construed, enforced and otherwise governed by the laws of the State of Illinois.

14. Lender.

As used herein, the term "Lender" shall mean holder and owner of this Note.

85 ALGONQUIN L.L.C.,
an Illinois limited liability company

By: HP 85 ALGONQUIN L.L.C.,
an Illinois limited liability company

By: 
RONALD C. LUNT

Its: Managing Member

Its: Manager