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Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 05/05/2006 10:29 AM Pg: 1 of 26

The Talon Group# 1304586 206

**REAL ESTATE MORTGAGE
AND SECURITY AGREEMENT**

THIS REAL ESTATE MORTGAGE AND SECURITY AGREEMENT ("Mortgage") is made this 3rd day of MAY, 2006, by and between AppleLAND II, LLC, and AppleILLINOIS, L.L.C., each Illinois limited liability companies (hereinafter collectively called "Mortgagor") and BANK OF AMERICA, N.A., a national banking association organized and existing under the laws of the United States of America, whose mailing address is Post Office Box 4899, Atlanta, Georgia 30302-4899 (hereinafter called "Mortgagee");

WITNESSETH:

WHEREAS, Mortgagor is justly indebted to Mortgagee, having executed and delivered to Mortgagee that certain promissory note, wherein Mortgagor promises to pay to Mortgagee the principal sum of Six Million Five Hundred Thirty Seven Thousand Two Hundred Seventy and 68/100's Dollars (\$6,537,270.68), as amended or extended from time to time (as amended, or extended, the "Note"), or so much thereof as has been advanced, in lawful money of the United States of America, with interest thereon at the rates and times, and in the manner and according to the terms and conditions specified in the Note, with final payment being due on or about September 1, 2018 all of which is incorporated herein by reference.

NOW, THEREFORE, for and in consideration of the indebtedness, and to secure the payment to Mortgagee of the principal and interest, and all other sums provided for in the Note and in this Mortgage according to their respective terms and conditions, and all future or additional advances as may be made by Mortgagee to Mortgagor pursuant to the provisions of this Mortgage, and for performance of the agreements, conditions, covenants, provisions and stipulations contained herein and therein, and in certain other agreements and instruments made and given by Mortgagor to Mortgagee in connection therewith, and also for and in consideration of the sum of Ten Dollars

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(\$10.00) paid by Mortgagee at or before the execution and delivery of these presents, the receipt hereof and legal sufficiency of which are hereby acknowledged, Mortgagor has granted, bargained, sold, remised, released, conveyed, mortgaged and assigned, and by these presents does grant, bargain, sell, remise, release, convey, assign, MORTGAGE AND WARRANT unto Mortgagee:

ALL OF MORTGAGOR'S rights, title and interest in and to that ALL THAT TRACT OR PARCEL OF LAND lying and being in Country Club Hills, Cook County, Illinois, and being more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (hereinafter called the "Property"); and

TOGETHER WITH: (i) all interest in and to the buildings, structures and other improvements now or hereafter located on the Property or on any part or parcel of the Property (hereinafter called the "Improvements"); (ii) all and singular the tenements, hereditaments, easements and appurtenances belonging to the Property or in anywise appertaining to the Property, and the reversion or reversions, remainder or remainders thereof; (iii) all leases, undertakings to lease, contracts to rent, usufructs and other agreements for use, occupancy or possession now or hereafter in force with respect to the Property or any part or parcel of the Property or any of the Improvements, and any and all other agreements, contracts, licenses, permits and arrangements now or hereafter affecting the Property or any part or parcel of the Property or any of the Improvements, whether written or oral and whether now or hereafter made or executed and delivered (the Lease, together with any and all other above-described Leases are hereinafter collectively called the "Leases"); (iv) all rents, issues, income, revenues and profits now or hereafter accruing from, and all accounts and contract rights now or hereafter arising in connection with, the Property or any part or parcel of the Property or any of the Improvements, including without limitation all rents, issues, income, revenues and profits accruing from, and all accounts and contract rights arising in connection with, the Leases, together with all monies and proceeds now or hereafter due or payable with respect thereto or on account thereof, and all security deposits, damage deposits and other funds paid by any lessee, sublessee, tenant, subtenant, licensee, permittee or other obligee under any of the Leases, whether paid in a lump sum or installments (all of which are hereinafter collectively called the "Rents"); (v) all minerals, flowers, crops, trees, timber, shrubbery and other emblements now or hereafter located on the Property or under the Property or on or under any part or parcel of the Property; (vi) all rights, title and interest in the Property, or in any part or parcel of the Property; (vii) all equipment, machinery, apparatus, fittings, furniture, furnishings and personal property of every kind or description whatsoever now or hereafter located on the Property or on any part or parcel of the Property or in or on any of the Improvements, and used in connection with the operation or maintenance of the Property or any of the Improvements, all accessions and additions to and replacements of the foregoing and all proceeds (direct and remote) of the foregoing, including without limitation all plumbing, heating, lighting, ventilating, refrigerating, water-heating, incinerating, air-conditioning and heating, and sprinkling equipment and systems, and all screens, awnings and signs; (viii) all fixtures (including all trade, domestic and ornamental fixtures) now or hereafter on the Property or on any part or parcel of the Property or in or on any of the Improvements, whether actually or constructively attached or affixed, including without limitation all plumbing, heating, lighting, ventilating, refrigerating, water-heating, incinerating, air-conditioning and heating, and sprinkling fixtures, and all screens, awnings and signs which are

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fixtures; (ix) all building materials, supplies, goods, machinery and equipment delivered to the Property and placed on the Property for the purpose of being affixed to or installed or incorporated or otherwise used in or on the Property or any part or parcel of the Property or any of the Improvements, and all accessions and additions to and replacements of the foregoing and all proceeds (direct or remote) of the foregoing; (x) all payments, awards, judgments and settlements (including interest thereon) to which Mortgagor may be or become entitled as a result of the exercise of the right of eminent domain with respect to the Property or any part or parcel of the Property or any of the Improvements; and (xi) all policies of insurance which insure against loss or damage to any property described above and all proceeds from and payments under such policies. The Property and all of the foregoing are hereinafter sometimes collectively called the "Premises".

TO HAVE AND TO HOLD the Premises unto Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, free from all rights and benefits under the Homestead Exemption Laws of the State of Illinois, which said right and benefits Mortgagor does hereby expressly release and waive.

MORTGAGOR WARRANTS that Mortgagor has good and marketable fee simple title to the Premises, that Mortgagor is lawfully seized and possessed of the Premises, that Mortgagor has the right to convey its interest in the Premises, that the Premises are unencumbered except as set forth on Exhibit "B" attached hereto and made a part hereof, and that Mortgagor shall forever warrant and defend the lien and priority of this Mortgage and the title to the Premises unto Mortgagee against the claims of all persons whomsoever.

THIS INSTRUMENT IS A MORTGAGE pursuant to the laws of the State of Illinois governing such instruments, and is also a security agreement granting a present and continuing security interest and security title in the portion of the Premises constituting personal property or fixtures, and a financing statement filed as a fixture filing, pursuant to the Uniform Commercial Code of the State of Illinois. This Mortgage is made and intended to secure payment and performance of: (i) an indebtedness of Mortgagor to Mortgagee evidenced by the Note; (ii) any and all renewals, extension or extensions, modification or modifications of the Note, and substitution or substitutions for the Note, either in whole or in part; (iii) all advances, if any, made by Mortgagee pursuant to the terms of this Mortgage; (iv) all expenses incident to the collection of the indebtedness secured by this Mortgage; (v) all duties and obligations of Mortgagor under this Mortgage or other instruments executed in connection herewith or as part hereof, including but not limited to that certain Loan and Security Agreement dated April 13, 2001, as amended from time to time, by and between Mortgagor, Mortgagee and the "Guarantors" defined therein (the "Master Loan Agreement"); and (vi) all indebtedness now or hereafter owing by Mortgagor or any Guarantor to Mortgagee, however or whenever created, incurred, arising or evidenced, whether direct or indirect, primary or secondary, joint or several, absolute or contingent, or due or to become due, and whether from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred, and any and all renewal or renewals, extension or extensions, modification or modifications of said indebtedness, and substitution or substitutions for said indebtedness, either in whole or in part, including, without limitation under any agreement which provides for an interest rate, currency, equity, credit or commodity swap, cap, floor or collar, spot or forward foreign

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exchange transaction, cross currency rate swap, currency option, any combination of, or option with respect to, any of the foregoing or any similar transactions, for the purpose of hedging Mortgagor's exposure to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices (including any such or similar agreement or transaction entered into by Mortgagee or any affiliate thereof in connection with any other agreement or transaction between Mortgagor and Mortgagee or any affiliate thereof). The obligations and indebtedness which this Mortgage is given to secure are hereinafter sometimes collectively called the "Indebtedness".

PROVIDED ALWAYS, and these presents are upon the express condition that if Mortgagor shall pay unto Mortgagee, its successors or assigns, the sums of money mentioned in the Note secured hereby in accordance with the terms thereof, and any renewals or extensions thereof in whatever form, and the interest thereon as it shall become due, according to the true intent and meaning thereof, together with all advances hereunder, costs, charges and expenses, including a reasonable attorney's fee, which Mortgagee may incur or be put to in collecting the same by foreclosure or otherwise; and shall duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note and of this Mortgage; then this Mortgage and the lien hereby created shall cease and be NULL AND VOID and this instrument shall be released by Mortgagee, at the cost and expense of Mortgagor.

MORTGAGEE HAS AGREED TO LEND, and has earmarked for the benefit of Mortgagor, the principal amount of the Note, which Mortgagee shall advance to Mortgagor from time to time in installments to finance the acquisition and construction of certain Improvements pursuant to, and subject to the terms and conditions of the Master Loan Agreement, which is incorporated herein by reference.

ARTICLE 1 COVENANTS OF MORTGAGOR

Section 1.1 Junior Encumbrances. Without the prior written consent of Mortgagee, which consent Mortgagee may give, deny or condition in its reasonable discretion, Mortgagor shall not create or permit to exist any liens or encumbrances on the Premises which are junior and inferior in terms of priority to this Mortgage.

Section 1.2 Payments by Mortgagor. Mortgagor shall pay, when due and payable: (i) the Indebtedness in accordance with the terms and conditions of the instruments evidencing the same; (ii) all taxes, all assessments, general or special, and all other charges levied or imposed upon or assessed or placed or made against the Premises, this Mortgage, the Note or the Indebtedness or any interest of Mortgagee in the Premises, this Mortgage, the Note or the Indebtedness; (iii) premiums on policies of fire and casualty insurance covering the Premises required by this Mortgage or now or hereafter required by Mortgagee; (iv) premiums on all life insurance policies now or hereafter pledged as collateral for the Indebtedness or any part thereof; (v) premiums on all liability, rental, rental value, business interruption mortgage and flood

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insurance policies required by this Mortgage or now or hereafter reasonably required by Mortgagee in connection with the Premises or the Indebtedness or any part of either; and (vi) all ground rents, lease rentals and other payments respecting the Premises payable by Mortgagor. Mortgagor shall promptly deliver to Mortgagee, upon request by Mortgagee, receipts showing payment in full of all of the foregoing items, other than the Indebtedness. In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws in force governing the taxation of the Indebtedness or the manner of collecting such taxes so as to adversely affect Mortgagee, Mortgagor will promptly pay any such tax on or before the date it is due if, in the opinion of counsel for Mortgagee, Mortgagee is not prohibited by any such law, order, rule or regulation from requiring such payment by Mortgagor. If, in the opinion of counsel for Mortgagee, Mortgagee is prohibited by any such law, order, rule or regulation from requiring such payment by Mortgagor, then, at Mortgagee's option, Mortgagor shall be in default under this Mortgage as if an event of default had occurred, and Mortgagee may exercise any or all of the rights and remedies Mortgagee has upon the occurrence of a default under this Mortgage.

Section 1.3 Mortgagee's Acts on Behalf of Mortgagor. In the event Mortgagor shall either fail or refuse to pay or cause to be paid, as the same shall become due and payable, any item (including all items specified in Section 1.2 hereof) which Mortgagor is required to pay hereunder or which Mortgagor may pay to cure a default under this Mortgage, or in the event Mortgagor shall either fail or refuse to do or perform any act which Mortgagor is obligated to do or perform under this Mortgage or which Mortgagor may do or perform to cure a default under this Mortgage, or in the event Mortgagee shall be required, or shall find it necessary or desirable in Mortgagee's discretion, to defend, enforce or protect any of the rights and benefits accruing to Mortgagee under any provision of this Mortgage (including, without limitation, Mortgagee's interest in the Premises, insurance and condemnation proceeds and the Rents,) then Mortgagee, at Mortgagee's option after notice and opportunity to cure, if any, as set forth herein, may make such payment or do or perform such act on behalf of Mortgagor, or proceed in any manner to defend, enforce or protect any such rights and benefits. All such payments made by Mortgagee and all reasonable costs and expenses incurred by Mortgagee in doing or performing all such acts shall be and shall become part of the Indebtedness and shall bear interest at the rate per annum two (2) percentage points in excess of the highest rate of interest then being charged with respect to any portion of the Indebtedness from the date paid or incurred by Mortgagee, and the interest thereon shall also be part of the Indebtedness.

Section 1.4 Further Assurances. Mortgagor shall at any time, and from time to time, upon reasonable request by Mortgagee, make, execute and deliver, or cause to be made, executed and delivered, any and all other and further instruments, documents, certificates, agreements, letters, representations and other writings as may be necessary or desirable, in the opinion of Mortgagee, in order to effectuate, complete, correct, perfect or continue and preserve the liability and obligation of Mortgagor for payment of the Indebtedness and the lien, security interest and security title of Mortgagee under this Mortgage. Mortgagor shall, upon request by Mortgagee, certify in writing to Mortgagee, or to any proposed assignee of this Mortgage, the amount of

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principal and interest then owing on the Indebtedness and whether or not any setoffs or defenses exist against all or any part of the Indebtedness.

Section 1.5 Rents and Leases. Mortgagor shall fully and faithfully perform all of the duties and obligations of the lessor, landlord or owner of the Premises under the Leases and observe, satisfy and comply with all of the terms, covenants, conditions, agreements, requirements, restrictions and provisions of the Leases, and do all acts otherwise necessary to maintain and preserve the Rents and prevent any diminishment or impairment of the value of the Leases or the Rents or the interest of Mortgagor or Mortgagee therein or thereunder. Without the prior written consent of Mortgagee, Mortgagor shall not further assign the Rents or the Leases, shall not terminate, alter, modify, or amend in any respect, or accept the surrender of, any of the Leases, and shall not collect Rents for more than one (1) month in advance. Mortgagor shall procure and deliver to Mortgagee upon request estoppel letters or certificates from each lessee, tenant, occupant in possession and other user of the Premises or any part thereof, as required by and in form and substance satisfactory to Mortgagee, and shall deliver to Mortgagee a recordable assignment of all of Mortgagor's interest in all Leases, which assignment shall be in form and substance satisfactory to Mortgagee, together with proof of due service of a copy of such assignment on each lessee, tenant, occupant in possession or other user of the Premises or any part thereof. The foregoing provisions are cumulative of and in addition to the provisions of the Assignment of Lessor's Interest in Lease of even date herewith from Mortgagor to Mortgagee (hereafter called the "Lease Assignment").

Section 1.6 Maintenance and Repair. Mortgagor shall maintain the Premises in good condition and repair, shall not commit or suffer any actual or threatened waste to the Premises, and shall comply with, or cause to be complied with, all statutes, ordinances, rules, regulations and directives of any governmental authority (hereinafter called "Laws") relating to the Premises or any part thereof or the use or occupancy of the Premises or any part thereof. No part of the Premises, including but not limited to any of the Improvements, shall be removed, demolished or materially altered without the prior written consent of Mortgagee. If at any time during the continuance of the Indebtedness any addition, alteration, change, repair, reconstruction or other work on the Premises, of any nature, structural or otherwise, becomes necessary or desirable because of damage to or destruction of the Premises or any part thereof, the entire expense thereof, regardless of when the same shall be incurred or become due, shall be the sole obligation and responsibility of Mortgagor, and Mortgagor shall pay the entire expense thereof promptly when due. Mortgagor shall not initiate, join in, consent to or acquiesce in any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the use which may be made of the Premises or any part thereof.

Section 1.7 Insurance. Mortgagor shall keep the Premises insured against loss or damage by fire and such other casualties and risks as the Mortgagee may reasonably require from time to time. The insurance maintained by Mortgagor may, at Mortgagee's option, include rental, rental value and business interruption insurance. Such policies shall be written by such companies, in such amounts and under such forms of policies as Mortgagee may approve. Such policies shall insure Mortgagee's interest in the Premises, name Mortgagee as an insured party thereunder,

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provide that losses thereunder shall be payable to Mortgagee pursuant to such forms of loss payable clauses as Mortgagee may approve and provide that no cancellation or reduction in coverage shall be effective unless the insurer first gives Mortgagee thirty (30) days prior written notice. Irrespective of the insurance required and approved by Mortgagee hereunder, the security interest of Mortgagee hereunder shall cover all policies of insurance which insure against loss or damage to the Premises, and the proceeds from any and all such policies. Mortgagor shall also procure and maintain general comprehensive public liability insurance coverage with such companies, in such amounts and under such forms of policies as Mortgagee may approve, naming Mortgagee as an additional insured thereunder and providing that no cancellation or reduction in coverage thereunder shall be effective unless the insurer first gives Mortgagee thirty (30) days prior written notice. Forthwith upon the issuance of all such policies, Mortgagor shall deliver the same to Mortgagee together with evidence satisfactory to Mortgagee that the premiums have been paid. Within fifteen (15) days prior to the expiration date of each such policy, Mortgagor shall deliver to Mortgagee a renewal policy together with evidence satisfactory to Mortgagee that the premium therefor has been paid. In the event of a foreclosure and sale by Mortgagee of the Premises, the purchaser of the Premises shall succeed to all rights of Mortgagor in and to such policies, including the right to the refund of unearned premiums and to dividends thereunder, and Mortgagee may, at Mortgagee's election, assign and deliver the policies to such purchaser without any warranty or representation, express or implied, and without recourse. In the event of damage to or destruction of the Premises or any part thereof, Mortgagee may adjust, settle or compromise claims under such policies, and the proceeds therefrom shall be paid to Mortgagee. Mortgagee, at Mortgagee's option and in Mortgagee's sole discretion, may either (i) apply the proceeds or any part thereof to payment of the Indebtedness, in such order as Mortgagee may determine, or (ii) require Mortgagor to repair, replace or reconstruct the Premises or any part thereof and disburse the proceeds to Mortgagor to be applied against the reasonable costs and expenses thereof as incurred or paid by Mortgagor, pursuant to a disbursement procedure, and under such other terms and conditions, as shall be acceptable to Mortgagee; provided, however, if Borrower is not in default, or with notice, the passage of time or both would be in default, under this Mortgage or any other document or agreement with Mortgagor, then Mortgagor shall elect option (ii) above.

Section 1.8 Inventory of Personal Property. Upon request of Mortgagee, Mortgagor shall deliver to Mortgagee an inventory describing and showing the make, model, serial number and location of all fixtures and personal property used in the management, maintenance and operation of the Premises with a certification by Mortgagor that said inventory is a true and complete schedule of such fixtures and personal property used in the management, maintenance and operation of the Premises and that such items specified in the inventory constitute all of the fixtures and personal property required in the management, maintenance and operation of the Premises, and that such items are owned by Mortgagor free and clear of any security interests, liens, conditional sales contracts or title retention arrangements, other than the lien and security interest of this Mortgage.

Section 1.9 Condemnation. Notwithstanding any injury or damage to, or loss of, the Premises or any part thereof as a result of the exercise of the right of eminent domain, Mortgagor

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shall continue to pay the Indebtedness. All sums paid or payable to Mortgagor by reason of any injury or damage to, or loss of, the Premises or any part thereof as a result of the exercise of the right of eminent domain shall be delivered to Mortgagee and Mortgagee, at Mortgagee's option and at Mortgagee's sole discretion, may either (i) apply the sum or any part thereof to payment of the Indebtedness, in such order as Mortgagee may determine, or (ii) require Mortgagor to repair, replace or reconstruct the Premises or any part thereof and disburse such sums to Mortgagor to be applied against the reasonable costs and expenses thereof as incurred or paid by Mortgagor pursuant to a disbursement procedure, and under such other terms and conditions, as shall be acceptable to Mortgagee.

Section 1.10 Financial Information. Mortgagor shall maintain complete and accurate books of account and other records with respect to all receipts derived from, and all expenses, costs and payments relating to, the Premises. Mortgagor shall deliver to Mortgagee such financial information as required by, and within the time frames provided for in, the Master Loan Agreement.

Section 1.11 Inspection. Mortgagor shall permit any person designated by Mortgagee to visit and inspect the Premises, to examine the books of account and other records of Mortgagor with respect to the Premises, and to discuss the affairs, finances and accounts of Mortgagor with and to be advised as to the same by Mortgagor or a knowledgeable and duly authorized representative of Mortgagor, all at such reasonable times and intervals as Mortgagee may desire.

Section 1.12 Restriction on Transfer. Without the prior written consent of Mortgagee thereto (which consent may be granted or withheld at Mortgagee's sole and absolute discretion) and the recordation of such consent in the public deed records in the Office of the Clerk of the Recorder of Deeds of the County Office in which the Premises or any part thereof is located, prior to the cancellation, satisfaction and release by Mortgagee of this Mortgage, neither Mortgagor nor any party comprising Mortgagor shall grant, bargain, sell, convey, transfer, assign or exchange all or any portion of the Premises or the interest of Mortgagor or such other party in the Premises. For the purposes of this Section 1.12, any of the following shall constitute a transfer or conveyance of the Premises proscribed hereby: (i) in the event Mortgagor or any party comprising Mortgagor shall be a corporation, if any amount of any class of stock in Mortgagor or such party comprising Mortgagor shall be granted, bargained, sold, conveyed, transferred, assigned or exchanged after the execution and delivery of this Mortgage and, after such transaction, more than fifty percent (50%) of such class of stock shall be owned by a party or parties other than the party or parties owning such stock as of the date of the execution and delivery of this Mortgage; and (ii) in the event Mortgagor or any party comprising Mortgagor shall be a general partnership or a limited partnership, (A) if any general partnership interest in Mortgagor or such party comprising Mortgagor shall be granted, bargained, sold, conveyed, transferred, assigned or exchanged after the execution and delivery of this Mortgage, or (B) if any amount of any class of limited partnership interests in Mortgagor or such party comprising Mortgagor shall be granted, bargained, sold, conveyed, transferred, assigned or exchanged after the execution and delivery of this Mortgage and, after such transaction, more than fifty percent (50%) of such class of limited partnership interests shall be owned by a party or parties other

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than the party or parties owning such limited partnership interests as of the date of the execution and delivery of this Mortgage. The foregoing proscription shall apply to any such sale, conveyance, transfer, assignment or exchange, whether made with or without consideration, and whether arising voluntarily or involuntarily, by reason of merger, consolidation or reorganization, by operation of law, or otherwise.

Section 1.13 Escrow Deposit. If Mortgagor shall be in default hereunder beyond any applicable grace or cure period, if any, provided herein, in order to further secure the payment of the taxes, special assessments and insurance premiums payable with respect to the Premises, upon request therefor by Mortgagee, Mortgagor shall deposit with Mortgagee, on the due date of each monthly installment due under the Note, a sum which, in the estimation of Mortgagee, shall be equal to one-twelfth (1/12) of the amount of annual taxes, special assessments and casualty insurance premiums payable with respect to the Premises. The deposit shall be held by Mortgagee, free of interest, and free of any liens or claims on the part of creditors of Mortgagor and as part of the security of Mortgagee, and shall be used by Mortgagee to pay current taxes, special assessments and casualty insurance premiums on the Premises as the same accrue and are payable. The deposit shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Mortgagee. If such deposits are insufficient to pay such taxes, special assessments and casualty insurance premiums in full as the same become payable, Mortgagor shall deposit with Mortgagee such additional sum or sums as may be required in order for Mortgagee to pay such taxes, special assessments and casualty insurance premiums in full. Upon any default hereunder, Mortgagee, at Mortgagee's option, may apply said deposit, or any part thereof, to the payment of the Indebtedness in such order as Mortgagee may determine. Upon the payment in full of the Indebtedness and the cancellation and satisfaction of record of this Mortgage, Mortgagee shall refund to Mortgagor any such sums then on deposit with Mortgagee. The term "taxes" as used in this paragraph shall include real property ad valorem taxes, sanitary taxes, personal property ad valorem taxes and any other tax, which may or become a lien against the Premises.

Section 1.14 Subrogation. Mortgagee shall be subrogated to all right, title, equity, liens and claims of all persons to whom Mortgagee has paid or pays money in settlement of claims, liens, encumbrances or charges or in the acquisition of any right or title for Mortgagee's benefit under this Mortgage or for the benefit and account of Mortgagor.

Section 1.15 Flood Insurance. Mortgagor represents and certifies to Mortgagee that except as expressly set forth on the survey, if any, furnished to Mortgagee, no part of the Premises lies within a "special flood hazard area" as defined and specified by the United States Department of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973. In the event Mortgagee determines that the rules or regulations of the Federal Reserve Board, the Comptroller of the Currency or any other governing agency licensing or regulating the operations of Mortgagee require that flood insurance coverage be obtained for the Premises or any part thereof in order for Mortgagee to comply with such rules or regulations or with the Flood Disaster Protection Act of 1973 as then in effect, then Mortgagor, upon receiving written notice from Mortgagee of such determination: (i) shall promptly purchase and pay the premiums

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for such flood insurance policies as Mortgagee deems required by such agency or agencies and so that Mortgagee shall be deemed in compliance with the rules and regulations of such agency or agencies and with the Flood Disaster Protection Act of 1973 as then in effect; and (ii) shall deliver such policies to Mortgagee together with evidence satisfactory to Mortgagee that the premiums therefor have been paid. Such policies of flood insurance shall be in a form satisfactory to Mortgagee, shall name Mortgagee as an insured thereunder, shall provide that losses thereunder be payable to Mortgagee pursuant to such forms of loss payable clause as Mortgagee may approve, shall be for an amount at least equal to the Indebtedness or the maximum limit of coverage made available with respect to the Premises under the National Flood Insurance Act of 1968, as amended, whichever is less, and shall be noncancellable as to Mortgagee except upon thirty (30) days prior written notice given by the insurer to Mortgagee. Within fifteen (15) days prior to the expiration date of each such flood insurance policy, Mortgagor shall deliver to Mortgagee a renewal policy or endorsement together with evidence satisfactory to Mortgagee that the premium therefor has been paid.

Section 1.16 Hazardous Materials Covenants.

(a) Mortgagor hereby represents and warrants to and for the benefit of Mortgagee that the Premises will not be used or operated in any manner that will result in the storage, use, treatment, manufacture or disposal of any Hazardous Materials (hereinafter defined) upon the Premises or any portion thereof or which will result in Hazardous Materials Contamination (hereinafter defined). For purposes hereof, the term "Hazardous Materials" shall mean and refer to (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder, or as defined by the laws of the State of Illinois as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) ("CERCLA"), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) any substance the presence of which on the Premises is prohibited by any Laws or by any other legal requirements affecting the Premises; (vi) petroleum based materials; and (vii) any other substance which is defined as hazardous, toxic, infectious or radioactive by any Laws or by any other legal requirements affecting the Premises. The term "Hazardous Materials Contamination" shall mean and refer to the unlawful contamination of the Premises, soil, surface water, ground water, air, or other elements on, or of, the buildings, facilities, soil, surface water, ground water, air, or other elements on, or of, any other property as a result of Hazardous Materials at any time emanating from the Premises.

(b) In addition to and without limiting the generality of any other provisions of this Mortgage, Mortgagor shall and hereby does indemnify and hold Mortgagee harmless from and against any and all losses, damages, expenses, fees, claims, demands, causes of action, judgments, costs, and liabilities, including, but not limited to, reasonable attorneys' fees and costs of litigation, and costs and expenses of response, remedial and corrective work and other clean up activities, arising out of or in any manner connected with (i) the "release" or "threatened

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release" (as those terms are defined in CERCLA and the rules and regulations promulgated thereunder, as from time to time amended) by Mortgagor or Mortgagor's employees, agents, delegees, invitees, licensees, concessionaires, lessees, tenants, contractors or representatives, of any Hazardous Materials, or (ii) an occurrence of Hazardous Materials Contamination, arising out of or in any manner connected with the use or occupancy of the Premises; provided however, the Mortgagor shall not be obligated to indemnify the Mortgagee from claims or damages asserted against the Mortgagee if the circumstances giving rise to such claims arose subsequent to satisfaction in full of the Mortgagor's obligation under the Note. The provisions of this Section 1.16 shall survive any payment or satisfaction of the Indebtedness and any acquisition of the Premises by Mortgagee pursuant to foreclosure of this Mortgage, by conveyance in lieu of foreclosure or otherwise; and such provisions shall remain in full force and effect as long as the possibility exists that Mortgagee may suffer or incur any such losses, damages, expenses, fees, claims, demands, causes of action, judgments, costs and liabilities. Notwithstanding the foregoing, Mortgagor shall have no liability to Mortgagee with respect to any expense, damage or loss suffered by Mortgagee arising from acts or circumstances occurring after the date Mortgagee acquires title to the Premises in the event Mortgagee becomes the successor-in-interest to Mortgagor with respect to the Premises by foreclosure deed or deed in lieu of foreclosure.

ARTICLE 2 EVENTS OF DEFAULT

The following shall constitute events of default by Mortgagor hereunder:

Section 2.1 Payment of Indebtedness. If Mortgagor should fail to pay the Indebtedness or any part thereof when and as the same shall become due and payable, or if any Guarantor shall fail to pay any amounts owed to Mortgagee when and as the same shall become due and payable, in either instance, whether at the due date thereof or at a date fixed for prepayment or at a date fixed by reason of acceleration of the due date thereof or otherwise, and such failure continues beyond the grace or cure periods, if any, provided for in the applicable instrument.

Section 2.2 Other Payments and Terms. If Mortgagor, or any Guarantor should fail to make any payment (other than on the Indebtedness) required hereunder or under any other Loan Documents (as defined in the Master Loan Agreement), or if Mortgagor, or any Guarantor should fail fully and completely to perform its respective duties and obligations under, or should violate or breach or fail fully and completely to observe, satisfy or comply with any of the terms, covenants, conditions, agreements, requirements, restrictions or provisions set forth in this Mortgage or the other Loan Documents (and if such failure, breach or violation shall not have been cured within twenty (20) days after the giving of a written notice thereof by Mortgagee, or, if such cannot be cured within such 20-day period and Mortgagor, or any Guarantor, as the case may be, is diligently pursuing such cure, then within such longer period as is reasonable, but in no event longer than sixty (60) days following such notice), or any other instrument, document, agreement, letter or other writing now or hereafter evidencing or securing the Indebtedness or any portion thereof, or heretofore, concurrently herewith or in the future executed by Mortgagor, or any Guarantor in favor of Mortgagee in connection with any transaction which resulted in the

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Indebtedness or any part thereof, including, without limiting the generality of the foregoing, the Master Loan Agreement, the Note and the Lease Assignment (and if such failure, breach or violation shall not have been cured within the periods, if any, provided therein or herein).

Section 2.3 False Statements. If any certificate, representation, warranty, statement or other writing made herein or furnished to Mortgagee, by or on behalf of Mortgagor, or any Guarantor, in connection with any transaction which resulted in the Indebtedness or any part thereof should be false, untrue, incomplete or misleading in any material respect as of the date made; provided, however, Mortgagor, or any Guarantor, as the case may be, shall be given twenty (20) days following written notice (or such longer period, up to sixty (60) days following notice, if Mortgagor, or any Guarantor is diligently pursuing such cure) to change such facts or circumstances so that the statements made shall be true, correct and complete.

Section 2.4 Adverse Change. Any material adverse change in the condition, financial or otherwise, of Mortgagor, or any Guarantor after the date of this agreement; or any damage to any part of the Premises which is not repaired promptly to the reasonable satisfaction of Mortgagee; or any taking of any part of the Premises in any eminent domain, condemnation or similar proceeding or the pendency of such proceeding which, in Mortgagee's reasonable judgment, materially affects the value or intended use of the Premises; or any material adverse change in the Loan or the Improvements as represented in the loan application to Mortgagee.

Section 2.5 Seizure or Levy. If the Premises or any part thereof should be seized or levied upon under legal process or a receiver should be appointed for the Premises or any part thereof.

Section 2.6 Liens. If any Federal tax lien or any claim of lien for labor or services performed or rendered or alleged to have been performed or rendered, or for materials supplied or furnished or alleged to have been supplied or furnished, or for architectural or engineering services performed or rendered or alleged to have been performed or rendered, in connection with the improvement of or with respect to the Premises should be filed of record against Mortgagor or the Premises and not be removed from record by payment or posting of bond within thirty (30) days from the date of such filing.

Section 2.7 Priority Claim. If any claim of priority over this Mortgage should be asserted in any legal or equitable proceeding, and not be dismissed with prejudice within sixty (60) days after the filing thereof.

Section 2.8 Insolvency or Bankruptcy. If Mortgagor, or any Guarantor becomes insolvent as defined in the Illinois Uniform Commercial Code or makes an assignment for the benefit of creditors; or if any action is brought by Mortgagor seeking its dissolution or liquidation of its assets or seeking the appointment of a trustee, interim trustee, receiver or other custodian for any of its property; or if Mortgagor commences a voluntary proceeding under the Federal Bankruptcy Code; or if any reorganization or arrangement proceeding is instituted by Mortgagor for the settlement, readjustment, composition or extension of any of its debts upon any terms; or

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if any action or petition is otherwise brought by Mortgagor seeking similar relief or alleging that it is insolvent or unable to pay its debts as they mature; or if any action is brought against Mortgagor seeking its dissolution or liquidation of any of its assets, or seeking the appointment of a trustee, interim trustee, receiver or other custodian for any of its property, and any such action is consented to or acquiesced in by Mortgagor or is not dismissed within thirty (30) days after the date upon which it was instituted; or if any proceeding under the Federal Bankruptcy Code is instituted against Mortgagor and (i) an order for relief is entered in such proceeding or (ii) such proceeding is consented to or acquiesced in by Mortgagor or is not dismissed within thirty (30) days after the date upon which it was instituted; or if any reorganization or arrangement proceeding is instituted against Mortgagor for the settlement, readjustment, composition or extension of any of its debts upon any terms, and such proceeding is consented to or acquiesced in by Mortgagor or is not dismissed within thirty (30) days after the date upon which it was instituted; or if any action or petition is otherwise brought against Mortgagor seeking similar relief or alleging that it is insolvent, unable to pay its debts as they mature or generally not paying its debts as they become due, and such action or petition is consented to or acquiesced in by Mortgagor or is not dismissed within thirty (30) days after the date upon which it was brought.

Section 2.9 Judgments. If any judgment should be rendered against Mortgagor and such judgment should not be paid in full and satisfied, or appealed from within the time allowed for appeals and be paid in full and satisfied when it becomes final.

Section 2.10 Dissolution or Liquidation. Should Mortgagor, if a corporation or company, be liquidated or dissolved or its articles of incorporation or organization expire or be revoked, or, if a partnership or business association, be dissolved or partitioned, or, if a trust, be terminated or expire.

For the purposes of the events of default specified in sections 2.03, 2.05, 2.07, 2.08 and 2.09, the word "Mortgagor" shall specifically include, without limitation: (i) any party comprising Mortgagor, should more than one person or entity execute this Mortgage as Mortgagor; (ii) any person or entity now or hereafter liable, whether primarily, secondarily or contingently, for the payment of the Indebtedness or any part thereof including without limitation any principal, maker, endorser, guarantor or surety and the heirs, legal representatives, successors and assigns thereof; (iii) if Mortgagor or any party comprising Mortgagor be a general partnership or a limited partnership, any general partner thereof; and (iv) if Mortgagor or any party comprising Mortgagor be a joint venture, any joint venturer thereof.

ARTICLE 3 REMEDIES

Upon the occurrence of an event of default which is not cured within the period, if any, provided for herein, Mortgagor shall be in default hereunder. If Mortgagor shall be in default

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hereunder, Mortgagee may, at its option and election and without notice to Mortgagor, do any one or more of the following:

Section 3.1 Acceleration of Indebtedness. Mortgagee may immediately declare all or any portion of the Indebtedness to be immediately due and payable, whereupon the same shall be and shall become due and payable forthwith without presentment, demand, protest or notice of any kind, all of which are expressly waived by Mortgagor.

Section 3.2 Entry and Possession. Mortgagee may enter upon the Premises or any part thereof and take possession thereof, excluding therefrom Mortgagor and all agents, employees and representatives of Mortgagor; employ a manager of the Premises or any part thereof; hold, store, use, operate, manage, control, maintain and lease the Premises or any part thereof; conduct business thereon; make all necessary and appropriate repairs, renewals and replacements; insure or keep the Premises insured; and carry out or enter into agreements of any kind with respect to the Premises.

Section 3.3 Collection of Rents. Mortgagee may collect and receive all Rents, and apply the same to the Indebtedness, after deducting therefrom all costs, charges and expenses of taking, holding, managing and operating the Premises, including the reasonable fees and expenses of Mortgagee's attorneys and agents.

Section 3.4 Payments. Mortgagee may pay any sum or sums deemed necessary or appropriate by Mortgagee to protect the Premises or any part thereof or Mortgagee's interest therein.

Section 3.5 Other Remedies. Mortgagee may exercise all rights and remedies contained in any other instrument, document, agreement or other writing now or hereafter evidencing or securing the Indebtedness or any part thereof, or heretofore, concurrently herewith or in the future executed by Mortgagor in favor of Mortgagee in connection with any transaction resulting in the Indebtedness or any part thereof, including, without limiting the generality of the foregoing, the Master Loan Agreement, the Note and the Lease Assignment.

Section 3.6 Appointment of Receiver. Upon, or at any time after the filing of an action to foreclose this Mortgage, Mortgagee shall be entitled forthwith to the appointment of a receiver or receivers, as a matter of right, such appointment to may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to either the then value of the Premises, the adequacy or inadequacy of any remedy available at law, the solvency or insolvency of any other person liable for payment of such indebtedness or whether the Premises shall be then occupied as a homestead or not, and Mortgagee hereunder or any agent of Mortgagee may be appointed as such receiver. Such receiver shall have the power to perform all of the acts permitted Mortgagee pursuant to the provisions of this Mortgage and such other powers which may be necessary or are customary in such cases for the protection, possession, control, management and operation of the Premises during such period.

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Section 3.7 UCC Remedies. With respect to the personal property and fixtures in which a security interest is herein granted, at Mortgagee's option, Mortgagee may exercise any or all of the rights accruing to a secured party under this instrument, the Uniform Commercial Code of the State of Illinois, and any other applicable law. Mortgagor shall, if Mortgagee requests, assemble all such personal property and make it available to Mortgagee at a place or places, to be designated by Mortgagee, which shall be reasonably convenient to Mortgagor and Mortgagee. Any notice required to be given by Mortgagee of a public or private sale, lease or other disposition of the personal property or any other intended action by Mortgagee may be personally delivered to Mortgagor or may be deposited in the United States mail with postage prepaid duly addressed to Mortgagor at the address shown in the paragraph herein captioned "Notices", or at any other address theretofore designated by Mortgagor in writing to Mortgagee, at least five (5) business days prior to such proposed action, and shall constitute reasonable and fair notice to Mortgagor of any such action.

Section 3.8 Foreclosure.

(a) Mortgagee may immediately foreclose this mortgage. The Court in which any proceeding is pending for that purpose may, at once or at any time thereafter, either before or after sale, and without regard to the solvency or insolvency of any person liable for payment of the indebtedness secured hereby, and without regard to the then value of the Premises, appoint a receiver (the provisions for the appointment of a receiver and assignment of rents being an express condition upon which the loan hereby secured is made), for the benefit of Mortgagee, with power to collect the rents, issues and profits of the Premises, due and to become due during such foreclosure suit and the full statutory period of redemption notwithstanding any redemption. The receiver, out of such rents, issues and profits when collected, may pay costs incurred in the management and operation of the Premises, prior and subordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then due or thereafter accruing, and may make and pay for any necessary repairs to the Premises, and may pay all or any part of the indebtedness secured hereby or any deficiency decree, and Mortgagor hereby grants to Mortgagee the right, acting through itself, its agents or attorneys, either with or without process of law, forcibly or otherwise, to enter upon and take possession of the Premises and property, expel and remove any persons, goods or chattels, occupying or upon the same, and to collect or receive all the rents, issues and profits thereof, and to manage and control the same, and to lease the same or any part thereof from time to time, and after deducting all reasonable attorneys' fees, and all expenses incurred in the protection, care, maintenance, management and operation of the Premises, apply the remaining net income upon the indebtedness secured hereby, or upon any deficiency decree entered by virtue of any sale held pursuant to a decree of foreclosure.

(b) Mortgagee shall also have the right, from time to time, to bring an appropriate action to recover any sums required to be paid by Mortgagor under the terms of this Mortgage, as they become due, without regard to whether or not the principal indebtedness or any other sums secured by the Note and this Mortgage shall be due, and without prejudice to the right of

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Mortgagee thereafter to bring an action of foreclosure under this Mortgage, or any other action, for any default by Mortgagor existing at the time the earlier action was commenced.

(c) Any real estate sold pursuant to this Mortgage or pursuant to any judicial proceedings under this Mortgage or the Note may be sold in one parcel, as an entirety, or in such parcels and in such manner or order as Mortgagee, in its sole discretion, may elect.

In any foreclosure of this Mortgage there shall be allowed and included in the decree for sale, to be paid out of the rents or proceeds of such sale:

- (a) All sums secured hereby and remaining unpaid,
- (b) All sums advanced or paid by Mortgagee pursuant to this Mortgage with interest,
- (c) All court costs, attorneys' fees, appraisers' fees, expenditures for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title guarantee policies, Torrens certificates and similar data with respect to title, as Mortgagee may deem necessary in connection with (i) any proceeding, including probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage or any indebtedness hereby secured; or (ii) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (iii) preparations for the defense of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced. All expenditures and expenses of this type mentioned in this subparagraph (c) shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon. The proceeds of any foreclosure sale shall be distributed and applied to the items described in subparagraphs (a), (b), and (c) in order of priority inversely to the manner in which said subparagraphs are above listed and any surplus of the proceeds of such sale shall be paid to Mortgagor.

Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on their own behalf and on behalf of each and every person.

All of the foregoing rights and remedies are cumulative of and in addition to, and not restrictive of or in lieu of, any right or remedy provided for by statute, or now or hereafter existing at law or in equity. Mortgagee may, at Mortgagee's election and at Mortgagee's sole discretion, exercise each and every such right and remedy concurrently or separately or in any combination.

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ARTICLE 4 ADDITIONAL PROVISIONS

The following terms and conditions shall constitute additional covenants and agreements by Mortgagor:

Section 4.1 Mortgagor's Waivers. Mortgagor hereby waives and releases:

(a) all errors, defects and imperfections in any proceeding instituted by Mortgagee under the Note or this Mortgage or both;

(b) all benefit that might accrue to Mortgagor by virtue of any present or future law exempting the Premises, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any stay of execution, exemption from civil process or extension of time for payment; and

(c) unless specifically required herein, all notices of Mortgagor's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise of any option under the Note or this Mortgage.

Section 4.2 Applicable Law. This agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Illinois.

Section 4.3 Forbearance. Mortgagee shall not be deemed to waive any of Mortgagee's rights or remedies under this Mortgage unless such waiver be express in writing and signed by or on behalf of Mortgagee. No delay, omission or forbearance by Mortgagee in exercising any of Mortgagee's rights or remedies shall operate as a waiver of such rights or remedies. A waiver in writing on one occasion shall not be construed as a waiver of any right or any remedy on any future occasion.

Section 4.4 Time. Time is and shall be the essence of this Mortgage and the covenants and agreements by Mortgagor.

Section 4.5 Captions. Any captions or headings preceding the text of separate sections, paragraphs and sub-paragraphs hereof are solely for reference purposes and shall not affect the meaning, construction, interpretation or effect of the text.

Section 4.6 Notices. All notices, requests, demands and other communications under this Mortgage or the Note or the Lease Assignment shall be in writing and shall be deemed to have been duly given: (i) to Mortgagor when personally delivered to any office of Mortgagor, (ii) to Mortgagee when personally delivered to an officer of Mortgagee authorized to receive such notices or (iii) five (5) days after deposited in the United States Mail, certified mail with return receipt requested and with all postage prepaid, addressed as follows:

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To Mortgagee: Bank of America, N.A.
 Restaurant Finance Group
 Post Office Box 4899
 Atlanta, Georgia 30302-4899
 Attention: Mr. Bobby R. Oliver, Jr.

with a copy to: Catherine P. Powell, Esq.
 Tatum Levine & Powell, LLP
 1199 Oxford Road, N.E.
 Atlanta, Georgia 30306

To Mortgagor: AppleILLINOIS, L.L.C.
 AppleLAND II, LLC
 741 Centre View Boulevard, Suite 100
 Crestview Hills, Kentucky 41017

with a copy to: George Werden, Esquire
 AppleILLINOIS, L.L.C.
 AppleLAND II, LLC
 741 Centre View Boulevard, Suite 100
 Crestview Hills, Kentucky 41017

Either party may, by written notice to the other, designate a different address for receiving notices hereunder; provided, however, that no change in Mortgagor's address for receiving notices hereunder shall be effective until Mortgagee has actually received notice thereof. The foregoing address of Mortgagor constitutes the mailing address of the debtor, and the foregoing address of Mortgagee constitutes an address of the secured party from which information concerning the security interest may be obtained, as required by the Illinois Uniform Commercial Code.

Section 4.7 Severability. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

Section 4.8 Definitions. The word "Mortgagor" as used herein shall include the heirs, legal representatives, successors and assigns of Mortgagor as if so specified at length throughout this Mortgage, and all covenants, agreements, duties, obligations, liabilities and responsibilities of Mortgagor shall be binding upon and enforceable against the heirs, legal representatives, successors and assigns of Mortgagor. The word "Mortgagor" as used herein shall also include all parties executing this Mortgage as Mortgagor, and each of them, who shall be jointly and severally liable under this Mortgage, should more than one Mortgagor execute this Mortgage;

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and shall include the masculine and feminine genders, regardless of the gender of Mortgagor or any of them, and shall include partnerships, corporations and other legal entities. The word "Mortgagee" as used herein shall include the transferees, successors, legal representatives and assigns of Mortgagee as if so specified at length throughout this Mortgage, and all rights of Mortgagee under this Mortgage shall inure to the benefit of the transferees, successors, legal representatives and assigns of Mortgagee.

Section 4.9 Future Advances. Without limiting any other provisions of this Mortgage, this Mortgage shall also secure additional loans hereafter made by Mortgagee to Mortgagor within twenty (20) years from the date hereof but in no event shall the total outstanding principal indebtedness secured hereby at any such time exceed the amount of One Hundred Million Dollars (\$100,000,000). Each such additional loan shall be evidenced by a note or other evidence of indebtedness and shall be automatically secured hereby without the necessity of the note or other evidence of indebtedness identifying such additional loan as part of the indebtedness secured by this Mortgage unless such documents specifically provide that the additional loan shall be expressly unsecured or secured by property other than the Premises. Nothing herein contained shall imply any obligation on the part of Mortgagee to make any such additional loan(s).

Section 4.10. WAIVERS. TO THE EXTENT PERMITTED UNDER ILLINOIS LAW, MORTGAGOR HEREBY EXPRESSLY WAIVES ANY RIGHT MORTGAGOR MAY HAVE UNDER THE CONSTITUTION OF THE STATE OF ILLINOIS OR THE CONSTITUTION OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED TO MORTGAGEE BY THIS MORTGAGE, AND WAIVES MORTGAGOR'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE UNDER POWER DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS MORTGAGE ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT PRIOR NOTICE OR JUDICIAL HEARING OR BOTH. MORTGAGOR FURTHER HEREBY EXPRESSLY WAIVES ALL HOMESTEAD EXEMPTION RIGHTS, IF ANY, WHICH MORTGAGOR OR MORTGAGOR'S FAMILY MAY HAVE PURSUANT TO THE CONSTITUTION OF THE UNITED STATES, THE STATE OF ILLINOIS OR ANY OTHER STATE OF THE UNITED STATES, IN AND TO THE PREMISES AS AGAINST THE COLLECTION OF THE INDEBTEDNESS, OR ANY PART THEREOF. ALL WAIVERS BY MORTGAGOR IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY BY MORTGAGOR, AFTER MORTGAGOR HAS BEEN AFFORDED AN OPPORTUNITY TO BE INFORMED BY COUNSEL OF MORTGAGOR'S CHOICE AS TO POSSIBLE ALTERNATIVE RIGHTS. MORTGAGOR'S EXECUTION OF THIS MORTGAGE SHALL BE CONCLUSIVE EVIDENCE OF THE WAIVER AND THAT SUCH WAIVER HAS BEEN VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY MADE.

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage under seal and Mortgagor has delivered this Mortgage to Mortgagee, all the day and year first written above.

MORTGAGOR:

AppleILLINOIS, L.L.C., an Illinois limited liability company

By: W. Curtis Smith
W. Curtis Smith, Manager/Member

By: James P. Borke
James P. Borke, Manager/Member

By: _____
J. Timothy Brugh, Manager/Member

[COMPANY SEAL]

AppleLAND II, LLC, an Illinois limited liability company

By: W. Curtis Smith
W. Curtis Smith, Manager/Member

By: James P. Borke
James P. Borke, Manager/Member

By: _____
J. Timothy Brugh, Manager/Member

[COMPANY SEAL]

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage under seal and Mortgagor has delivered this Mortgage to Mortgagee, all the day and year first written above.

MORTGAGOR:

AppleILLINOIS, L.L.C., an Illinois limited liability company

By: _____
W. Curtis Smith, Manager/Member

By: _____
James P. Borke, Manager/Member

By: _____
J. Timothy Brugh, Manager/Member

[COMPANY SEAL]

AppleLAND II, LLC, an Illinois limited liability company

By: _____
W. Curtis Smith, Manager/Member

By: _____
James P. Borke, Manager/Member

By: _____
J. Timothy Brugh, Manager/Member

[COMPANY SEAL]

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This Instrument was prepared by and
upon recording mail to:

Catherine P. Powell, Esquire
Tatum Levine & Powell, LLP
1199 Oxford Road, N.E.
Atlanta, Georgia 30306

Property of Cook County Clerk's Office

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ACKNOWLEDGMENT

STATE OF Kentucky } SS.
COUNTY OF Kenton }

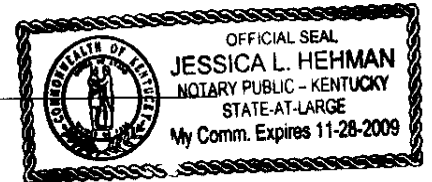
I, Jessica L. Hehman, a Notary Public, in and for and residing in said County and State, DO HEREBY CERTIFY that W. Curtis Smith, James P. Borke, and J. Timothy Brugh, Managers/Members of AppleILLINOIS, L.L.C., an Illinois limited liability company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes set forth therein.

Given under my hand and notarial seal this 1st day of May, 2006.

Jessica L. Hehman
Notary Public

My Commission Expires: _____

[NOTARY SEAL]



STATE OF Kentucky } SS.
COUNTY OF Kenton }

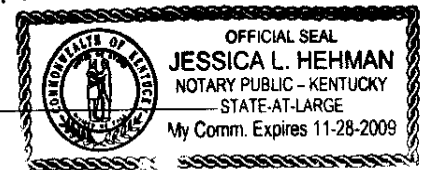
I, Jessica L. Hehman, a Notary Public, in and for and residing in said County and State, DO HEREBY CERTIFY that W. Curtis Smith, James P. Borke, and J. Timothy Brugh, Managers/Members of AppleLAND II, LLC, an Illinois limited liability company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes set forth therein.

Given under my hand and notarial seal this 1st day of May, 2006.

Jessica L. Hehman
Notary Public

My Commission Expires: _____

[NOTARY SEAL]



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EXHIBIT A

LEGAL DESCRIPTION

Parcel 1:

Lot 11 of Gatling Country Club Hills Resubdivision being a Resubdivision of part of Gatling Country Club Hills Subdivision in the Northeast quarter of Section 27, Township 36 North, Range 13, East of the Third Principal Meridian, South of the Indian Boundary line, and part of the Northeast Quarter of Section 27, Township 36 North, Range 13 East of the Third Principal Meridian, South of the Indian Boundary line, according to the Plat thereof recorded June 9, 2004 as Document No. 0416145163, all in Cook County, Illinois.

Parcel 2:

Non-Exclusive easement appurtenant to and for the benefit of Parcel 1 as set forth and defined in the Entertainment Center Declaration recorded May 26, 1999 as Document No. 99509366, as amended by document Nos. 09184952 and 0417518062 and in the Development Declaration recorded May 26, 1999 as document No. 99509367, as amended by Document Nos. 09184953 and 0417518061 and as created in the Plat of Gatling Country Club Hills Resubdivision recorded June 9, 2004 as Document No. 0416145163, for ingress and egress, for pedestrain and vehicular access, all in Cook County, Illinois.

Parcel 3:

Non-Exclusive and Exclusive easements appurtenant to and for the benefit of Parcel 1 as set forth and defined in the Declaration Of Easements, Covenants, Conditions And Restrictions recorded March 15, 2005 as document No. 0507433198 for ingress and egress, for pedestrain and vehicular access, all in Cook County, Illinois.

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CJI-Country Club Hills

EXHIBIT B PERMITTED TITLE EXCEPTIONS

1. General taxes for the year 2005 (Second Installment), 2006 and subsequent years which are not yet due and payable.
Tax identification no.: 28-27-201-005-0000
(Affects subject land and other lands)
2. Terms, conditions and provisions of the document creating the easement described in Schedule C, together with the rights of the adjoining owners in and to the concurrent use of said easement.
3. Terms, provisions and conditions contained in the Notice of Requirements for storm water detention recorded as document numbers 99867084 and 99867085
4. Easements for public utilities and drainage, as shown on the plat of resubdivision.
(Affects The North 20 feet)
5. Terms, provisions and conditions and easements contained in the Development Declaration dated April 8, 1999 and recorded May 26, 1999 as Document 99509367 by Country Club Hills, L.L.C.
Amendment to Declaration recorded December 21, 1999 as Document No. 09184952.
Second Amendment to Declaration recorded June 23, 2004 as Document No. 0417518061.
6. Terms, provision and conditions and easements contained in the Entertainment Center Declaration dated April 8, 1999 and recorded May 26, 1999 as Document 99509366 by Country Club Hills, L.L.C.
Amendment to Declaration recorded December 21, 1999 as Document No. 09184953.
Second Amendment to Declaration recorded June 23, 2004 as Document No. 0417518062 and re-recorded August 30, 2004 as Document 0424327111.
7. Memorandum of Agreement, recorded August 11, 2004 as Document No. 04224320306 between Gatling Properties Limited Partnership (GPP) and TDC Country Club Hills, L.L.C., with respect to that certain Third Amendment to Operating Agreement of GPP.
8. Ten (10) foot Utility Easement along the East line and also along the South line at the Easterly corner as disclosed by Survey by Gewalt Hamilton Associates, Inc., dated March 4, 2005 and last revised April 17, 2006, File No. 3544-311PLT3.
9. Terms, Conditions and Provisions of Declaration Of Easements, Covenants, Conditions And Restrictions dated March 10, 2005 and recorded March 15, 2005 as

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document 0507433198 by and between Country Club Hills, L.L.C. and Savrt, Inc. wherein the parties grant to each other irrevocable non-exclusive easements and irrevocable exclusive easements and set forth covenants that run with the land (See Document For Particulars).

(Affects the land and other property)

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