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Doc#: 0613226124 Fee: \$80.00
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Cook County Recorder of Deeds
Date: 05/12/2006 02:52 PM Pg: 1 of 29

0601-19430 20/4

MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

(the "**Mortgage**") is dated April 21, 2006, by and Aleksander Stankiewicz*, whose address is 14 Berkshire, Rome GA 30161, and Tomasz Stankiewicz**, whose address is W 10045 Eagle Bluff Ct. Portage, WI 57901, joint tenants (individually and collectively "**Borrower**"), and STONE INVESTMENT LLC, an Illinois limited liability company, its successors, nominees, participants and/or assigns, whose address is One North Arlington, 1500 W. Shure Drive, Suite 175, Arlington Heights, IL 60004 ("**Lender**"). *MARRIED MAN **DIVORCED NOT SINCE REMARRIED

Borrower has concurrently herewith executed and delivered a Promissory Note of even date (said Promissory Note, together with each other note, instrument, evidence of indebtedness or document from time to time substituted for said Promissory Note or evidencing all or part of the indebtedness evidenced by said Promissory Note or any extension, renewal or modification of any or all of such indebtedness, is hereinafter referred to as the "**Note**") payable to the order of Lender in the principal amount of EIGHT HUNDRED THOUSAND AND NO/100 DOLLARS (\$800,000.000), bearing interest at 1.75% per month, evidencing a loan (the "**Loan**") made by Lender to Borrower, and by which the Borrower promises to pay, (1) any additional advances and escrows, with interest thereon as provided in the Note, made by the Lender to protect the security hereunder, at any time before the release and cancellation of this Mortgage, and (2) the principal sum and interest thereon at the rate and at the times and amounts as provided in the Note. All of said amounts are made payable at such place as the holders of the Note may, from time to time, in writing appoint, and in absence of such appointment, then at the office of Lender.

Borrower, to secure the payment of the Indebtedness (as defined below) and the performance and validity of the representations, warranties, covenants, terms and agreements contained in this Mortgage, in consideration of the Loan evidenced by the Note secured by this Mortgage, the above recitals, and for other valuable considerations, the receipt and sufficiency of which are hereby acknowledged (i) mortgages, grants, remises, releases, warrants, aliens and conveys to Lender, its successors and assigns, all right, title and interest of Borrower in the real estate and improvements commonly known as 1048-50 North Spaulding, Chicago, Illinois 60651 as legally described on **EXHIBIT "A"** attached hereto and made a part hereof (the "**Land**").

TOGETHER with all improvements, tenements, reversions, remainders, easements, fixtures, rights of way, privileges, liberties, appendages and appurtenances now or hereafter thereto belonging, or appertaining to the Land, and all rents, issues, leases, royalties, avails, benefits,

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100 N. LASALLE SUITE 1100
CHICAGO, IL 60602

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income and profits thereof for so long and during all such times as Borrower may be entitled thereto (which are pledged primarily and on a parity with the real estate and not secondarily): all tenant security deposits, utility deposits, common area maintenance charges, real estate tax and insurance premium deposits and insurance premium rebates to which Borrower may be entitled or which Borrower may now or hereafter have therein or thereon, including (without restricting the foregoing): all buildings, structures, replacements, furnishings, fixtures, and other improvements and property of every kind and character, apparatus, appliances, machinery, and equipment and articles (other than tenant trade fixtures which relate to the use, occupancy and enjoyment of the Premises) used to supply heat, gas, air condition, water, light, power, sprinkler protection, waste removal, refrigeration and ventilation (weather single units or centrally controlled), and all other property or rights of the Borrower of every kind or character related to the Land, and all proceeds (including insurance and condemnation proceeds) and products of any of the foregoing, it being understood that the enumeration of any specific articles of property shall in no way exclude or be held to exclude any items of property not specifically mentioned (all of the foregoing together with the Land collectively, the "Premises"). All of the land, estate and property described herein, whether real, personal or mixed, whether affixed or annexed or not (except where otherwise hereinabove specified) and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared (to the maximum extent permitted by law) to form part and parcel of the real estate and to be appropriated to the use of the real estate, and shall be, for the purposes of this Mortgage, deemed to be real estate and conveyed and mortgaged hereby.

TO HAVE AND TO HOLD the Premises unto Lender until all Indebtedness is fully discharged, for the purposes and uses herein set forth.

This Mortgage shall also secure any and all modifications, renewals or extensions of the whole or any part of the Indebtedness, however evidenced, with interest at such lawful rate as may be agreed upon, and any part of such modifications, renewals or extensions or any change in the terms or rate of interest shall not impair in any manner the validity or priority of this Mortgage, nor release the Borrower from personal liability for the Indebtedness.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Indebtedness.** "Indebtedness" means all obligations of Borrower for payment to or for the benefit of Lender of any and all amounts due under the Note, this Mortgage, or the other Loan Documents (as defined below), together with any and all other indebtedness now or at any time due and owing from Borrower to Lender, however and whenever arising or created. Without limiting the foregoing, Indebtedness includes all amounts so described herein and all costs of collection, legal expenses and in-house or reasonable outside attorneys' fees and costs incurred or paid by Lender in attempting the collection or enforcement of the Note, this Mortgage, or the other Loan Documents or any modification, renewal or extension hereof, or in any legal proceeding occurring in whole or in part relating to the Note, this Mortgage or the other Loan Documents, or any modification, renewal or extension thereof, including but not limited to any declaratory judgment action, action for the repossession, condemnation, eminent domain, custody, sale, lease, assembly other disposition of any collateral for the Note, and bankruptcy or similar proceeding, or representation of Lender at any creditors' meeting in connection thereto. "Loan Documents" shall mean the Note, this Mortgage, the Assignment of Rents and Leases of even date herewith executed

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by Borrower in favor of Lender, the Borrower's Certificate of even date herewith executed by Borrower in favor of Lender, the Environmental Indemnity Agreement of even date herewith executed by Borrower in favor of Lender, and all other documents evidencing or securing the Note, including any and all renewals, modifications, extensions, amendments and replacements to any thereof to thereto.

2. **Right to Contest.** Notwithstanding anything in this Mortgage to the contrary, Borrower may, in good faith and with reasonable diligence, contest the validity or amount of any lien on the Premises, and defer payment and discharge thereof during the pending of such contest, provided, (a) that such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such lien; (b) that, within thirty (30) days after Borrower has been notified of the assertion of such lien Borrower shall have notified Lender in writing of Borrower's intention to contest such lien; and (c) that Borrower shall have deposited with Lender at such place as Lender may from time to time in writing appoint, and in the absence of such appointment, then at the office of the Lender, a sum of money which shall be sufficient in the reasonable judgment of Lender to pay in full such lien and all interest which might become due thereon, and shall keep on deposit an amount so sufficient at all times, increasing such amount to cover additional interest whenever, in the reasonable judgment of Lender, such increase is advisable or shall obtain a title endorsement or title indemnity to Lender's title insurance policies of Lender or a surety bond of a surety company reasonably satisfactory to Lender, insuring or bonding Lender against any harm as a result of such contest. Such deposits shall earn interest at no more than commercial money market rates. If Borrower shall fail to prosecute such contest with reasonable diligence or shall fail to pay the amount of the lien plus any interest finally determined to be due upon the conclusion of such contest, to the extent such amount exceeds the amount which Lender will pay as provided below, or shall fail to maintain sufficient funds on deposit as hereinabove provided or to provide a title endorsement or indemnity or surety bond, Lender may, at its option, apply any money so deposited in payment of or on account of such lien, or that part thereof then unpaid, together with all interest thereon. If the amount of money so deposited shall be insufficient for the payment in full of such lien, together with all interest thereon, Borrower shall forthwith, upon demand, deposit with Lender a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full. Lender shall, upon the final disposition of such contest, apply any money so deposited in full payment of such lien or that part thereof then unpaid, together with all interest thereon (provided Borrower is not then in default hereunder) when so requested in writing by Borrower and when furnished by Borrower with sufficient funds to make such payment in full and with evidence satisfactory to Lender of the amount of payment to be made.

3. **Maintenance, Payment of Liens and Other Covenants.** Borrower shall: (a) promptly repair, restore or rebuild any buildings or other improvements now or hereafter on the Premises which may become damaged or destroyed to substantially the same character as prior to such damage or destruction; (b) keep the Premises constantly in good condition and repair without waste; (c) keep the Premises free from mechanics' liens and other liens or claims for lien not expressly permitted by Lender in writing (collectively called "**Liens**"), subject, however, to the rights of Borrower set forth in Paragraph 2 above; (d) immediately pay when due any indebtedness which may be secured by a lien or charge on the Premises, and upon request exhibit satisfactory evidence of the discharge of such lien to Lender, subject, however, to the rights of Borrower set forth in Paragraph 2 above; (e) complete within a reasonable time any building(s) or other

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improvement(s) now or at any time in process of erection upon the Premises; (f) comply with all federal, state and local requirements of law, regulations, ordinances, orders and judgments and all covenants, easements and restrictions of record with respect to the Premises and the use thereof; (g) except as provided in the leases of the Premises, make no alterations, additions to, demolition or removal of any of the improvements, appurtenances, fixtures or equipment now or hereafter upon the Premises, without Lender's prior written consent; (h) suffer or permit no change in the general nature of the occupancy of the Premises without Lender's prior written consent; (i) observe and comply with all conditions and requirements (if any) necessary to preserve and extend all rights, easements, licenses, permits (including without limitation, zoning variations and any non-conforming uses and structures), privileges, franchises and concessions applicable to the Premises or contracted for in connection with any present or future use of the Premises; (j) pay each item of Indebtedness when due according to the terms hereof and the Note; (k) not suffer or permit any unlawful use of or any nuisance to exist upon the Premises; (l) not diminish or impair the value of Premises or the security intended to be effected by virtue of this Mortgage by any act or omission to act; (m) appear in and defend any proceeding which in the opinion of the Lender affects its security hereunder, and to pay all costs, expenses and attorney's fees incurred or paid by the Lender in any proceeding in which Lender may participate in any capacity by reason of this Mortgage; and (n) not suffer or permit, without Lender's written consent a sale, assignment or transfer of any right, title or interest in and to any of the improvements, appurtenances, fixtures or equipment which may be found in or upon the Premises.

4. **Taxes.** Borrower shall pay all real estate and general taxes before any penalty interest attaches, and shall pay special taxes, special assessments, water charges, sewer service charges, and all other charges against the Premises of any nature whatsoever when due, and shall, upon written request, furnish to Lender duplicate receipts thereof within thirty (30) days following the date of payment.

5. **Tax Deposits.** . To more fully protect the security of this Mortgage and to provide security to the Lender for the payment of real estate taxes, Lender, in its sole discretion and upon written notice to Borrower, may require Borrower to deposit, on the first (1st) day of each calendar month during the term hereof, with Lender or such depository (which shall be referred to as "**Depository**" whether held by Lender or a different entity) as Lender may from time to time in writing appoint, and in the absence of such appointment, then at the office of Lender, an amount equal to one-twelfth (1/12) of Lender's estimate of annual real estate taxes and assessments (general and special) assessed against the Premises as determined by Lender. Such deposits shall be held without any allowance of interest to Borrower and shall be used for the payment of real estate taxes and assessments (general and special) when they become due (collectively, "**Real Estate Taxes**") assessed against the Premises as determined by Lender. If the funds so deposited are insufficient to pay any Real Estate Taxes when due, Borrower shall, not later than the thirtieth (30th) day prior to the last day on which they may be paid without penalty or interest, deposit with the Depository such additional funds as may be necessary to pay the Real Estate Taxes in full. If the funds so deposited exceed the amount required to pay the Real Estate Taxes for any year, the excess shall be applied on subsequent deposits. The Depository need not hold Borrower's deposits separate and apart from its other funds.

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Failure to timely pay any of the aforesaid monthly deposits after they are due or failure to timely pay any of the aforesaid additional deposits shall be a Default under the Note secured by this Mortgage and under this Mortgage, in which event all remedies under the Note secured by this Mortgage and this Mortgage may be immediately exercised by the Lender and, further, all monies on hand in the deposit fund may, at the option of Lender, be applied in reduction of the Indebtedness under the Note secured by this Mortgage. If Real Estate Taxes shall be levied, charged, assessed or imposed upon or for the Premises, or any portion thereof, and if such taxes or assessments shall also be a levy, charge assessment or imposition upon or for any other premises not encumbered by the lien of this Mortgage, then the computation of any amount to be deposited under this Paragraph 5 shall be based upon the entire amount of such taxes or assessments, and Borrower shall not have the right to apportion the amount of any such taxes or assessments for the purposes of such computation.

6. **Insurance.** Borrower shall keep the Premises and the Collateral (defined in Paragraph 10 below) insured against loss or damage by fire, including without limitation on the generality of the foregoing, lightning, wind storm, hail storm, aircraft, vehicles, smoke, explosion, war, riot or civil commotion as provided by the standard all risks policy and against such other hazards as may reasonably be required by Lender, including without limitation: (a) all-risk fire and extended coverage insurance, with vandalism and malicious mischief endorsements, for the full replacement value of the Premises, with agreed upon amount and inflation guard endorsements; (b) rent loss or business interruption insurance to cover losses for not less than twelve (12) months; (c) flood insurance if, in the reasonable opinion of Lender, such protection is necessary; (d) broad form boiler and sprinkler damage insurance in an amount reasonably satisfactory to Lender, if and so long as the Premises shall contain a boiler and sprinkler system respectively; (e) comprehensive liability; (f) worker's compensation; (g) third party property insurance coverage; and (h) such other insurance as Lender may from time to time reasonably require (hereafter referred to, together with items (a) through (g), as the "**Insurance Policies**"). All Insurance Policies shall be in forms, companies and amounts satisfactory to Lender, with waiver of subrogation and full replacement cost endorsements and a standard non-contributory Lender clause attached to all policies, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days prior written notice to Lender. Borrower shall deliver all original policies to Lender and shall deliver evidence of renewal at least twenty-five (25) days prior to each expiration date.

Borrower shall not take out insurance other than that required hereunder unless Lender is included thereon under a standard non-contributory Lender clause acceptable to Lender. Borrower shall immediately notify Lender whenever any such separate insurance is taken out and shall promptly deliver to Lender the original policy of insurance. In the event of a foreclosure of the lien of this Mortgage, or of a transfer of title to the Premises either in lieu of foreclosure or by purchase at the foreclosure sale, all interest in all insurance policies in force shall pass to Lender, transferee or purchaser, as the case may be.

Unless Borrower provides evidence of the insurance coverage required by this Mortgage, Lender may purchase insurance at Borrower's expense to protect Lender's interest in the Premises. The insurance may but need not, protect Borrower's interests. The coverage that Lender may purchase may not pay any claim that Borrower makes or any claim that is made against Borrower in

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connection with the Premises. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has obtained insurance as required by this Mortgage. If Lender purchases insurance for the Premises, Borrower will be responsible for the costs of that insurance, including interest and any other charges that Lender may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Indebtedness and may be more than the cost of insurance Borrower may be able to obtain acting alone.

7. **Insurance Deposits.** To more fully protect the security of this Mortgage, and to provide security to the Lender for the payment of insurance premiums, Lender, in its sole discretion and upon written notice to Borrower, may require Borrower to deposit with the Depository, on the (1st) day of every calendar month during the term hereof, an amount equal to one-twelfth (1/12) of Lender's estimate of annual premiums due on any of the Insurance Policies designated by Lender. Such deposits shall be held without any allowance of interest to Borrower and shall be used for payment of premiums due when they become due. If the funds so deposited are insufficient to pay the premiums when due, Borrower shall not later than the thirtieth (30th) day prior to the due date, deposit with the Depository such additional funds as may be necessary to pay the premiums in full. If the funds so deposited exceed the amount required to pay the premiums, the excess shall be applied to subsequent deposits. The Depository need not hold the deposits separate and apart from its other funds.

Failure to timely pay any of the aforesaid monthly deposits after they are due or failure to timely pay any of the aforesaid additional deposits shall be a Default under the Note secured by this Mortgage and under this Mortgage, in which event all remedies under the Note secured by this Mortgage and this Mortgage may be immediately exercised by the Lender and, further, all monies on hand in the deposit fund may, at the option of Lender, be applied in reduction of the Indebtedness under the Note secured by this Mortgage.

8. **Use of Deposits and Accounts.** If an Event of Default (hereafter defined) exists or occurs hereunder, or an Event of Default exists under the Note, Lender may, but shall not be required, to apply any "Deposits" and "Accounts" (as both those terms are defined below) in such order and manner as Lender may elect. Borrower agrees that Lender or the Depository shall not be required to make payments for which insufficient funds are on deposit with the Depository. Borrower agrees that nothing herein contained shall be construed as requiring the Lender or Depository to advance other monies for such purpose and the Lender shall not incur any liability for anything it may do or omit to do. Depository shall not be liable for any failure to apply to the payment of Real Estate Taxes or insurance premiums any amount so deposited unless Borrower, while no Event of Default has occurred or exists, shall have requested Lender or the Depository in writing to apply such funds to the payment for which they were deposited, accompanied by the corresponding bills. Depository shall not be liable for any act or omission taken in good faith, but only for its gross negligence or willful misconduct.

When the Indebtedness has been fully paid, any remaining Deposits and Accounts shall be paid to Borrower, or the then owner or owners of the Premises. Upon an assignment of this Mortgage, Lender shall have the right to pay over the balance of such deposits in the possession of the Depository to the assignee and Lender shall thereupon be completely released from all liability with

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respect to such deposits and Borrower shall look solely to the assignee or transferee with respect thereto. This provision shall apply to every transfer of such deposits to a new assignee.

9. **Adjustment of Losses with Insurer and Application of Proceeds of Insurance.**

Provided that (a) no Event of Default has occurred or exists, (b) the insurance proceeds shall, along with such other funds that Borrower is willing and shall commit, in Lender's reasonable judgment, be sufficient to restore the Premises to substantially the condition they were in prior to the insured event, and (c) Lender determines in its reasonable judgment that Borrower will be able to continue to make "Monetary Payments" (as defined below), insurance proceeds shall be applied to pay for the cost of repair, rebuilding or restoration of the buildings and other improvements on the Premises. Such proceeds shall be made available under the terms of a standard construction escrow and shall be disbursed on receipt of architect's certificates, liens waivers and any other documentation or certificates required under the terms of standard construction escrows. If the buildings and other improvements shall be so repaired, restored or rebuilt, such repaired, restored or rebuild buildings and other improvements shall be of at least equal value and substantially the same character as prior to such damage or destruction. Lender must approve plans and specifications of such work before such work shall be commenced which approval shall not be unreasonably withheld. If the proceeds are made available by Lender to reimburse Borrower or any lessee for the cost of repair, rebuilding or restoration, any proceeds remaining after payment of all costs of such repair, rebuilding or restoration and the reasonable charges of the Disbursing Party (as defined below) shall be paid to any party entitled thereto as the same appear on the records of Lender. Any proceeds of insurance held by the Disbursing Party shall be invested in an interest-bearing account for the benefit of Borrower which is insured by an agency of the United States Government. The risk of loss of such funds while so invested shall be borne solely by Borrower. In the case of loss after foreclosure proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoring the Premises, shall be used to pay the amount due in accordance with any Judgment of Foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption, if so entitled, or as the court may direct. In all other cases, such insurance proceeds may, at the option of Lender, be applied in reduction of the Indebtedness secured hereby.

"Disbursing Party" refers to Lender and to any trust company or title insurance company selected by Lender.

10. **Security Agreement and Financing Statement.** This Mortgage shall constitute a Security Agreement within the meaning of the Uniform Commercial Code (the "Code") of the State in which the Premises are located and Borrower hereby grants Lender a security interest in such items referenced herein, including without limitation, (a) all sums on deposit with Lender pursuant to Paragraphs 5, 7, 9 and 24 hereof ("Deposits"), (b) any property included in the definition of the word "Premises," which is not a part of the real estate and is not a "fixture" (within the meaning of the Code), and all replacements, substitutions, additions, and the proceeds thereof, except for all personal property or trade fixtures of any tenants located on the Premises, (collectively, the "Collateral"); and (c) all accounts, deposits and other monies of Borrower held by or on deposit with Lender ("Accounts"). To secure payment of the Indebtedness, and to secure the performance and validity of the representations, warranties, terms, covenants and agreements herein and in the other Loan Documents, Borrower grants to Lender a security interest (within the meaning of the

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Code) in the Deposits, the Collateral, and the Accounts (collectively, the “**Personalty**”). Borrower agrees that this Mortgage shall constitute a financing statement and Lender may file this Mortgage instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement or fixture filing for any of the items specified herein and any goods or other personal property that may now or hereafter become such fixtures. Any reproduction of this Mortgage shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender upon Lender’s request any financing statements that Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statement and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may require

If an Event of Default occurs or exists under this Mortgage, then, in accordance with the provisions of applicable law, Lender, pursuant to the appropriate provisions of the Code, shall have the option to enforce its security interest in the Personalty in accordance with its rights, powers and remedies with respect to that part of the Premises which is not Personalty (“**Real Estate**”, in which event the default provisions of the Code shall not apply). The parties agree that if Lender elects to proceed with respect to the Personalty separately from the Real Estate, ten (10) days written notice of the sale of the Personalty shall be reasonable notice. The reasonable expense of retaking, holding, preparing for sale, selling and the like incurred by Lender shall include, but not be limited to, reasonable attorneys’ fees and costs.

Borrower agrees that, without the written consent of Lender, Borrower will not remove or permit to be removed from the Premises any of the Collateral except that so long as no Event of Default exists or occurs hereunder, Borrower shall be permitted to sell or otherwise dispose of the Collateral when obsolete, worn out, inadequate, unserviceable or unnecessary for use in the operation of the Premises, but only upon replacing the same or substituting for the same other Collateral at least equal in value and utility to the initial value and utility of that disposed of and in such a manner that the replacement or substituted Collateral shall be subject to the security interest created hereby and that the security interest of Lender shall be perfected and first in priority, it being expressly understood and agreed that all replacements, substitutions and additions to the Collateral shall be and become immediately subject to the security interest of this Mortgage and covered hereby.

Borrower shall, from time to time, on request of Lender, deliver to Lender at the cost of Borrower: (a) such further financing statements and security documents and assurances as Lender may require to the end that the liens and security interest created hereby shall be and remain perfected and protected in accordance with the requirements of any present or future law; and (b) an inventory of the Collateral in reasonable detail. Borrower represents and warrants that all Collateral now is, and that all replacements thereof, substitutions therefor and additions thereto, unless Lender otherwise consents, will be free and clear of liens, encumbrances, title retention devices and security interests of others.

To the extent permitted by law, (a) each component of the Real Estate is or will become fixtures on the land described herein; and (b) this instrument, upon recording or registration in the

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real estate records of the proper office, shall constitute a "fixture filing" within the meaning of the code.

11. **Hazardous Material; Indemnification.** Neither Borrower nor, to the best knowledge of Borrower, any other person or entity has ever caused or permitted, and Borrower will not at any time cause or permit, a Reportable Quantity (as hereinafter defined) of Hazardous Material (as hereinafter defined) to be placed, held, located or disposed of on, under or at the Premises, or any part thereof, or to be unlawfully transported from the Premises, or to be transported from the Premises and unlawfully placed, held, located or disposed of on, under or at any other site or property (by whomsoever owned), or to be released in to the atmosphere or any watercourse, body of water or wetlands, or to be disposed of in any place or manner which, with the passage of time or the giving of notice or both, would give rise to liability (or potential liability) under any environmental Laws (as hereinafter defined). Neither the Premises nor any part thereof, has ever been used (whether by Borrower or, to the best knowledge of Borrower, by any other person or entity), and Borrower will not use or permit the Premises, or any part thereof, to be used, as a treatment, storage or disposal (whether permanent or temporary) site for any Hazardous Material.

Borrower hereby indemnifies Lender and agrees to hold Lender harmless from and against any and all losses, liabilities, damages, fines, penalties, injuries, costs, expenses and claims of any and every kind whatsoever (including, without limitation, attorneys' and paralegals' fees and other legal expenses) which at any time or from time to time may be paid, incurred or suffered by, or asserted against, Lender for, with respect to, or as a direct or indirect result of, the presence on, at or under the Premises, or, following relocation thereof from the Premises, the presence on, at or under any other site or property, or the escape, seepage, leakage, spillage, discharge, emission or release from the Premises into or upon any land, the atmosphere, or any watercourse, body of water or wetland, of any Hazardous Material (including, without limitation, any losses, liabilities, damages, fines, penalties, injuries, costs, expenses or claims asserted or arising under any Environmental Laws.) Notwithstanding anything to the contrary in this Mortgage, the Note or any other instrument or document, the provisions of and undertakings and indemnification set out in this provision shall survive the satisfaction and release of this Mortgage and the payment and satisfaction of all Indebtedness secured by this Mortgage, and shall continue in effect forever.

"Hazardous Material" means and includes any hazardous, toxic or dangerous substance or any pollutant or contaminant defined as such in, or for purpose of, any Environmental Laws.

"Reportable Quantity" means, with respect to any Hazardous Material, a reportable quantity of such Hazardous Material as specified in, or for purposes of, any Environmental Laws. "Environmental Laws" means the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, the Resource Conservation and Recovery Act, the Clean Water Act, the Toxic Substances Control Act, the Illinois Responsible Property Transfer Act or any other existing or future federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, Judgment, relating to, or imposing liability or standards of conduct or remediation concerning any hazardous, toxic or dangerous waste, substance or material, each as now or hereafter in effect.

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12. **Stamp Tax; Effect of Changes in Laws Regarding Taxation.** If, by the laws of the United States of America or of any state or subdivision thereof having jurisdiction over Borrower or the Premises, any tax is due or becomes due in respect of the issuance of the Note (other than income taxes assessed to Lender), or this Mortgage or the recordation thereof, Borrower agrees to pay such tax in the manner required by any such laws. Borrower further covenants and agrees to reimburse Lender for any reasonable sums which Lender may expend by reason of the imposition of any such tax, and shall hold Lender harmless and indemnify Lender, its successors or assigns, against any liability incurred by reason of the imposition of any such tax.

In the event of the enactment, after this date, of any law of the state in which the Premises are located deducting from the value of the land for the purpose of taxation of any lien thereon, or imposing upon Lender the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Borrower, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Lender's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage, the Indebtedness, or Lender, then Borrower, upon demand by Lender, shall pay such taxes or assessments or reimburse Lender therefor; provided, however, that if in the opinion of counsel for Lender: (a) it might be unlawful to require Borrower to make such payments; or (b) the making of such payments might result in the imposition of interest beyond the maximum amount permitted by law; then Lender may elect, by notice in writing given to Borrower, to declare all of the Indebtedness due and payable ninety (90) days from the giving of such notice.

13. **Observance of Lease Assignment.** As additional security for the payment of the Indebtedness and for the validity and performance of the representations, warranties, covenants and agreements contained herein, Borrower has assigned and transferred to Lender all of its right, title and interest as landlord in and to the leases, whether written or verbal, of the Premises, which may have heretofore or may hereafter be made or agreed to, including without limitation, all rents, issues, and profits now due and which hereafter become due, pursuant to that certain Assignment of Rents and Leases of even date herewith.

14. **Borrower and Lien Not Released.** From time to time Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower or Borrower's successors or assigns or the consent of any junior lienholder, guarantor or tenant, without liability on Lender's part and notwithstanding Borrower's breach of any covenant, agreement or condition: (a) release anyone primarily or secondarily liable on any of the Indebtedness; (b) accept a renewal note or notes therefor; (c) release from the lien of this Mortgage any part of the Premises; (d) take or release other or additional security for the Indebtedness; (e) consent to any plat, map or plan of the Premises; (f) consent to the granting of any easement; (g) join in any extension or subordination agreement; (h) agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the time of payment or the amount of the monthly installments payable thereunder; and (i) waive or fail to exercise any right, power or remedy granted by law or herein or in any other instrument given at any time to evidence or secure the payment of the indebtedness

Any actions taken by Lender pursuant to the terms of this Paragraph 14 shall not impair or affect: (a) the obligation of Borrower or Borrower's successor or assigns to pay any sums at any

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time secured by this Mortgage and to observe all of the representations, warranties, covenants, agreements and conditions herein contained; (b) the guaranty of any individual or legal entity for payment of the Indebtedness; and (c) the lien or priority of the lien hereof against the Premises. Borrower shall pay to Lender a reasonable service charge and such title insurance premiums and reasonable attorneys' fees as may be incurred by Lender for any action described in this Paragraph 14 taken at the request of Borrower.

15. **Lender's Right to Act.** If Borrower fails to pay any claim, lien or encumbrances which shall have a prior lien to the lien of this Mortgage, or to pay, when due, any tax or assessment, or any insurance premium, or to keep the Premises in repair, as aforesaid, or shall commit or permit waste, or if there be commenced any action or proceeding affecting the Premises or the title thereto, then Lender, at its option, may pay such claim, lien, encumbrance, tax, assessment or premium, with right of subrogation thereunder, may procure such abstracts or other evidence of title as it deems necessary, may make such repairs and take such steps as it deems advisable to prevent or cure such waste, and may appear in any such action or proceeding and retain counsel therein, and take such action therein as Lender deems advisable, and for any of such purposes Lender may advance such sums of money as it deems necessary. Lender shall be the sole judge of the legality, validity and priority of any such claim, lien, encumbrance, tax, assessment and premium, and of the amount necessary to be paid in satisfaction thereof. Borrower will pay to Lender, immediately and without demand, all sums of money advanced by Lender pursuant to this paragraph, together with interest on each such advance at the rate set forth in the Note, and all such sums and interest thereon shall be secured hereby.

16. **Lender's Reliance on Documents.** Lender in making any payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the validity of any tax, assessment, sale forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

17. **Events of Default.** The following events and conditions each constitute an "Event of Default":

- a. Any default (a "Monetary Default"), which default is not cured within five (5) days after written notice thereof, in the punctual payment of any of the following, which are collectively referred to as "Monetary Payments": (i) principal or interest (including interest at the Default Interest Rate) under the Note, (ii) any monthly deposit for taxes or insurance required hereunder, or (iii) any other amount required to be paid by Borrower to or for the benefit of Lender hereunder or under any of the other Loan Documents on any date on which any such payment shall be due;
- b. Borrower shall fail to observe or perform any term, obligation, covenant, agreement or condition set forth herein and required to be kept or observed or performed by Borrower, which failure is not cured within fifteen (15) days after written notice thereof, provided that, if such failure is curable, and if Borrower acts diligently, continuously, reasonably, and in good faith to cure such failure within such fifteen

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- (15) day period after written notice and such failure cannot reasonably be cured within such time period, then such time period shall be extended for a reasonable time as determined by Lender provided Borrower continues diligently, continuously, reasonably and in good faith to cure such failure, so long as Borrower has not been given a notice of a breach of the same provision within the preceding twelve (12) months;
- c. Any default, which default is not cured within fifteen (15) days after written notice thereof, in the validity, performance or observance by Borrower of any representation or warranty contained in this Mortgage, or any representation or warranty made or furnished to Lender by Borrower or on behalf of Borrower;
 - d. Any default, which default is not cured within fifteen (15) days after written notice thereof, in the validity, performance or observance by Borrower, any property manager, or any guarantor, of any other term, agreement, condition, representation, warranty or covenant contained in any other Loan Document, or in any other instrument given at any time to evidence, guaranty or secure the payment of the Indebtedness, subject to any grace periods therein;
 - e. Any other Event of Default as defined in any other Loan Document;
 - f. Any default, which default is not cured within five (5) days after written notice thereof, in the payment of any and all other indebtedness from Borrower to Lender, however and whenever arising or created;
 - g. Borrower or any guarantor of the Note shall file (i) a petition for liquidation, reorganization or adjustment of debt under Title 11 of the United States Code (11 U.S.C. § 101 et seq.) or any similar law, state or federal, whether now or hereafter existing, or (ii) any answer admitting insolvency or inability to pay its debts, or (iii) fail to obtain a vacation or stay of involuntary proceedings within ninety (90) days, or hereinafter provided;
 - h. Any order for relief for Borrower or for any guarantor of the Note shall be entered in any case under Title 11 of the United States Code or any similar law, state or federal, whether now or hereafter existing, or a trustee or a receiver shall be appointed for Borrower or for any guarantor of the Note in any voluntary or involuntary proceeding, or any court shall have taken jurisdiction of all or the major part of the property for Borrower or for any guarantor of the Note in any voluntary or involuntary proceeding for the reorganization, dissolution, liquidation, adjustment of debt or winding up of Borrower or of any guarantor of the Note and such trustee or receiver shall not be discharged or such jurisdiction not be relinquished or vacated or stayed on appeal or otherwise stayed within ninety (90) days;
 - i. Borrower or any guarantor of the Note shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they

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become due, or shall consent to the appointment of a receiver or trustee or liquidator of all or any major part of its property;

- j. In Lender's sole opinion (i) a material adverse change occurs in the financial condition of the Borrower or any guarantor; (ii) the prospect of payment or performance of any term, covenant, agreement or condition contained in this Mortgage, the Note, or the Loan Documents is impaired; or, (iii) it becomes insecure with the Loan;
- k. The attachment, seizure, levy upon or taking of possession by any receiver, custodian or assignee for the benefit of creditors of a substantial part of any property of the Borrower, or any guarantor;
- l. The death of Borrower or the insolvency of Borrower or any guarantor of this Loan;
- m. Commencement of foreclosure proceedings, whether by judicial proceeding, self-help, repossession, or any other method, by any creditor of Borrower, or by any governmental agency against any property securing this Mortgage, the Note, or any Loan Document, including without limitation, a garnishment of any of Borrower's accounts;
- n. Failure of any party to comply with or perform when due any term, obligation, covenant or condition contained in any environmental agreement executed in connection with the Premises; or
- o. This Mortgage or any of the other Loan Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason;

If an event of Default occurs, Lender may, at its option, declare the whole of the Indebtedness to be immediately due and payable without notice to Borrower, with interest thereon from the date of such Event of Default at the Default Interest Rate. If, while any insurance proceeds or condemnation awards are being held by Lender to reimburse Borrower for the cost of repair, rebuilding or restoration of buildings or other improvements on the Premises, as set forth in Paragraphs 9 and 24 hereof, Lender shall accelerate the Indebtedness, then and in such event Lender shall be entitled to apply all such insurance proceeds and condemnation awards then held by it in reduction of the Indebtedness and any excess shall be returned to Borrower or any party entitled thereto without interest.

18. **Foreclosure; Expense of Litigation.** When the Indebtedness, or any part thereof, shall become due, whether by acceleration or otherwise, Lender shall have the right to foreclose then lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents. It is further agreed that, as an alternative to the right of foreclosure for the full Indebtedness after acceleration thereof, Lender shall have the right to institute "Partial Foreclosure" (as defined below) proceedings with respect to the portion of Indebtedness so in default, as if under a full foreclosure, and without declaring the

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entire Indebtedness due (such proceeding being hereinafter referred to as a “**Partial Foreclosure**”), and provided that if foreclosure sale is made because of default of a part of the Indebtedness, such sale may be made subject to the continuing lien of this Mortgage for the unmatured part of the Indebtedness; and it is agreed that such sale pursuant to a Partial Foreclosure, if so made, shall not in any matter affect the unmatured part of the Indebtedness, but as to such unmatured part this Mortgage, the lien hereof shall remain in full force and effect just as though no foreclosure sale had been made under the provisions of this Paragraph. Notwithstanding the filing of any Partial Foreclosure or entry of a decree of sale therein, Lender may elect at any time prior to a foreclosure sale pursuant to such decree, to discontinue such Partial Foreclosure and to accelerate the Indebtedness by reason of any uncured default or defaults upon which such Partial Foreclosure was predicated or by reason of any other defaults, and proceed with full foreclosure proceedings. It is further agreed that several foreclosure sales may be made pursuant to Partial Foreclosures without exhausting the right of full or Partial Foreclosure sale for any unmatured part of the Indebtedness, it being the purpose to provide for a Partial Foreclosure sale of the Indebtedness without exhausting the power to foreclose and to sell the Premises pursuant to any such Partial Foreclosure for any other part of the Indebtedness whether matured at the time or subsequently maturing, and without exhausting any right of acceleration and full foreclosure. In the event of a foreclosure sale, Lender is hereby authorized, without the consent of Borrower, to assign any and all insurance policies to the purchaser at such sale, or to take such other steps as Lender may deem advisable to cause the interest of such purchaser to be protected by any of the insurance policies.

In any suit to foreclose or partially foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the Judgment of Foreclosure, all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorneys’ fees, appraisers’ fees, outlays for documentary and expert evidence, stenographers’ charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the Judgment) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such Judgment the true condition of the title to or to the value of the Premises. All expenditures and expenses of the nature in this paragraph mentioned and such expenses and fees as may be incurred in the enforcement of Borrower’s obligations hereunder, the protection of the Premises and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Lender in any litigation or proceeding affecting this Mortgage, the Note, the other Loan Documents or the Premises, including without limitation probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, whether or not actually commenced, shall be immediately due and payable by Borrower, with interest thereon at the Default Interest Rate and shall be secured by this Mortgage.

19. **Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale (or Partial Foreclosure sale) of the Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding Paragraph hereof; second, all other items of Indebtedness other than principal and interest as described in the Note; third, all unpaid interest on the Note; fourth, all principal remaining unpaid on the Note; and fifth, any overpayment to any party entitled thereto as their rights may appear.

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20. **Appointment of Receiver or Mortgagee in Possession.** Upon, or at any time after, the commencement of an action to foreclose this Mortgage, the court in which such action was commenced may, upon request of Lender, appoint a receiver of the Premises either before or after foreclosure sale, without notice and without regard to the solvency or insolvency of Borrower at the time of application for such receiver and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and Lender may be appointed as such receiver or as mortgagee in possession. Such receiver or mortgagee in possession shall have power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure action and, in case of a sale and deficiency, during the full statutory period of redemption (if any), whether there be redemption or not, as well as during any further times (if any) when Borrower, except for the intervention of such receiver or mortgagee in possession, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of such period. The court from time to time may authorize the receiver or mortgagee in possession to apply the net income in its hands in payment in whole or in part of: (a) the Indebtedness secured hereby or by any order or judgment foreclosing the lien of this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or the lien of such order or judgment, provided such application is made prior to foreclosure sale; (b) the deficiency in case of a sale and deficiency. Nothing herein contained shall be construed as constituting Lender as a mortgagee in possession in the absence of the actual taking of possession of the Premises by Lender pursuant to this Mortgage.

21. **Lender's Right of Possession in Case of Default.** In any case in which under the provisions of this Mortgage the Lender has a right to institute foreclosure proceedings, Borrower shall forthwith upon demand of Lender, surrender to Lender, and Lender shall be entitled to take, actual possession of the Premises or any part thereof personally, or by its agents or attorneys. Lender's rights and remedies under this Paragraph shall be effective whether before or after the whole principal sum secured hereby is declared to be immediately due and payable hereunder, or whether before or after the whole principal sum secured hereby is declared to be immediately due and payable hereunder, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder. In the event Lender is entitled to take possession of the Premises, Lender in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts of Borrower or then owner of the Premises relating thereto, and may exclude Borrower, or their respective employees, agents or servants, wholly therefrom. In such case Lender, under the powers herein granted, may hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents. Lender shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, including without limitation full power:

- (a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Borrower to cancel the same;

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- (b) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;
- (c) to extend or modify any then existing leases and to enter new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Indebtedness and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;
- (d) to make such repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as may seem judicious;
- (e) to insure and reinsure the same and all risks incidental to Lender's possession, operation and management thereof; and
- (f) to receive all of such avails, rents, issues and profits;

Borrower hereby grants to Lender full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter without notice to Borrower.

Lender, in the exercise of the rights and powers herein conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of any matters deemed reasonably appropriate by Lender, in its sole discretion.

Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any lease. To the extent provided by law, Borrower shall and does hereby agree to protect, indemnify, defend and hold Lender harmless of and from any and all liability, loss or damage which it may or might incur under such leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in such leases. Should Lender incur any such liability, loss or damage under such leases or under or be reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and attorneys' fees, shall be so much additional Indebtedness, and shall become immediately due and payable without notice and with interest at the Default Interest Rate.

22. **Rights Cumulative.** Each right, power and remedy conferred upon Lender by this Mortgage and by all other documents evidencing or securing the Indebtedness and conferred by law and in equity is cumulative and in addition to every other right, power and remedy, express or implied, given now or hereafter existing, at law and in equity; and each and every right, power and

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remedy herein or therein set forth or otherwise so existing may be exercised from time to time as often as in such order as may be deemed expedient by Lender; and the exercise or the beginning of the exercise of any right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of, or discontinuance by, Lender in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

23. **Lender's Right to Inspection.** Lender shall have the right to inspect the Premises at all reasonable times upon reasonable advance notice to Borrower, and access thereto shall be permitted for that purpose.

24. **Condemnation.** Borrower hereby assigns, transfers and sets over unto Lender the entire proceeds of any award or claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation to the extent of the Indebtedness secured hereby. If as a result of the eminent domain or condemnation the Premises require repair, rebuilding or restoration then so long as: (a) each present lease and all future leases of the Premises are in full force and effect and each tenant thereunder is not in default and such taking shall not result in the termination or cancellation of any of those leases or give any tenant thereunder the right to cancel its lease; (b) no Event of Default has occurred, any award, after deducting therefrom any expenses incurred in the collection thereof, shall be made available by Lender for the repair, rebuilding or restoration of the Premises in accordance with plans and specifications to be submitted to and approved by Lender in writing prior to commencement of the work.

In all other cases, Lender may elect to apply the proceeds of the award upon or in reduction of the Indebtedness, whether due or not, or make those proceeds available for repair, restoration or rebuilding of the Premises in accordance with plans and specifications to be submitted to and approved by Lender. In any case where proceeds are made available for repair, rebuilding or restoration, the proceeds of the award shall be paid out in the same manner and under the same conditions provided in Paragraph 9 hereof for the payment of insurance proceeds toward the cost of repair, rebuilding or restoration. Any surplus which may remain out of such award after payment of such cost of repair, rebuilding, restoration and the reasonable charges of the Disbursing Party shall, at the option of Lender, be applied on account of the Indebtedness or paid to any party entitled thereto as the same appear on the records of Lender. Any proceeds of any award held by Lender hereunder for the purpose of rebuilding shall be invested in an interest-bearing account, for the benefit of Lender, which is insured by an agency of the United States Government.

25. **Release.** Lender shall release this Mortgage and the lien hereof by proper instrument in recordable form upon payment and discharge of all Indebtedness, at Borrower's expense.

26. **Notices.** Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given: (i) if personally delivered, on the date when delivered; (ii) on the third business day after being deposited in United States registered or certified mail, postage prepaid, or (iii) upon delivery by Federal Express or other similar nationally recognized overnight courier service, to the following addresses;

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IF TO LENDER: Vicki Pankiewicz
 Stone Investment LLC
 1500 West Shure Drive, Suite 175
 Arlington Heights, IL 60004

WITH A COPY TO: Steven R. Rappin
 Hauselman, Rappin & Olswang, Ltd.
 39 South LaSalle Street, Suite 1105
 Chicago, Illinois 60603

IF TO BORROWER: Aleksander Stankiewicz
 14 Berkshire
 Rome GA 30161

Tomasz Stankiewicz
 W 11045 Eagle Bluff Ct.
 Portage, WI 57901

Or to such other address as the party to receive such notice may have theretofore furnished to all other parties by notice in accordance with this paragraph.

27. **Waiver of Defense.** No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note.

28. **Waiver of Statutory Rights.** Borrower shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws or any so-called "**Moratorium Laws**," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of the lien of this Mortgage, but hereby waives the benefit of such laws. Borrower, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold as an entirety.

BORROWER HEREBY RELEASES AND WAIVES ANY AND ALL RIGHTS TO RETAIN POSSESSION OF THE PREMISES AFTER THE OCCURRENCE OF AN EVENT OF DEFAULT HEREUNDER AND ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR DECREE OF FORECLOSURE, PURSUANT TO RIGHTS THEREIN GRANTED, ON BEHALF OF BORROWER, THE TRUST ESTATE OF BORROWER, ALL PERSONS AND ENTITIES INTERESTED BENEFICIALLY IN BORROWER AND EACH AND EVERY PERSON (EXCEPT JUDGMENT CREDITORS OF BORROWER, IN ITS REPRESENTATIVE CAPACITY AS TRUSTEE OF THE TRUST AND/OR THE TRUST

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ESTATE) ACQUIRING ANY INTEREST IN, OR TITLE TO, THE PREMISES DESCRIBED HEREIN SUBSEQUENT TO THE DATE OF THIS MORTGAGE, AND ON BEHALF OF ALL OTHER PERSONS TO THE EXTENT PERMITTED BY THE PROVISIONS OF 735 ILCS 5/15-1601 (1994), AS AMENDED, OF THE ILLINOIS COMPILED STATUTES OR OTHER APPLICABLE LAW OR REPLACEMENT STATUTES.

IN ADDITION, BORROWER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE CIRCUIT COURT OR FEDERAL COURT LOCATED WITHIN THE STATE OF ILLINOIS AND WAIVES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT CONSIDERING THE DISPUTE BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS. BORROWER HEREBY WAIVES ANY RIGHTS TO TRIAL BY JURY IN ANY PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS MORTGAGE OR THE NOTE, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE, OR THE NOTE, AND AGREES THAT ANY SUCH ACTION SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

29. **Financial Statements and Records.** Borrower covenants and agrees that it will keep and maintain books and records of account in which full, true and correct entries shall be made of all dealings and transactions relative to the Premises, which books and records of account shall, at reasonable times and on reasonable notice, be open to the inspection of Lender and its accountants and other duly authorized representatives. Such books of record and account shall be kept and maintained in accordance with generally accepted accounting principles consistently applied. Borrower further covenants and agrees to deliver quarterly financial statements for Borrower and the Premises, and annual financial statements for any guarantor, all within 45 days after the end of each respective period, during the term hereof and shall provide such other or additional financial information as Lender shall require from time to time.

30. **Filing and Recording Charges and Taxes.** Borrower will pay all filing, registration, recording and search and information fees, and all expenses incident to the execution and acknowledgment of this Mortgage and all other documents securing the Note and all federal, state, county and municipal taxes, other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing, recording, release or registration of the Note, this Mortgage and the other Loan Documents and all assignments thereof.

31. **Business Purpose; Usury Exemption.** THE PROCEEDS OF THE LOAN SECURED BY THIS MORTGAGE WILL BE USED FOR THE PURPOSES SPECIFIED IN 815 ILCS 205/4, AND THE PRINCIPAL OBLIGATION SECURED HEREBY CONSTITUTES A "BUSINESS LOAN" WHICH COMES WITHIN THE PURVIEW AND OPERATION OF SUCH PARAGRAPH.

32. **Due on Sale or Further Encumbrance Clause.** For the purposes of (i) protecting Lender's security, both of repayment and of value of the Premises; (ii) giving Lender the full benefit of its bargain and contract with Borrower; (iii) allowing Lender to raise the interest rate and collect assumption fees; and (iv) keeping the Premises and any beneficial interest free of subordinate financing liens, Borrower and any guarantor or co-maker of the Note agree that if this paragraph be

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deemed a restraint on alienation, that it is a reasonable one, and that any sale, conveyance, assignment, further encumbrance or other transfer of title to the Premises, or any interest in the Premises or any beneficial interest (whether voluntary or by operation of law), including without limitation, the entering into of an installment agreement for the sale of the Premises, the placement or granting of liens or security interests on all or any part of the Premises or any beneficial interest or the placement or granting of chattel mortgages, conditional sales contracts, financing or security agreements which would be or create a lien on the personal property utilized in the operation of the Premises, or the placement or granting of a mortgage commonly know as a "wrap around" mortgage or an improvement loan, without Lender's prior written consent shall be an Event of Default hereunder. Without limiting the generality of the foregoing, the occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Premises and therefore an Event of Default hereunder:

- (a) any sale, conveyance, assignment or other transfer of, or the grant of a lien or security interest in, all or any part of the title to the Premises (or the beneficial interest or power of direction under the Trust Agreement); and
- (b) any sale, conveyance, assignment, or other transfer of, or the grant of a lien or security interest in, any ownership interest in any entity which is the beneficiary or one of the beneficiaries under the Trust Agreement, or of any entity directly or indirectly controlling such beneficiary.

Any consent by Lender, or any waiver of an Event of Default under this Paragraph shall not constitute a consent to, or waiver of, any right, remedy or power of Lender upon a subsequent Event of Default under this or any other Paragraph. Borrower acknowledges that any agreements, liens, charges or encumbrances created in violation of the provisions of this Paragraph shall be void and of no force or effect.

Leases entered into in the ordinary course of Borrower's business on lease forms previously approved in writing by Lender and at rental rates not less than those prevailing in the market place at the time of execution of the lease shall be deemed a permitted transfer of title and not an Event of Default.

33. **Binding Nature.** This Mortgage and all provisions hereof shall extend to and be binding upon the original Borrower named on page one (1) hereof and its successors, grantees, assigns, each subsequent owner or owners of the Premises and all persons claiming under or through Borrower; and the word "**Borrower**" when used herein shall include all persons primarily and secondarily liable for the payment of the Indebtedness or any part thereof, whether or not such persons shall have executed the Note or this Mortgage.

34. **Release of Previous Holder.** The word "**Lender**" when used herein shall include the successors and assigns of the original Lender named on page one (1) hereof, and the holder or holders, from time to time, of the Note. However, whenever the Note is sold, each prior holder shall be automatically freed and relieved, on and after the date of such sale, or all liability with respect to the performance of each covenant and obligation of Lender hereunder thereafter to be

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performed, provided that any monies in which Borrower has an interest, which monies are then held by the seller of the Note, are turned over to the purchaser of the Note.

35. **Indemnity.** Borrower hereby covenants and agrees that no liability shall be asserted or enforced against Lender in the exercise of the rights and powers granted to Lender in this Mortgage or the other Loan Documents, and Borrower hereby expressly waives and releases any such liability. Borrower shall indemnify and save Lender harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including attorneys' fees and court costs) of whatever kind of nature which may be imposed on, incurred by or asserted against Lender at any time by any party other than Borrower which relate to or arise from: the making of the loan evidenced by the Note and secured by this Mortgage; any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Lender may or does become a party, whether as plaintiff, defendant or otherwise, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; the offer for sale or sale of all or any portion of the Premises; and/or the ownership, leasing, use, operation or maintenance of the Premises. All costs provided for herein and paid for by Lender shall be so much additional Indebtedness and shall become immediately due and payable without notice and with interest at the Default Interest Rate.

36. **Borrower's Representations and Warranties.** The Borrower hereby warrants and represents to Lender as follows:

- (a) As of the date of the Lender's disbursement of Loan proceeds, and at all times thereafter until the Indebtedness has been paid in full, except as otherwise permitted in the Loan Documents, Borrower will be the owner of the entire fee simple estate in and to the Premises, free and clear of all liens, encumbrances, claims and charges other than title exceptions approved by Lender;
- (b) To the best of Borrower's knowledge the Premises do not violate: (i) any applicable environmental, zoning or building laws, ordinances, rules or regulations of any governmental or quasi-governmental authority or agency; or (ii) any covenants or restrictions of record. All consents, licenses and permits required to operate the Premises have been obtained and all consents required for the execution, delivery or performance of the Loan Documents have also been obtained;
- (c) No document, financial statement, report, notice, schedule, certificate, statement or other writing furnished to Lender by Borrower contains any untrue statement or material fact;
- (d) Borrower has the authority to execute, deliver and carry out the terms and provisions of all documents executed and delivered by said parties in connection with the Loan;
- (e) The Loan Documents and other documents to be executed and delivered to Lender constitute the duly authorized, valid and legally binding obligations of the party or parties executing the same and will be enforceable in accordance with their respective terms;

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- (f) Borrower is not in default under any agreement to which Borrower is a party, the effect of which will adversely affect performance of Borrower's obligations pursuant to, and as contemplated by, the terms and provisions of any of the Loan Documents or any other document executed and delivered by Borrower, nor the consummation of the Loan transaction, nor compliance with the terms and provisions thereof, violate any presently existing provisions of law or of any presently existing applicable order, writ, injunction or decree of any court or governmental department, commission, board, bureau, agency or instrumentality or constitute a default under any indenture, mortgage, deed of trust, agreement or contract of any kind to which Borrower may be bound, so as to adversely affect performance of Borrower's obligations pursuant to, and as contemplated by, the terms and provisions of the Loan Documents;
- (g) There are no actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against Borrower, the Premises, or Borrower's interest therein before any court or any governmental, administrative, regulatory, adjudicatory or arbitrational body or agency of any kind (including condemnation or similar proceedings) which will adversely affect performance of Borrower's obligations pursuant to, and as contemplated by, the terms and provisions of any of the Loan Documents;
- (h) All financial statements, information and other data furnished by Borrower to Lender are complete and correct in all material respects, and disclose all of the applicable party's contingent obligations which are material, individually or in the aggregate. Such financial statements have been prepared in accordance with generally accepted accounting principles and practices consistently applied and accurately and fairly represent the applicable party's financial condition and operating results as of such date and since such date there has been no material adverse change in Borrower's financial condition or Borrower's ability to repay the Loan;
- (i) Borrower has not received any notice from any insurer of all or part of the Premises of any defects or inadequacies in the Premises or any part thereof which would adversely affect the insurability of the Premises;
- (j) All warranties, representations and certifications made and all information and materials submitted or caused to be submitted to Lender in connection with the Loan are true and correct in all material respects, and there have been no material adverse changes in or conditions affecting any of such warranties, representations, certifications, materials or information prior to the date hereof;
- (k) Borrower has not taken, suffered or permitted any action, the effect of which would be to establish or cause the inception or priority of any mechanic's or materialman's lien, statutory or otherwise, or other lien, charge or encumbrance upon the Premises to be prior or superior to the lien and security interest of the Mortgage;
- (l) All water, sewer, electric, telephone and drainage facilities and all other utilities required by law and necessary for the normal operation of the Premises (hereinafter

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collectively referred to as "Offsite Utilities") have been installed to the property lines of the Premises, and to the best of Borrower's knowledge are connected pursuant to valid permits and are adequate for full compliance with all requirements of law;

- (m) To the best of Borrower's knowledge, all licenses, permits, easements and rights-of-way, including proof of dedication, required from all governmental authorities having jurisdiction over the Premises or from private parties, to make use of the Premises and the Offsite Utilities and to ensure vehicular and pedestrian ingress and egress to the Premises have been obtained;
- (n) Borrower shall discharge, or cause to be discharged, any and all mechanic's and materialmen's liens arising from any labor or materials furnished prior or subsequent to the date hereof which pertain to the Premises;
- (o) All leases affecting the Premises are in full force and effect and are the only leases of the Premises and that there are no defaults on the part of Borrower, or to the best for any portion of Borrower's knowledge, tenants under the leases;
- (p) To the best of Borrower's knowledge, there are no plats, restrictive covenants, land use restrictions or other matters affecting the Premises which would impair or prohibit the intended operation and use thereof;
- (q) Borrower has not made a general assignment for the benefit of the creditors and has not filed any petition nor has any petition been filed against Borrower in bankruptcy or insolvency or reorganization or for the appointment of a receiver or trustee or for the arrangement of debts, nor has Borrower, or the Premises been the subject of such action, nor has such action been threatened by or against Borrower. Borrower is not insolvent and will not be rendered insolvent by the consummation of the transactions contemplated by the Loan Documents;
- (r) No part of the Premises has been damaged and not repaired, nor has any part been taken in condemnation or other similar proceeding, nor are any such proceedings pending against the Premises; and
- (s) In addition to any personal liability Borrower may have under the Loan Documents, Borrower shall have personal liability for the following:
 - (i) Cost or damages arising from fraud or material misrepresentation in connection with the Loan;
 - (ii) The commission of any gross negligence or intentional acts causing waste on the Premises;
 - (iii) Intentional acts causing the cancellation or increase in premium of the hazard insurance related to the Premises;

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- (iv) Failure to comply with any applicable law that is materially detrimental to the value or safety of the Premises; and
- (v) Misapplication of any insurance or condemnation proceeds received or rental receipts and security deposits, after a default under any of the Loan Documents.

37. **Severability and Applicable Law.** In the event one or more of the provisions contained in this Mortgage or in the Note or in any other Loan Document shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Lender, not affect any other provision of this Mortgage, the Note or other Loan Documents and this Mortgage, the Note or other Loan Documents shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. The validity and interpretation of this Mortgage are to be construed in accordance with and governed by the laws of the State in which the Premises are situated.

38. **Governmental Compliance.** Borrower shall not by act or omission permit any lands or improvements not subject to the lien of this Mortgage to include the Premises or any part thereof in fulfillment of any governmental requirement, and Borrower hereby assigns to Lender any and all rights to give consent for all or any portion of the Premises to be so used. Similarly, no lands or improvements comprising the Premises shall be included with any lands or improvements not subject to the lien of this Mortgage in fulfillment of any governmental requirement. Borrower shall not by act or omission impair the integrity of the Premises as a single zoning lot separate and apart from all other premises. Any act or omission by Borrower which would result in a violation of any of the provisions of this Paragraph shall be void.

39. **Estoppel Certificates.** Each of Borrower and Lender, with fifteen (15) days after receipt of a written request from the other, agrees to furnish from time to time a signed statement setting forth the amount of the Indebtedness and whether or not any default, offset or defense then is alleged to exist against the Indebtedness and, if so, specifying the nature thereof.

40. **Non-Joinder of Tenant.** After an Event of Default, Lender shall have the right and option to commence a civil action to foreclose the lien of this Mortgage and to obtain an order or judgment of foreclosure and sale subject to the rights of any tenant or tenants of the Premises. The failure to join any tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any such order or judgment to foreclose their rights shall not be asserted by Borrower as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

41. **Regulation G. Clause.** Borrower covenants that the proceeds evidenced by the Note secured hereby will not be used for the purchase or carrying of registered equity securities within the purview and operation of Regulation G issued by the Board of Governors of the Federal Reserve System, or for the purpose of releasing or retiring any indebtedness which was originally incurred for any such purpose.

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42. **Lien for Loan Commissions, Service Charges and the Like.** So long as the original Lender named on page one (1) hereof is the owner of the Note, and regardless of whether any proceeds of the Loan evidenced by the Note have been disbursed, this Mortgage also secures the payment of all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Lender in connection with the loan transaction intended to be secured hereby, all in accordance with the application of, and loan commitment issued in connection with such Loan.

43. **Lender's Costs, Expenses and Fees.** Borrower will pay all reasonable expenses, charges, costs and fees relating to the loan evidenced by the Note and secured by this Mortgage or necessitated by the terms of the Note, this Mortgage or any of the other Loan Documents, including without limitation, Lender's attorneys' fees in connection with the negotiation, documentation, administration, servicing and enforcement of the Note, this Mortgage and the other Loan Documents, all filing, registration or recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided Borrower shall not be required to pay any income or franchise taxes of Lender), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Mortgage.

Any costs, expenses and fees, including attorneys' fee, incurred by Lender in connection with the loan to Borrower, including, without limitation, those incurred in (a) sustaining the lien of this Mortgage or its priority, (b) protecting and enforcing any of Lender's rights hereunder, (c) recovering any Indebtedness, (d) any litigation or proceedings affecting the Note, this Mortgage, the Premises or any guarantor or co-maker of the Note or this Mortgage, including without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings, shall be so much additional Indebtedness, and shall become immediately due and payable without notice and with interest thereon at the Default Interest Rate. The interest accruing under this Paragraph shall be immediately due and payable by Borrower to Lender, and shall be additional Indebtedness. Inaction of Lender shall never be considered as a waiver of any right accruing to it on account of any default on the part of Borrower.

44. **Relationship of Lender and Borrower.** Lender shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Borrower or of any beneficiary, lessee, operator, concessionaire or licensee of Borrower in the conduct of their respective businesses, and without limiting the foregoing, Lender shall not be deemed to be such partner, joint venturer, agent or associate on account of Lender becoming a Lender in possession or exercising any rights pursuant to this Mortgage, any of the other Loan Documents, or otherwise.

45. **Captions.** The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

46. **Time of the Essence.** Time is of the essence of the payment by Borrower of all amounts due and owing to Lender under the Note and the performance and observance by Borrower

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of all terms, conditions, obligations and agreements contained in this Mortgage and the other Loan Documents.

47. **No Merger.** It being the desire and intention of the parties hereto that the Mortgage and the lien thereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should Lender acquire any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Lender as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien thereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

48. **Value for Purposes of Insurance.** Upon request by Lender, Borrower agrees to furnish evidence of replacement value, without cost to Lender, of the type which is regularly and ordinarily made for insurance companies, with respect to the buildings and improvements on the Premises.

49. **Evasion of Prepayment Premium.** Borrower hereby covenants and agrees that if the maturity of the Indebtedness is accelerated by Lender because of an Event of Default hereunder and a tender of payment is made by or on behalf of Borrower is an amount necessary to satisfy the Indebtedness at any time prior to judicial confirmation of a foreclosure sale, such tender shall constitute an evasion of the prepayment premium (if any) provided for in the Note, and shall be treated as a prepayment thereunder and Borrower shall immediately pay to Lender the Prepayment Premium (as defined in the Note) required to be paid to Lender under the Note.

50. **Subordination of Property Manager's Lien.** Any property management agreement for the Premises entered into hereafter by Borrower with a property manager, shall contain a "no lien" provision whereby the property manager waives and releases any and all mechanics' lien rights that the property manager or anyone claiming by, through or under the property manager may have pursuant to 770 ILCS 60/0.01 et. seq. (1994). Such property management agreement or a short form thereof shall, at Lender's request, be recorded with the Recorder of Deeds of the county where the Premises are located. In addition, Borrower shall cause the property manager to enter into a Subordination of Management Agreement with Lender, in recordable form, whereby the property manager subordinates present and future lien rights and those of any party claiming by, through or under the property manager, to the lien of this Mortgage.

51. **Compliance with Illinois Mortgage Foreclosure Law.** In the event that any provision of this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law 735 ILCS 5/15-1101 et. seq. (1994), as amended (herein called the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

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

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Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under any Section of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the Indebtedness or by the judgment of foreclosure.

Property of Cook County Clerk's Office

(Signature Page Follows)

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

Aleksander Stankiewicz
Aleksander Stankiewicz

Tomasz Stankiewicz
Tomasz Stankiewicz

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, Rosa Avila, Notary Public of the County and State aforesaid, certify, that Aleksander Stankiewicz and Tomasz Stankiewicz, personally known to me to be the same persons whose names are subscribed on the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered said instrument as their free and voluntary act for the purposes therein set forth.

Witness my hand and official stamp or seal, this 21 day of April, 2006.

Rosa Avila
Notary Public



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EXHIBIT A

Legal Description of the Land

LOTS 15 AND 16 IN CHRISTINE BRUSE'S RESUBDIVISION OF LOTS 29 TO 47 INCLUSIVE AND LOTS 84 TO 93 INCLUSIVE, IN E. WALTER HERRICK'S SUBDIVISION OF BLOCK 6 IN THE SUPERIOR COURT PARTITION OF THE EAST ½ OF SECTION 2, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PERMANENT INDEX NO. 16-02-409-054-0000 VOL. 540

PREPARED BY AND AFTER RECORDING RETURN TO:
STEVEN R. RAPPIN
HAUSELMAN, RAPPIN & OLSWANG, LTD.
39 SOUTH LASALLE STREET, SUITE 1105
CHICAGO, ILLINOIS 60603
BOX 201