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**FEE AND LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND
RENTS**

AND SECURITY AGREEMENT

MEPT MCCLURG COURT LLC,

Mortgagor

to

NEW YORK LIFE INSURANCE COMPANY,

Mortgagee

Dated as of: September 5, 2006

Premises: McClurg Court Center, 333 E. Ontario Street, Chicago, Illinois

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FEE AND LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT

FEE AND LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT ("Mortgage"), dated as of September 5, 2006, from **MEPT MCCLURG COURT LLC**, a Delaware limited liability company, having an address c/o NewTower Trust Company, 3 Bethesda Metro Center, Suite 1600, Bethesda, MD 20814 ("Mortgagor"), to **NEW YORK LIFE INSURANCE COMPANY** ("Mortgagee"), a New York mutual insurance company, having an office at 51 Madison Avenue, New York, New York 10010-1603.

Mortgagor has executed and delivered to Mortgagee a Promissory Note ("Note"), dated of even date herewith, payable to the order of Mortgagee in the original principal sum of Seventy Million and No/100ths Dollars (\$70,000,000.00), lawful money of the United States of America. The Note is secured by this Mortgage and the terms, covenants and conditions of the Note are hereby incorporated herein and made a part hereof.

NOW THEREFORE, THIS MORTGAGE WITNESSETH, that in consideration of the sum of Ten Dollars (\$10.00) paid and other good and lawful consideration, the receipt and sufficiency of which are hereby acknowledged and in order to secure the Obligations (as hereinafter defined), Mortgagor hereby **MORTGAGES, GRANTS, ASSIGNS, RELEASES, TRANSFERS, PLEDGES AND SETS OVER** to Mortgagee the following property:

GRANTING CLAUSE ONE

All estate, right, title and interest which Mortgagor now has or may later acquire in and to the those tracts or parcels of land ("Land") more particularly described in **Schedule A** attached hereto and made a part hereof.

GRANTING CLAUSE TWO

TOGETHER WITH, all estate, interest, right, title and other claim or demand which Mortgagor now has or may hereafter have under the Ground Leases (as such term is hereinafter defined) and in and to those leasehold parcels identified in **Schedule A**.

GRANTING CLAUSE THREE

TOGETHER WITH, all right, title and interest of Mortgagor in and to all buildings, structures and improvements (collectively, "Improvements") now or hereafter located on or above the Land, including all machinery, apparatus, equipment and fixtures attached to, or used or procured for use in connection with the operation or maintenance of, any Improvement, all refrigerators, shades, awnings, venetian blinds, screens, screen doors, storm doors, storm windows, stoves, ranges, curtain fixtures, partitions, attached floor coverings and fixtures, apparatus, equipment or articles used to supply sprinkler protection and waste removal, laundry equipment, furniture, furnishings, appliances, office equipment, elevators, escalators, tanks, dynamos, motors, generators, switchboards, communication equipment, electrical equipment, television and radio systems, heating, plumbing, lifting and ventilating apparatus, air-cooling and air conditioning apparatus, gas and electric fixtures, fittings and machinery and all other

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personal property and equipment of every kind and description, excluding trade fixtures and personal property of any Lessee (as hereinafter defined), unless such trade fixtures or personal property become the property of Mortgagor upon expiration or termination of the term of the Lease in question, and all accessions, renewals and replacements thereof and all articles in substitution therefor. Whether or not any of the foregoing are attached to the Land or any of the Improvements in any manner, all such items shall be deemed to be fixtures, part of the real estate and security for the Obligations. The Land and Improvements are herein collectively called "Premises". To the extent any of the Improvements are not deemed real estate under the laws of the State, they shall be deemed personal property and this grant shall include all of Mortgagor's right, title and interest in, under and to such personal property and all other personal property now or hereafter attached to or located upon the Premises or used or useable in the management, maintenance or operation of the Improvements or the activities conducted on the Premises, including all computer hardware and software, but excluding trade fixtures and personal property of any Lessee, unless such personal property becomes the property of Mortgagor upon expiration or termination of the Lease in question, and all accessions, renewals and replacements thereof and all articles in substitution therefor (collectively, "Personal Property").

GRANTING CLAUSE FOUR

TOGETHER WITH, all now or hereafter existing easements and rights-of-way and all right, title and interest of Mortgagor, in and to any land lying within the right-of-way of any street, opened or proposed, adjoining the Premises, any and all sidewalks, alleys and strips and gores of land, streets, ways, passages, sewer rights, waters, water courses, water rights and powers, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, air rights, development rights, covenants, conditions, restrictions, credits and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to, or above or below the Premises, whether now or hereafter existing.

GRANTING CLAUSE FIVE

TOGETHER WITH, all intangible rights, interests and properties of Mortgagor relating to the Premises or any part thereof, and necessary or desirable for the continued ownership, use, operation, leasing or management thereof, whether now or hereafter existing, including any trademarks, servicemarks, logos or trade names relating to the Premises or by which the Premises or any part thereof may be known and any other franchises or other agreements relating to services in connection with the use, occupancy, or maintenance of the Premises, instruments, actions or rights in action and all intangible property and rights relating to the Premises.

GRANTING CLAUSE SIX

TOGETHER WITH, all accounts receivable, insurance policies, contract rights, interests, rights under all oil, gas and mineral leases and agreements and all benefits arising therefrom, and all other claims, both at law and in equity, relating to the Premises, which Mortgagor now has or may hereafter acquire.

GRANTING CLAUSE SEVEN

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TOGETHER WITH, all estate, interest, right, title and other claim or demand which Mortgagor now has or may hereafter acquire in any and all awards or payments relating to the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Premises, including all awards resulting from a change of grade of any street and awards for severance damages, together, in all cases, with all interest thereon.

GRANTING CLAUSE EIGHT

TOGETHER WITH, all proceeds of, and any unearned premiums on, insurance policies maintained by Mortgagor covering all or any part of the Premises, including the right to receive and apply the proceeds of all insurance or judgments related to the Premises, or settlements made in lieu thereof.

GRANTING CLAUSE NINE

TOGETHER WITH, all estate, interest, right, title and other claim or demand which Mortgagor now has or may hereafter acquire against anyone with respect to any damage to all or any part of the Premises, including damage arising or resulting from any defect in or with respect to the design or construction of all or any part of the Improvements.

GRANTING CLAUSE TEN

TOGETHER WITH, all deposits or other security or advance payments, including rental payments, made by or on behalf of Mortgagor to others in connection with the Obligations or the ownership or operation of all or any part of the Premises, including any such deposits or payments made with respect to (a) Impositions (as hereinafter defined), (b) insurance policies, (c) utility service, (d) cleaning, maintenance, repair or similar services, (e) refuse removal or sewer service, (f) rental of equipment, if any, used by or on behalf of Mortgagor, and (g) parking or similar services or rights.

GRANTING CLAUSE ELEVEN

TOGETHER WITH, all remainders, reversions or other estates in the Premises or any part thereof.

GRANTING CLAUSE TWELVE

TOGETHER WITH, right, title and interest of Mortgagor in all management contracts, permits, certificates, licenses, approvals, contracts, entitlements and authorizations, however characterized, now or hereafter issued or in any way furnished for the acquisition, construction, development, operation and use of the Land, the Improvements or the Leases, including building permits, environmental certificates, licenses, certificates of operation or occupancy, warranties and guaranties, except, in each case, to the extent that such mortgage, grant, assignment, transfer or pledge is restricted by the terms of such management contract, permit, certificate, license, approval, contract, entitlement or authorization and such restriction is enforceable under applicable law.

GRANTING CLAUSE THIRTEEN

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TOGETHER WITH, all right, title and interest of Mortgagor in and to all options to purchase the Premises or any portion thereof or interest therein or in and to any greater estate in the Premises owned or hereafter acquired by Mortgagor and the right to exercise the benefits of any options or rights of first refusal, to give consents and to receive monies payable to Mortgagor thereunder and in connection therewith.

GRANTING CLAUSE FOURTEEN

TOGETHER WITH all proceeds, products, replacements, additions, substitutions, renewals and accessions of any of the foregoing, including personal property acquired with cash proceeds.

TO HAVE AND TO HOLD the Secured Property, unto Trustee, its successors and assigns, in trust, for the benefit of Mortgagee, its successors and assigns, forever subject to the terms, covenants and conditions of this Mortgage.

Upon the full satisfaction of the Obligations, Mortgagor may request that Mortgagee release this Mortgage and the lien hereof, and upon payment by Mortgagor to Mortgagee of any filing fee, reasonable attorneys' fees and other amounts that may be incurred by Mortgagee in undertaking such release, Mortgagee shall so release this Mortgage and the lien hereof as a matter of public record.

DEFINITIONS AND INTERPRETATION

As used in this Mortgage, the following terms shall have the meanings specified below:

"Agreement to Master Lease" shall mean that certain Agreement to Master Lease, dated as of the date hereof, from Mortgagor and Guarantor to and for the benefit of Mortgagee.

"Assignment" shall mean the Assignment of Leases, Rents, Income and Cash Collateral, dated as of the date hereof, from Mortgagor, as assignor, to Mortgagee, as assignee.

"Code" shall mean the Uniform Commercial Code of the State.

"Commercial Lease" shall mean any lease of space at the Premises that is not a Residential Lease.

"Condemnation Proceedings" shall have the meaning set forth in Section 1.07A.

"Debt Coverage Ratio" shall mean, for any period, a fraction, the numerator of which shall equal the projected net operating income of the Premises for such period, and the denominator of which shall equal the aggregate of the principal, if any is then payable, and interest for such period with respect to (A) the indebtedness due pursuant to the Note, and (B) the Subordinate Indebtedness, if any exists. Any calculations of Debt Coverage Ratio shall be as reasonably determined by Mortgagee in accordance with this definition and based on actual required debt service payments.

"Environmental Claim" shall mean any asserted claim or demand, of any kind or nature, by any Person, for any actual or alleged Environmental Damage, whether based in contract, tort,

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implied or express warranty, strict liability, criminal or civil statute, ordinance or regulation, common law or otherwise.

"Environmental Damage" shall mean any and all claims, judgments, damages (including consequential and punitive damages), losses, penalties, interest, fines, liabilities (including strict liability), obligations, responsibilities, encumbrances, liens, costs and expenses, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including attorneys', experts' and consultants' fees and disbursements, including:

- (a) those relating to any investigation, defense or settlement of any claim, suit, administrative proceeding or investigation of any kind or any directive of any Governmental Agency (as hereinafter defined);
- (b) those relating to damages for personal injury, or injury to property including natural resources, occurring in, on or under the Secured Property, including lost profits and the cost of demolition and rebuilding of any improvements on real property;
- (c) diminution in the value of the Secured Property, and damages for the loss, or restriction on the use or adverse impact on the marketing, of the Secured Property or any part thereof;
- (d) loss of the priority of the lien of this Mortgage due to the imposition of a lien against the Secured Property; and
- (e) those incurred in connection with the investigation, cleanup, remediation, removal, abatement, containment, closure, restoration, monitoring work or other cure of any violation of an Environmental Requirement required by any Governmental Agency or reasonably necessary to make full economic use of the Secured Property or in connection with any other property, including the performance of any pre-remedial studies and investigations and post remedial monitoring and cure, or any action to prevent a Release or threat of Release or to minimize the further Release of any Hazardous Material so it does not migrate or endanger or threaten to endanger public health or the environment.

"Environmental Indemnity" shall mean that certain Environmental Indemnity Agreement, dated as of the date hereof, given by Mortgagor and Guarantor, collectively, as indemnitor, for the benefit of Mortgagee, as indemnitee.

"Environmental Requirements" shall mean any and all Legal Requirements (as hereinafter defined) relating to the protection of the environment, health or safety, including:

- (a) all Legal Requirements pertaining to reporting, licensing, permitting, investigation, remediation or removal of, or pertaining

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to Releases or threatened Releases of, Hazardous Materials, chemical substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes, whether solid, liquid or gaseous in nature, including Releases or threatened Releases into the air, soil, surface water, ground water or land;

- (b) all Legal Requirements pertaining to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, chemical substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes, whether solid, liquid or gaseous in nature; and
- (c) all Legal Requirements pertaining to industrial hygiene or the protection of the health and safety of employees or the public.

“ERISA” shall have the meaning set forth in Section 2.12.

“Event of Default” shall have the meaning set forth in Section 3.01.

“Governmental Agency” shall mean any government, quasi-governmental or government sponsored enterprise, legislative body, commission, board, regulatory authority, bureau, administrative or other agency, court, arbitrator, grand jury or any other public body or entity or instrumentality, whether domestic, foreign, federal, state, county or municipal.

“Ground Leases” shall mean, collectively, the McClurg Sisters Ground Lease and the Seibert Ground Lease.

“Ground Lessors” shall mean collectively, the MS Ground Lessor and the Seibert Ground Lessor.

“Guarantor,” shall mean NewTower Trust Company Multi-Employer Property Trust, a collective investment fund operating under 12 C.F.R. Section 9.18.

“Hazardous Materials” shall mean any substance:

- (a) the presence of which requires notification, investigation or remediation under any Environmental Requirement;
- (b) which is or becomes designated, defined, classified or regulated as “hazardous”, “toxic”, “noxious”, “waste”, “pollutant”, “contaminant” or other similar term, or which requires remediation or is regulated under any present or future Environmental Requirement, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.), Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), Federal Clean Air Act (42 U.S.C. Section 7401 et seq.), Federal Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.), Federal Clean Water Act (33 U.S.C.

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Section 1251 et seq.), Federal Environmental Pesticide Control Act (7 U.S.C. Section 136 et seq.), Federal Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), Federal Safe Drinking Water Act (42 U.S.C. Sections 300(f), et seq.), the laws of the State of Illinois pertaining to the same or equivalent Environmental Requirements, and any other state or federal environmental statutes, and all rules, regulations, orders and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future;

- (c) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any Governmental Agency;
- (d) which contains asbestos, gasoline, diesel fuel or other petroleum hydrocarbons, volatile organic compounds, polychlorinated biphenyls (PCBs) or urea formaldehyde foam insulation;
- (e) which contains or emits radioactive particles, waves or material, including radon gas; or
- (f) which is or constitutes a part of an underground storage tank.

“Hazardous Material Claims” shall have the meaning set forth in Section 1.05E(4).

“Impositions” shall have the meaning set forth in Section 1.02A.

“Improvements” shall have the meaning set forth in Granting Clause Two.

“Increased Rate” shall have the meaning set forth in the Note.

“Indemnified Claims” shall have the meaning set forth in Section 1.05E(1).

“Land” shall have the meaning set forth in Granting Clause One and is more particularly described on Schedule A attached hereto and made a part hereof.

“Lease” and “Leases” shall have the respective meanings set forth in Section 1.06A.

“Legal Requirements” shall mean all present or future laws, statutes, permits, approvals, plans, authorizations, guidelines, franchises, ordinances, restrictions, orders, rules, codes, regulations, judgments, decrees, injunctions or requirements of all Governmental Agencies or any officers thereof, including any Board of Fire Underwriters.

“Lessee” shall have the meaning set forth in Section 1.08A.

“Loan” shall mean the mortgage loan evidenced by the Note and secured by this Mortgage.

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“Loan Instruments” shall mean the Note, this Mortgage, the Assignment and each other instrument now or hereafter given to evidence, secure, indemnify, guaranty or otherwise assure or provide for the payment or performance of the Obligations or otherwise executed by Mortgagor in connection with the Loan.

“Make-Whole Amount” shall have the meaning set forth in the Note.

“Material Commercial Lease” shall mean a Commercial Lease for a minimum of 5,000 rentable square feet.

“Maturity Date” shall have the meaning set forth in the Note.

“McClurg Sisters Ground Lease” shall mean that certain Agreement of Lease dated as of July 15, 1969 (the “Original McClurg Sister Ground Lease”) by and between P & H Family Limited Partnership, as lessor (the “MS Ground Lessor”), and LaSalle National Bank, not personally, but solely as trustee under Trust No. 38313, and its successors and assigns, as lessee, as modified by: (i) that certain Third Amendment to Lease (the “Third Amendment”) dated as of February 14, 1974, (ii) that certain Agreement dated October 15, 1979, and amended by an Amendment to Agreement also dated October 15, 1979, and (iii) that certain Amendment to Ground Lease (“Amendment II”) dated May 1, 1998.

“Mortgagee’s Architect” shall mean a licensed architect or registered engineer approved by Mortgagee.

“Non-Material Commercial Lease” shall mean a Commercial Lease for less than 5,000 rentable square feet.

“Non-Recourse Exceptions” shall have the meaning set forth in Section 6.18.

“Non-Recourse Guaranty” shall mean that certain Guaranty Agreement, dated as of the date hereof, given by Mortgagor and Guarantor, collectively, as guarantor, to and for the benefit of Mortgagee.

“Note” shall have the meaning set forth in the second introductory paragraph of this Mortgage.

“Obligations” shall mean and include all indebtedness, obligations, covenants, agreements and liabilities of Mortgagor to Mortgagee, including all obligations to pay interest, the Make-Whole Amount and all charges and advances, whether direct or indirect, existing, future, contingent or otherwise, due or to become due, pursuant to or arising out of or in connection with the Note, this Mortgage, the Assignment or any other Loan Instrument, all modifications, extensions and renewals of any of the foregoing and all expenses and costs of collection or enforcement, including attorneys’ fees and disbursements incurred by Mortgagee in the collection or enforcement of any of the Loan Instruments or in the exercise of any rights or remedies pursuant to the Loan Instruments or applicable law.

“Partial Foreclosure” shall have the meaning set forth in Section 4.01B.

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“Person” shall mean a corporation, a limited or general partnership, a limited liability company or partnership, a joint stock company, a joint venture, a trust, an unincorporated association, a Governmental Agency, an individual or any other entity similar to any of the foregoing.

“Personal Property” shall have the meaning set forth in Granting Clause Two.

“Premises” shall have the meaning set forth in Granting Clauses One and Two.

“Proceeds” shall have the meaning set forth in Section 1.03F(2).

“Rents” shall mean all rents, issues, profits, cash collateral, royalties, income and other benefits derived from the Secured Property or any part thereof (including benefits accruing from all present or future leases and agreements, including oil, gas and mineral leases and agreements).

“Release” shall mean any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the environment.

“Residential Lease” shall mean any lease of space in the residential portion of the Premises for use as an apartment unit.

“Secured Property” shall mean the Premises, the Personal Property and all other rights and interests described in the Granting Clauses of this Mortgage.

“Seibert Ground Lease” shall mean that certain Agreement of Lease dated as of July 15, 1969 (the “Original Seibert Ground Lease”) originally by and between William Seibert, not personally, but as trustee under Trust No. 43, as lessor (the “Seibert Ground Lessor”), and LaSalle National Bank, not personally, but solely as trustee under Trust No. 38313, and its successors and assigns, as lessee, as modified by: (i) that certain Amendment to Lease dated as of March 17, 1970, and (ii) that certain Second Amendment to Lease dated February 18, 1974.

“State” shall mean the State, Commonwealth or territory in which the Secured Property is located.

“Subordinate Indebtedness” shall have the meaning set forth in Section 1.13A.

“Transfer” shall have the meaning set forth in Section 1.11B.

As used in this Mortgage (a) words such as “herein”, “hereof”, “hereto”, “hereunder” and “hereby” or similar terms refer to this Mortgage as a whole and not to any specific Section or provision hereof; (b) wherever the singular or plural number or the masculine, feminine or neuter gender is used, it shall include each other number or gender; and (c) the word “including” shall mean “including, without limitation,” and the word “includes” shall mean “includes, without limitation.”

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ARTICLE 1

COVENANTS AND AGREEMENTS

Mortgagor hereby covenants and agrees as follows:

1.01 Payment, Performance and Security. Mortgagor shall pay when due the amount of, and otherwise timely perform, all Obligations. This Mortgage shall secure all Obligations.

1.02 Payment of Taxes, Assessments, etc.

1.02A Impositions. Unless Section 1.04 of this Mortgage is otherwise applicable, Mortgagor shall pay when due and payable, before any fine, penalty, interest or cost for the nonpayment thereof may be added thereto, and without any right of offset or credit against any interest or other amounts payable to Mortgagee pursuant to this Mortgage or on the Note, all taxes, assessments, water and sewer rents, rates and charges, transit taxes, charges for public utilities, excises, levies, vault taxes or charges, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever (including penalties, interest costs and charges accrued or accumulated thereon), which at any time may be assessed, levied, confirmed, imposed upon, or become due and payable out of or in respect to, or become a lien on, the Secured Property or any part thereof, or any appurtenance thereto (all of the foregoing collectively, "Impositions" and individually, an "Imposition").

1.02B Installments. Notwithstanding anything to the contrary contained in Section 1.02A, if by law any Imposition, at the option of the taxpayer, may be paid in installments, and provided interest shall not accrue on the unpaid balance of such Impositions, Mortgagor may exercise the option to pay the same in installments and, in such event, shall pay such installments as the same become due and before any fine, penalty, interest or cost may be added thereto.

1.02C Receipts. Mortgagor, upon request of Mortgagee, will furnish to Mortgagee within ten (10) days before the date when any Imposition would become delinquent, official receipts of the appropriate taxing authority, or other evidence reasonably satisfactory to Mortgagee, evidencing the payment thereof.

1.02D Evidence of Payment. The bill, certificate or advice of nonpayment, issued by the appropriate official (designated by law either to make or issue the same or to receive payment of any Imposition), of the nonpayment of an Imposition shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill. Mortgagor shall pay Mortgagee, on demand, all charges, costs and expenses of every kind including each tax service search fee (subject to a maximum of one (1) time each year) or charge incurred by Mortgagee at any time or times during the term of this Mortgage in connection with obtaining evidence satisfactory to Mortgagee that the payment of all Impositions is current and that there is no Imposition due and owing or which has become or given rise to a lien on the Secured Property or any part thereof or any appurtenance thereto.

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1.02E Payment by Mortgagee. If Mortgagor shall fail to pay any Imposition in accordance with the provisions of this Section 1.02, Mortgagee, at its option and at such time as it may elect, may pay such Imposition, but shall be under no obligation to do so. Mortgagor will repay to Mortgagee, on demand, any amount so paid by Mortgagee, with interest thereon at the Increased Rate from the date of such payment by Mortgagee to the date of repayment by Mortgagor. This Mortgage shall secure each such amount and such interest.

1.02F Change in Law. In the event of the passage after the date of this Mortgage of any law deducting the Obligations from the value of the Secured Property or any part thereof for the purpose of taxation or resulting in any lien thereon, or changing in any way the laws now in force for the taxation of this Mortgage or the Obligations for state or local purposes, or the manner of the operation of any such taxes so as to affect the interest of Mortgagee, then, and in such event, Mortgagor shall bear and pay the full amount of such taxes, provided that if for any reason payment by Mortgagor of any such new or additional taxes would be unlawful or if the payment thereof would constitute usury or render the Loan or the Obligations wholly or partially usurious under any of the terms or provisions of the Note, this Mortgage or otherwise, Mortgagee may, at its option, declare all Obligations secured by this Mortgage, with interest thereon, to be immediately due and payable, or Mortgagee may, at its option, pay that amount or portion of such taxes as renders the Loan or the Obligations unlawful or usurious, in which event Mortgagor shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of such taxes.

1.02G Joint Assessment. Mortgagor shall not suffer, permit or initiate the joint assessment of the Premises and the Personal Property, or any other procedure whereby personal property taxes and real property taxes shall be assessed, levied or charged to the Secured Property as a single lien.

1.02H Permitted Contests. Notwithstanding anything herein to the contrary, if, and for so long as no Event of Default shall have occurred and be continuing under the terms of any of the Loan Instruments, Mortgagor shall have the right to contest the amount or the validity, in whole or in part, of any Imposition, by appropriate proceedings diligently conducted in good faith and without cost or expense to Mortgagee. Subject to the provisions of Section 1.02I and provided Mortgagor is in compliance with the provisions of the next sentence, Mortgagor may postpone or defer payment of such Imposition if Mortgagor, on or before the due date thereof, shall (1) deposit or cause to be deposited with Mortgagee a surety bond issued by a surety company of recognized responsibility acceptable to Mortgagee, guaranteeing and securing the payment in full of such Imposition, pending the determination of such contest, (2) deposit or cause to be deposited with Mortgagee an amount equal to one hundred (100%) percent of such Imposition or any balance thereof remaining unpaid, and from time to time, but not more frequently than quarterly, deposit amounts in order to keep on deposit at all such times an amount equal to one hundred (100%) percent of the Imposition remaining unpaid, or (3) furnish or cause to be furnished to Mortgagee other security reasonably satisfactory to Mortgagee. If such deposit is made or such security furnished and Mortgagor continues in good faith to contest the validity of such Imposition by appropriate legal proceedings which shall operate to prevent the collection of such Imposition so contested, the imposition of interest, fines or other penalties with respect to such Imposition and the sale of the Secured Property or any part thereof to satisfy such Imposition, Mortgagor shall have no obligation to pay such Imposition until such time as it

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has been finally determined to be a valid, due and payable Imposition. Upon termination of any such proceeding, or at any earlier time that Mortgagor shall have been adjudicated liable for the payment of such Imposition, Mortgagor shall pay in full the amount of such Imposition or part thereof as shall have been finally determined in such proceeding, together with all liabilities in connection therewith. Any sums held on deposit by Mortgagee pursuant to this Section 1.02H shall be made available by Mortgagee to Mortgagor for the payment of such Impositions. Following the final adjudication of the validity of any Imposition, Mortgagee shall have the full power and authority to apply or require the application of any amounts that may have been deposited pursuant to this Section 1.02H to payment of any unpaid Imposition. However, Mortgagee shall not have any liability for application of, or failure to apply, any amount so deposited, except for Mortgagee's intentional and willful failure to apply a deposited amount after Mortgagor shall have notified Mortgagee of such final decision and Mortgagor or the Person making such deposit shall have requested in writing the application of such amount to the payment of the particular Imposition with respect to which it was deposited. Mortgagee shall repay to Mortgagor, or as directed by Mortgagor, the remainder of any such deposit after payment in full of the related Imposition, unless Mortgagor shall be in default pursuant to any of the Loan Instruments beyond any applicable notice and cure periods. If an Event of Default then exists, Mortgagee may, in its discretion, apply all or any part of such remainder to the curing of such Event of Default. After the curing of all such Events of Defaults (and the payment in full of all then due and payable Impositions), Mortgagee shall pay the remainder of such surplus, if any, to Mortgagor.

1.02I No Lease Default. If contesting the validity or amount of any Imposition shall cause a breach of any of the terms, conditions or covenants required to be performed by Mortgagor as lessor under any Lease, Mortgagor shall not have the right to contest the same as provided in Section 1.02H, and Mortgagor shall pay such Imposition pursuant to Section 1.02A.

1.03 Insurance.

1.03A All Risk Coverage. Mortgagor, at its sole cost and expense, shall keep the Improvements and the Personal Property insured against loss or damage by fire and against loss or damage by other risks now covered by "All Risk" insurance, in form and substance satisfactory to Mortgagee, and in an amount equal to at least one hundred percent (100%) of the full replacement cost of the Improvements and the Personal Property, including work performed for tenants, without deduction for depreciation and with such other deductibles, if any, as are satisfactory to Mortgagee, in its reasonable discretion. Such insurance shall include an endorsement for demolition and increased cost of construction and an agreed amount endorsement for the estimated replacement cost. Mortgagor's "All Risk" coverage may be part of a blanket insurance policy provided that the blanket coverage (i) is acceptable to Mortgagee, in its reasonable discretion, (ii) contains a blanket mortgagee endorsement to the policy showing any and all mortgagees as certificate holders and additional insureds, and (iii) subject to the terms of Section 1.03B below, Mortgagee receives an Acond 27 certificate of insurance evidencing such required coverage. Mortgagor's "All Risk" insurance policy shall not exclude from coverage any loss arising from the perils of terrorist acts or, in the alternative, Mortgagor shall maintain a separate insurance policy covering terrorist acts and, in either case, the coverage for damage caused by terrorist acts shall be on a 100% replacement cost basis with a deductible of not more than \$50,000.00 (such insurance coverage shall be referred to herein as "Terrorism").

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Insurance”). Mortgagor’s Terrorism Insurance coverage may be part of a blanket insurance policy provided that the blanket coverage (i) is acceptable to Mortgagee, in its reasonable discretion, (ii) contains an endorsement to the policy showing Mortgagee as a certificate holder and additional insured and (iii) contains a specific allocation of value and deductible related to the coverage on the property to be encumbered by the Mortgage and provides that such value and deductible may not be affected by any claims or other matters related to the other properties covered by the blanket policy.

1.03B Amendment as a Result of Commercial Unavailability of Insurance Against Terrorist Acts.

(1) If any insurance required to be maintained against loss arising from the perils of terrorist acts (other than insurance required to be maintained under applicable law) pursuant to Section 1.03C(5) (including the limits or deductibles or any other terms under policies for such insurance) ceases to be commercially available in the commercial insurance market, Mortgagor shall provide written notice to Mortgagee, accompanied by a certificate from an insurance advisor reasonably satisfactory to Mortgagee (“Insurance Advisor”), certifying that such insurance against loss arising from the perils of terrorist acts is not commercially available in the commercial insurance market for buildings of similar type and geographic location, and explaining in detail the basis for such conclusions and recommending any waivers or modification of such insurance requirement (which recommendation shall include the amount and type of insurance which is commercially available, if any).

(2) Following receipt of such notice, certificate and recommendation of the Insurance Advisor, Mortgagee shall not unreasonably withhold its approval of the recommended waiver or modification of such insurance requirement (any such approval to be evidenced by a writing to such effect) but in this regard, Mortgagee may, at Mortgagor’s expense, seek the advice of another insurance advisor of its choosing, and factor such advice into its decision. Mortgagee shall advise Mortgagor in writing of its decision concerning the recommended waiver or modification, including any alternative requirements it may reasonably establish, and Mortgagor shall, prior to the expiration of the insurance against loss arising from the perils of terrorist acts then in effect, obtain such insurance that is approved by Mortgagee.

(3) In the event that such insurance requirement has been waived or modified pursuant to Section 1.03B(2), Mortgagor shall, from time to time (but not more than one (1) time per year) upon request of Mortgagee, provide to Mortgagee a written supplemental report from the Insurance Advisor that provided the certificate referred to in Section 1.03B(1) (or such other independent insurance advisor reasonably acceptable to Mortgagee), updating such prior certificate and reaffirming the conclusions stated therein, including as to the insurance against loss arising from the perils of terrorist acts which is then commercially available. Such supplemental report shall be provided within sixty (60) days after a request from Mortgagee in accordance with this paragraph. In the event that the Insurance Advisor (or such other insurance advisor engaged by Mortgagee at Mortgagor’s expense), states that a different level of insurance is then commercially available, as compared to the insurance that was commercially available in the prior certificate and recommendation, Mortgagor shall promptly (and in any event within sixty (60) days after receipt of such updated report) obtain the then specified level of insurance

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that is then commercially available, subject to Mortgagee's approval, in the same manner as provided in Section 1.03B(2) above.

(4) Any waiver or modification approved pursuant to Section 1.03B(2) shall be effective for only as long as the originally required insurance is not commercially available. Any insurance waiver or modification approved pursuant to Section 1.03B(2) shall cease to satisfy the requirements of this Mortgage at the expiration of the sixty (60) day period referred to in the second sentence of Section 1.03B(3).

(5) For the purpose of this Section 1.03B, insurance against loss arising from the perils of terrorist acts will be considered not "commercially available" if (A) it is not obtainable or is obtainable only at excessive costs which are not justified in terms of the risk to be insured, (B) it is not being carried by or applicable to properties or operations similar to and in the same geographic area as the Property because of such excessive costs and (C) the material provisions of The Terrorism Risk Act of 2002 (Pub. L. 107-297, 116 Stat. 232 (2002)) are no longer in effect. Notwithstanding any other provision of this Section 1.03B to the contrary, in no event shall the annual costs of insurance providing coverage against loss arising from the perils of terrorist acts be deemed "excessive" to the extent such annual costs are not in excess of fifty percent (50%) of the annual All-Risk premium for the Secured Property ("Terrorist Insurance Cost") and in the event some or all of the costs of maintaining coverage against loss arising from the perils of terrorist acts in excess of the Terrorist Insurance Cost are determined to be not "commercially available" and are waived by Mortgagee in accordance with the terms of Section 1.03B(2), then Mortgagor shall maintain such coverage as may be obtained by the expenditure of the Terrorist Insurance Cost and such additional costs as are not determined to be excessive as provided hereinabove. Notwithstanding the foregoing, if insurance against loss arising from the perils of terrorist acts is being maintained for properties within the portfolio of properties owned or controlled (directly or indirectly) by NewTower Trust Company Multi-Employer Property Trust, then Mortgagor shall be required to maintain insurance against loss arising from the perils of terrorist acts for the Secured Property.

1.03C Additional Coverage. Mortgagor, at its sole cost and expense, shall at all times also maintain:

(1) Commercial general liability insurance against claims for bodily injury, personal injury or property damage, occurring in, on or under the Secured Property or in, on or under the adjoining streets, sidewalks and passageways; such insurance to be in amounts and in form and substance satisfactory to Mortgagee;

(2) Rent and/or business income insurance in an amount not less than one year's aggregate rentals, including minimum rentals, escalation charges, percentage rents (based on sales projections acceptable to Mortgagee) and other additional rentals, and any other amounts payable by tenants and other occupants at the Secured Property pursuant to Leases or otherwise, which amount shall be increased from time to time upon the leasing of space at the Secured Property or upon each increase in such aggregate rentals;

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(3) If the Improvements are located in a flood hazard area, flood insurance on the Improvements in an amount equal to the lesser of full replacement cost thereof or the maximum amount of insurance obtainable;

(4) Insurance, in such amounts as Mortgagee shall from time to time require, against loss or damage from leakage or explosion of steam boilers, air conditioning equipment, pressure vessels or similar apparatus, now or hereafter installed in or on the Secured Property; and

(5) Such other insurance and any replacements, substitutions or additions thereto as shall at any time be required by Mortgagee against other insurable hazards, including earthquake, war risk, terrorism, nuclear reaction or radioactive contamination, each in such amount as Mortgagee shall determine.

1.03D Separate Insurance. Mortgagor shall not carry separate insurance, concurrent in kind or form and contributing in the event of loss with any insurance required hereunder. Mortgagor may, however, effect for its own account any insurance not required pursuant to the provisions of this Mortgage, but any such insurance effected by Mortgagor on the Secured Property, whether or not required pursuant to this Section 1.03, shall be for the mutual benefit of Mortgagor and Mortgagee, as their respective interests may appear, and shall be subject to all other provisions of this Section 1.03.

1.03E Insurers; Policies. All insurance provided for in this Section 1.03 shall be effected under valid and enforceable policies issued by financially responsible insurers, rated by A.M. Best as "A-" or better and as having a class size of at least "VII" and authorized to do business in the State, with deductibles acceptable to Mortgagee and otherwise in form and substance acceptable to Mortgagee. An original copy of all such policies (or original certificates thereof in the form of Acord 27 so long as Mortgagor maintains a blanket insurance policy) shall be deposited with and held by Mortgagee and shall contain the standard non-contributory mortgagee clause in favor of Mortgagee and a waiver of subrogation endorsement, all in form and content satisfactory to Mortgagee. All such policies shall contain a provision that such policies will not be cancelled or materially amended (including any reduction in the scope or limits of coverage), without at least thirty (30) days' prior written notice to Mortgagee. Not less than ten (10) days prior to the expiration dates of the expiring policies theretofore furnished pursuant to this Section 1.03, originals of the policies bearing notations evidencing the full payment of the annual premium or accompanied by other evidence satisfactory to Mortgagee of such payment shall be delivered by Mortgagor to Mortgagee.

1.03F Mortgagee's Right to Secure Coverage. If Mortgagor fails to furnish to Mortgagee and keep in force the original policies of insurance required by this Section 1.03, Mortgagee, at its option, following notice to Mortgagor, may procure such insurance, which procurement, at Mortgagee's further option, may be by the purchase of insurance policies or by the addition of the Secured Property to Mortgagee's blanket policy. In the event that Mortgagee has exercised either of such options, promptly upon demand by Mortgagee, Mortgagor (i) will reimburse Mortgagee for all premiums on the policies purchased by Mortgagee or (ii) in the event Mortgagee has added the Secured Property to its blanket policy, will pay to Mortgagee an amount equal to the estimated cost of the insurance coverage which Mortgagee has added to its

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blanket policy had such coverage been obtained under a separately policy and not under a blanket policy, in either case, with interest thereon at the Increased Rate from the date Mortgagee pays such premiums to the date Mortgagor repays such premiums to Mortgagee in full. Until they are so repaid, this Mortgage shall secure the amount of such premiums and interest.

1.03G Damage or Destruction. Upon the occurrence of any damage or casualty to the Secured Property or any part thereof, the following shall apply:

(1) Mortgagor shall give Mortgagee written notice of such damage or casualty as soon as possible, but not later than ten (10) days from the date such damage or casualty occurs.

(2) All proceeds of insurance ("Proceeds") paid or to be paid pursuant to any of the policies maintained pursuant to this Mortgage shall be payable to Mortgagee. Mortgagor hereby authorizes and directs any affected insurer to make payment of the Proceeds directly to Mortgagee. Subject to the rights of the Ground Lessors, Mortgagee may commingle, with other monies in Mortgagee's possession, all Proceeds received by Mortgagee. All such Proceeds shall constitute additional security for the Obligations and Mortgagor shall not be entitled to the payment of interest thereon. Mortgagee may settle, adjust or compromise all claims for loss, damage or destruction pursuant to any policy or policies of insurance. Notwithstanding the foregoing, in the event that the Proceeds are equal to or less than \$500,000, Mortgagor shall be entitled to settle and adjust a casualty insurance claim directly with the insurance provider provided that the following conditions are satisfied: (i) no Event of Default shall have occurred and be continuing under the terms of any of the Loan Instruments and no event has occurred and is continuing, which, with the giving of notice or lapse of time, or both, would constitute an Event of Default under any of the Loan Instruments, (ii) Mortgagor promptly provides Mortgagee with all applicable information regarding the insurance settlement and the Proceeds received by Mortgagor, and (iii) Mortgagor uses said Proceeds for the repair and restoration of the Secured Property in accordance with the terms and provisions set forth in Section 1.03I hereinbelow. No settlement for the damages sustained in connection with any casualty in excess of \$500,000 shall be made by Mortgagor without Mortgagee's prior written approval.

(3) Mortgagee shall have the option, in its reasonable discretion, and without regard to the adequacy of its security hereunder, of applying all or part of the Proceeds to (a) the Obligations, whether or not then due, in such order as Mortgagee shall determine, (b) the repair or restoration of the Secured Property, (c) reimburse Mortgagee for its costs and expenses in connection with the recovery of the Proceeds, or (d) any combination of the foregoing. Notwithstanding the foregoing provisions of this paragraph, if, in connection with any casualty event affecting the Secured Property, Mortgagee is not willing to permit the Proceeds to be used for the restoration of the Secured Property and the Mortgagee elects to apply all or any portion of the Proceeds to reduce any or all of the Obligations, then provided that no Event of Default then exists, Mortgagor shall not be obligated to pay a Make-Whole Amount to the extent the Obligations are so reduced. After the items in clauses (a) through (d) of this Section 1.03G(3) have been paid to Mortgagee, the remainder of the Proceeds shall be paid to Mortgagor.

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(4) Nothing herein contained shall be deemed to excuse Mortgagor from repairing or maintaining the Secured Property as provided in Section 1.05 or restoring all damage or destruction to the Secured Property, regardless of whether there are Proceeds available or whether the Proceeds are sufficient in amount, and the application or release by Mortgagee of any Proceeds shall not cure or waive any Event of Default or notice of default pursuant to this Mortgage or invalidate any act done pursuant to such notice.

1.03H Transfer of Interest in Policies. In the event of the foreclosure of this Mortgage or other transfer of title or assignment of the Secured Property in payment and performance, in whole or in part, of the Obligations, all right, title and interest of Mortgagor in and to all policies of insurance required by this Section 1.03 shall inure to the benefit of, and pass to the purchaser or grantee of the Secured Property. If, prior to Mortgagee's receipt of the Proceeds, the Secured Property shall have been sold through the foreclosure of this Mortgage or other similar proceeding, Mortgagee shall have the right to receive the Proceeds to the extent that any portion of the Obligations are still unpaid after application of the proceeds of the foreclosure sale or similar proceeding, together with interest thereon at the Increased Rate, plus attorney's fees and other costs and disbursements incurred by Mortgagee in connection with the collection of the Proceeds and in establishing the amount of and collecting the deficiency. Mortgagor hereby assigns, transfers and sets over to Mortgagee all of the Mortgagor's right, title and interest in and to said sum. The balance, if any, shall be paid to Mortgagor, or as otherwise required by law.

1.03I Mortgagor's Use of Proceeds.

(1) Notwithstanding any provision herein to the contrary, but subject to the provisions of Section 1.03(I)(4), in the event of any destruction to the Secured Property by fire or other casualty of (a) not more than thirty-five percent (35%) of the leasable area of the Improvements, or (b) of not more than the minimum number of on-site parking spaces required to be located on the Secured Property by any and all applicable Legal Requirements, the Proceeds shall be made available to Mortgagor for repair and restoration, after deducting therefrom and payment to Mortgagee of an amount equal to Mortgagee's costs in connection with collection, review and disbursement of the Proceeds of such damage or casualty, provided that:

- (a) The Proceeds are deposited with Mortgagee;
- (b) No Event of Default shall have occurred and be continuing under the terms of any of the Loan Instruments and no event has occurred and is continuing which, with the giving of notice or lapse of time, or both, would constitute an Event of Default under any of the Loan Instruments;
- (c) Said fire or other casualty does not occur during the last eighteen (18) months prior to the Maturity Date;
- (d) The insurer does not deny liability to Mortgagor or Mortgagee;

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(e) None of the Ground Leases have been terminated as the result of the damage or casualty;

(f) Mortgagee is furnished with, and has approved in its reasonable discretion (i) a complete, final set of plans and specifications for the work to be performed in connection with the repair or restoration, (ii) an estimate of the cost of repair and restoration, and (iii) a certificate of Mortgagee's Architect as to such costs;

(g) The value, quality and condition of the Secured Property so repaired or restored shall be at least equal to that of the Secured Property prior to such damage or casualty;

(h) Mortgagor furnishes Mortgagee with evidence reasonably satisfactory to Mortgagee that all Improvements so repaired or restored and their use shall fully comply with (i) the Ground Leases, (ii) all applicable easements, covenants, conditions, restrictions or other private agreements or instruments of record affecting the Secured Property and (iii) any and all Legal Requirements;

(i) If the estimated cost of such repair or restoration exceeds the Proceeds available, Mortgagor shall (i) furnish a bond of completion or provide other evidence satisfactory to Mortgagee of Mortgagor's ability to pay such excess costs, or (ii) deposit with Mortgagee additional funds equal to such excess;

(j) Mortgagee shall have received written notice of damage or casualty from Mortgagor within ten (10) days from the date of such damage or casualty, which notice shall state the date of such damage or casualty, and shall contain a request to Mortgagee to make the Proceeds available to Mortgagor;

(k) Mortgagee shall have received a copy of the report or proof of claim that Mortgagor submitted to the insurer describing the damage or casualty and the insurer's payment therefor; and

(l) During and after the repair and restoration period, the aggregate monthly net income pursuant to rent or business income insurance and/or pursuant to all Leases remaining in full force and effect shall be in an amount sufficient to pay the monthly installments of principal and interest required to be paid on the Obligations, as well as all payments for taxes and insurance required pursuant to Section 1.04, as estimated by Mortgagee.

(2) Mortgagee shall disburse the Proceeds during the course of repair or restoration upon (a) the certification of Mortgagee's Architect as to the cost of the work done, (b) the conformity, as determined by Mortgagee, of the work to plans and specifications approved by Mortgagee, and (c) receipt of evidence of a title insurance company acceptable to Mortgagee that there are no liens arising out of the repair or restoration or otherwise. Notwithstanding the above, a portion of the Proceeds may be released prior to the commencement of repair or restoration to pay for items approved by Mortgagee in its reasonable discretion. Subject to satisfaction of the foregoing conditions, Mortgagee shall make such disbursements within ten (10) business days after a written request by Mortgagor. No payment

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made prior to the final completion of work shall exceed ninety percent (90%) of the value of the work performed from time to time, and at all times the undisbursed balance of the Proceeds, plus the amount of the bond or the additional deposit made by Mortgagor pursuant to Section 1.03(I)(1)(i) remaining with Mortgagee must be at least sufficient to pay for the cost of completion of the work (as estimated by Mortgagee in its reasonable discretion), free and clear of liens. Mortgagee shall make final payment after receipt of a certification of Mortgagee's Architect confirming the completion of the work in accordance with plans and specifications approved by Mortgagee.

(3) Mortgagee shall return to Mortgagor the balance of the Proceeds after full disbursement in accordance with Sections 1.03I(1) and (2) with no obligation of Mortgagor to pay any Make-Whole Amount.

(4) In all cases in which any destruction of the Secured Property by fire or other casualty occurs during the last twenty-four (24) months prior to the Maturity Date, or in Mortgagee's reasonable judgment, Mortgagor is not proceeding with the repair or restoration in a manner that would entitle Mortgagor to have the Proceeds disbursed to it, Mortgagee shall have the options set forth in Section 1.03 F(3).

(5) Under no circumstances shall Mortgagee become personally liable for the fulfillment of the terms, covenants and conditions contained in any of the Leases or obligated to take any action to repair or restore the Secured Property.

1.04 Escrow Payments. To further secure the Obligations as to payment of the Impositions (as set forth in Section 1.02) and premiums for insurance (as set forth in Section 1.03), Mortgagor will pay to Mortgagee, or its designee, on or before the due date of each monthly installment of principal and/or interest pursuant to the Note, a sum equal to the Impositions and insurance premiums next due on the Secured Property, all as estimated by Mortgagee, less all sums already paid with respect to the Impositions and insurance premiums for such period, divided by the number of months to elapse before one month prior to the date when such Impositions and insurance premiums shall become due and payable. Mortgagee or its designee shall hold all payments without any obligation for the payment of interest thereon to Mortgagor and free of all liens or claims on the part of creditors of Mortgagor and as a part of the Secured Property. Mortgagee or its designee shall use such payments to pay current Impositions and insurance premiums, as the same accrue and are payable. Such payments shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Mortgagee, or its designee. If at any time and for any reason Mortgagee determines that such payments are insufficient to pay the Impositions and insurance premiums in full as they become payable, Mortgagor will pay to Mortgagee or its designee, within ten (10) days after demand therefor, such additional sum or sums as may be required in order for Mortgagee or its designee to so pay such Impositions and insurance premiums in full. Mortgagor shall furnish Mortgagee with the bills therefor within sufficient time to enable Mortgagee or its designee to pay the Impositions and insurance premiums before any penalty attaches and before any policy lapses. Upon any default in the provisions of any Loan Instrument, Mortgagee may, at its discretion and without regard to the adequacy of its security hereunder, apply any unused portion of such payments to the payment of the Obligations in such manner as it may elect. Transfer of legal title to the

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Secured Property shall automatically transfer to the new owner any then remaining rights of Mortgagor in all sums held by Mortgagee pursuant to this Section 1.04.

1.05 Care and Use of the Premises.

1.05A Maintenance and Repairs. Mortgagor, at its sole cost and expense, shall (1) take good care of the Secured Property and keep the same in good order and condition, (2) make all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, (3) not commit or suffer to be committed any waste of the Secured Property, and (4) not do or suffer to be done anything which will increase the risk of fire or other hazard to the Secured Property or any part thereof.

1.05B Standard of Repairs. The necessity for and adequacy of repairs to the Secured Property pursuant to Section 1.05A shall be measured by the standard which is appropriate for a mixed-use project consisting of residential apartment units, commercial space and related facilities of similar construction, age and type located in downtown Chicago, Illinois. Further, Mortgagor shall make all repairs necessary to avoid any structural damage to the Improvements and to keep the Secured Property in a proper condition for its intended use. When used in this Section 1.05, the terms "repair" and "repairs" shall include all necessary renewals and replacements. Mortgagor shall make all repairs with new, first-class materials and in a good, substantial and workerlike manner which shall be equal or better in quality and class to the original work.

1.05C Removal of Equipment. Mortgagor shall have the right, at any time and from time to time, to remove and dispose of equipment which may have become obsolete or unfit for use or which is no longer useful in the operation of the Secured Property. Mortgagor will promptly replace all equipment so disposed of or removed with other equipment of a value and serviceability equal to or greater than the original value and serviceability of the equipment so removed or disposed of, free of all liens, claims or other encumbrances. If by reason of technological or other developments in the operation and maintenance of buildings of the general character of the Improvements, no replacement of the building equipment so removed or disposed of is necessary or desirable in the proper operation or maintenance of the Improvements, Mortgagor shall not be required to replace same. The security interest of this Mortgage shall cover all such replacement equipment.

1.05D Compliance With Laws and Insurance. Mortgagor shall promptly comply with any and all applicable Legal Requirements including maintaining the Secured Property in compliance with all Legal Requirements. Mortgagor shall not bring or keep any article upon the Secured Property or cause or permit any condition to exist thereon which would be prohibited by or could invalidate any insurance coverage maintained, or required hereunder to be maintained, by Mortgagor on or with respect to any part of the Secured Property. Mortgagor shall do all other acts, which from the character or use of the Secured Property may be necessary to protect the Secured Property. Upon request of Mortgagee, Mortgagor shall furnish to Mortgagee a copy of any license, permit or approval required by any Governmental Agency with respect to the Secured Property and/or the operations conducted thereon.

1.05E Hazardous Materials.

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(1) Mortgagor hereby unconditionally and irrevocably agrees to indemnify, reimburse, defend, exonerate, pay and hold harmless Mortgagee, and its directors, officers, policyholders, shareholders, employees, successors (including any successor to Mortgagee's interest in the chain of title), assigns, agents, attorneys and affiliates, from and against any and all of the following (referred to collectively as the "Indemnified Claims"): all Environmental Damages and Environmental Claims that may be incurred by, imposed upon, or asserted against, any Person indemnified hereunder, arising out of, related to, or in connection with:

(a) the presence of Hazardous Materials in, on or under the Secured Property or the Release or threatened Release of any Hazardous Materials to or from (i) the Secured Property or (ii) any other property legally or beneficially owned (or any interest or estate which is owned) by Mortgagor, regardless of whether or not the presence of such Hazardous Materials arose prior to the present ownership or operation of the property in question or as a result of the acts or omissions of Mortgagor or any other Person,

(b) the violation or alleged violation of any Environmental Requirement affecting or applicable to the Secured Property or any activities thereon, regardless of whether or not the violation of such Environmental Requirement arose prior to the present ownership or operation of the property in question or as a result of the acts or omissions of Mortgagor or any other Person,

(c) the breach of any warranty or covenant or the inaccuracy of any representation contained in the Loan Instruments pertaining to Hazardous Materials or other environmental matters, including the covenants contained in Sections 1.05E(2), (3), (4) and (5) and the representations and warranties contained in Sections 1.05E(4) and 2.03C and D,

(d) the transport, treatment, recycling, storage or disposal or arrangement therefor, of any Hazardous Material to, at or from the Secured Property, or

(e) the enforcement or attempted enforcement of this indemnity.

Mortgagor's obligations pursuant to the foregoing indemnity shall include the burden and expense of (x) defending against all Indemnified Claims, even if such Indemnified Claims are groundless, false or fraudulent, (y) conducting all negotiations of any description with respect to the Indemnified Claims, and (z) paying and discharging any and all Indemnified Claims, when and as the same become due, against or from Mortgagee or any other Person indemnified pursuant to this Section 1.05E(1). Mortgagor's obligations under this Section 1.05E(1) shall survive (i) the repayment of all sums due under the Note; (ii) the release of the Secured Property or any portion thereof from the lien of this Mortgage; (iii) the reconveyance of or foreclosure under this Mortgage (notwithstanding that all or a portion of the obligations secured by this Mortgage shall have been discharged thereby); (iv) the acquisition of the Secured Property by Mortgagee; and/or (v) the transfer of all of Mortgagee's rights in and to the Note, the Loan Instruments and/or the Secured Property; provided, however, that with respect to clause (i) and (ii) above, such survival shall be limited to one (1) year following the full and indefeasible repayment of the Loan and Mortgagee's receipt of a then-current environmental site assessment

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of the Secured Property disclosing no new contamination, that is reasonably satisfactory to Mortgagee in all respects, taking into consideration Lender's acceptance of the Environmental Report (as such term is hereafter defined). Notwithstanding the foregoing, if the Secured Property is conveyed by foreclosure of this Mortgage or conveyance in lieu of foreclosure, then the indemnity provided for under this instrument shall not apply to any Indemnified Claim that arises solely after and not on or before the date of the conveyance, unless and to the extent that the Indemnified Claim results in whole or in part from acts or omissions by Borrower or from acts or omissions prior to the date of the conveyance or foreclosure of the Secured Property.

(2) Mortgagor shall maintain the Secured Property in compliance with, and shall not cause or permit the Secured Property to be in violation of, any applicable Environmental Requirements. Mortgagor shall not, and shall not permit any lessee or occupant of the Secured Property to, use, generate, manufacture, store, maintain, dispose of or permit to exist in, on or under the Secured Property any Hazardous Materials other than Hazardous Materials that are in compliance with Environmental Requirements in only the amounts necessary to operate the Secured Property and customary office, cleaning, janitorial and other materials and supplies necessary to operate the Secured Property for its current uses. Mortgagor shall, at all times, comply fully and in a timely manner, and cause all of its employees, agents, contractors and subcontractors and any other Persons occupying or present on the Secured Property to so comply, with all applicable Environmental Requirements.

(3) Following an Event of Default or in the event that Mortgagee has a reasonable cause to believe that any Hazardous Materials are present in, on or under the Secured Property, Mortgagor shall promptly, upon the written request of Mortgagee, but not more frequently than once per year, Mortgagor shall provide Mortgagee, at Mortgagor's expense, with a so-called Phase I environmental site assessment or environmental compliance audit report prepared by an environmental engineering firm reasonably acceptable to Mortgagee and in a form reasonably acceptable to Mortgagee, assessing the presence or absence of any Hazardous Materials and the potential costs in connection with the abatement, cleanup or removal of any Hazardous Materials found in, on or under the Secured Property. Mortgagee shall not request a so-called Phase II environmental site assessment unless recommended by any Phase I report completed for the Secured Property. Mortgagor shall cooperate in the conduct of any such site assessment or environmental audit.

(4) Mortgagor represents and warrants that, except as otherwise disclosed in that certain (i) Phase I Environmental Site Assessment prepared by ATC Associates, dated April 24, 2006 and (ii) that certain Letter from the United States Environmental Protection Agency dated August 28, 2006 (collectively, the "Environmental Report"), (a) no enforcement, cleanup, removal or other governmental or regulatory action has, at any time, been instituted, contemplated or threatened against Mortgagor, or to its best knowledge, the Secured Property, pursuant to any Environmental Requirements; (b) to the best of its knowledge, no violation or noncompliance with any Environmental Requirements has occurred with respect to the Secured Property at any time; and (c) no claims have, at any time, been made or threatened by any third party against the Secured Property or against Mortgagor with respect to the Secured Property, relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in this Section 1.05E(4) (a), (b) and (c)). Mortgagor shall promptly advise Mortgagee, in writing, if any Hazardous Materials Claims are hereafter

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asserted, or if Mortgagor obtains knowledge of any Release of any Hazardous Materials in, on or under the Secured Property.

(5) Without Mortgagee's prior written consent, Mortgagor shall not (a) take any remedial action in response to the presence of any Hazardous Materials in, on or under the Secured Property, or (b) enter into any settlement agreement, consent decree or other compromise in respect of any such Hazardous Materials or any Hazardous Material Claims. However, Mortgagee's prior consent shall not be necessary in the event that the presence of any Hazardous Materials in, on or under about the Secured Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not possible to obtain Mortgagee's consent before taking such action. In such event, Mortgagor shall notify Mortgagee as soon as practical of any action so taken. Mortgagee shall not withhold its consent, where such consent is required hereunder, if either (a) a particular remedial action is ordered by a court of competent jurisdiction, or (b) Mortgagor establishes to the reasonable satisfaction of Mortgagee that there is no reasonable alternative to such remedial action which would result in less impairment to the Secured Property.

(6) Mortgagee, if it so elects, shall have the right to join and participate as a party in any legal proceedings or actions initiated by any Person in connection with any Hazardous Materials Claim and, in such case, Mortgagor shall pay all of Mortgagee's reasonable attorneys' fees and expenses incurred in connection therewith.

1.05F Compliance With Instruments of Record. Mortgagor shall promptly perform and observe, or cause to be performed and observed, all terms, covenants and conditions of all instruments of record affecting the Secured Property, non-compliance with which may affect the priority of the lien of this Mortgage, or which may impose any duty or obligation upon Mortgagor or any lessee or other occupant of the Secured Property or any part thereof. Mortgagor shall do or cause to be done all things necessary to preserve intact and unimpaired all easements, appurtenances and other interests and rights in favor of, or constituting any part, of the Secured Property.

1.05G Alteration of Secured Property.

(1) Mortgagor shall not demolish, remove, construct, restore, add to or alter any portion of the Secured Property or any extension thereof, or consent to or permit any such demolition, removal, construction, restoration, addition or alteration without Mortgagee's prior written consent, which consent shall not be unreasonably withheld or delayed, except for (1) initial tenant improvement work provided for in any Lease in effect on the date hereof, (2) those certain capital improvements and renovations more particularly described and listed on **Exhibit B** attached hereto and made a part hereof (the "Renovation Plan"), and (3) ordinary, non-structural improvement and maintenance work of the nature and scope customarily performed by prudent owners of comparable mixed-use buildings in downtown Chicago, Illinois.

(2) Notwithstanding anything contained in this Mortgage to the contrary, Mortgagor shall complete those capital improvements and renovations to the Secured Property that are more particularly described in the Renovation Plan attached hereto as **Exhibit**

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B. Mortgagee shall allow for certain changes and revisions in the Renovation Plan subject to the following requirements:

(a) Mortgagor agrees not to make any changes to the scope of the work or remove a line item of work contained in the Renovation Plan attached hereto as **Exhibit B** without Mortgagee's prior written consent; and

(b) Mortgagor shall be required to complete, at a minimum, seventy-five percent (75%) of the projected cost of the Renovation Plan as set forth on **Exhibit B** (the "**Completion Threshold**"). Mortgagor and Guarantor shall be personally liable for any uncompleted amount of the Renovation Plan that falls below the Completion Threshold; and

(c) Mortgagee approval shall be required for any alterations or modification to individual line items set forth on the Renovation Plan which exceeds, in the aggregate, twenty-five percent (25%) of the cost associated with completing the Renovation Plan; and

(d) Mortgagee's approval shall be required for any line item(s) set forth on the Renovation Plan that are not completed by or on behalf of Mortgagor within twenty-four (24) months of the date such line item is scheduled for completed per the terms of **Exhibit B**.

1.05H **Parking.** Mortgagor shall comply with all Legal Requirements for parking and shall grant no parking rights in the Secured Property other than those provided for in existing Leases, except with Mortgagee's prior written consent. The Secured Property shall contain at all times not less than the number of automobile parking spaces required to be in compliance with Legal Requirements. If any part of the automobile parking areas included within the Secured Property is taken by condemnation or such areas are otherwise reduced, Mortgagor shall provide parking facilities in kind, size and location as required to comply with all Leases and with the parking requirements set forth herein. Any lease or other contract for such facilities must be assignable and must be otherwise in form and substance satisfactory to Mortgagee. In the event that changes are made to the parking area of the Premises in connection with such lease or contract, before entering into any such lease or other contract, Mortgagor will furnish to Mortgagee satisfactory assurance of the completion of such facilities free of all liens and in conformity with all Legal Requirements. Mortgagor approves that certain Parking Garage Lease entered into by Mortgagor and InterPark, Incorporated dated as of May 9, 2006.

1.05I **Entry on Secured Property.** Mortgagee or its representatives may enter upon and inspect the Secured Property at all reasonable times.

1.05J **No Consent to Alterations or Repairs.** Nothing contained in this Mortgage shall in any way constitute the consent or request of Mortgagee, expressed or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair of the Secured Property or any part thereof.

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1.05K Preservation of Lien; Mechanic's Liens. Mortgagor shall do or cause to be done everything necessary so that the lien of this Mortgage shall be fully preserved, at the sole cost of Mortgagor. Mortgagor shall discharge, pay or bond, or cause to be discharged, paid or bonded, from time to time when the same shall become due, all lawful claims and demands of mechanics, material men, laborers and others which, if unpaid, might result in, or permit the creation of, a lien on the Secured Property or any part thereof, or on the revenues, rents, issues, income or profits arising therefrom. Notwithstanding the foregoing and provided that no Event of Default then exists under any of the Loan Instruments, Borrower shall have the right to diligently contest liens in good faith provided that in the event that Borrower elects by appropriate legal action to contest any such lien(s), Borrower shall first bond over or cause a title company reasonably acceptable to Lender to insure against loss resulting from any such lien(s) in a manner reasonably acceptable to Lender. If Borrower bonds over or insures over any such lien(s), Borrower shall not be required to obtain a discharge or release of said lien(s) within the time period set forth in Section 3.01.J hereinbelow, provided that the contest operates to prevent enforcement or collection of the lien, or the sale or forfeiture of, the Secured Property, and is prosecuted with due diligence and continuity to its completion. Upon termination of any proceeding or contest, Borrower shall promptly pay the amount secured by the lien as finally determined in the proceeding or contest.

1.05L Use of Secured Property by Mortgagor. Mortgagor shall use, or cause to be used, the Secured Property principally and continuously as and for a mixed-use project including consisting of residential apartment units, commercial space and related facilities. Mortgagor shall not use, or permit the use of the Secured Property or any part thereof, for any other principal use without the prior written consent of Mortgagee. Mortgagor shall not initiate or acquiesce to any change in any zoning or other land use classification now or hereafter in effect and affecting the Secured Property or any part thereof without in each case obtaining Mortgagee's prior written consent thereto.

1.05M Use of Secured Property by Public. Mortgagor shall not suffer or permit the Secured Property, or any part thereof, to be used by the public as such, without restriction or in such manner as might impair Mortgagor's title to the Secured Property or any part thereof, or in such manner as might make possible a claim or claims of adverse usage or adverse possession, or of any implied dedication to the public of the Secured Property or any part thereof.

1.05N Management. Mortgagor approves the Apartment Management Agreement with RMK Management Corp. dated as of May 9, 2006. In the event that Mortgagor desires to change management companies, then the new management company shall be approved in writing by Mortgagee and under a management contract satisfactory to Mortgagee, which management contract shall be subject and subordinate to the rights and title of Mortgagee under this instrument.

1.05O Permitted Contests. If, and for so long as no Event of Default shall have occurred and be continuing under the terms of any of the Loan Instruments, Mortgagor shall have the right, after prior notice to Mortgagee, to contest, by appropriate legal proceedings, diligently conducted in good faith and without cost or expense to Mortgagee, the validity or application of any Legal Requirement, subject to the following:

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(1) Such contest shall not subject Mortgagee or Mortgagor to any civil or criminal liability;

(2) By the terms of any such Legal Requirement, compliance therewith pending the prosecution of any such legal proceedings may legally be delayed without incurring (or increasing the risk of incurring) any damage or injury of any kind to the Secured Property or any Person or property and without incurring any lien or charge of any kind against the Secured Property or any fine or penalty against Mortgagor, Mortgagor may delay compliance therewith until the final determination of such legal proceedings; and;

(3) Such contest shall not cause a breach of any of the terms, conditions or covenants of any Lease or other agreement on Mortgagor's part to be performed.

1.06 Financial Information.

1.06A Financial Statements. Mortgagor shall keep and maintain complete and accurate books and records of the earnings and expenses of the Secured Property and, without expense to Mortgagee, furnish to Mortgagee, within one hundred twenty (120) days after the end of each fiscal year of Mortgagor including the fiscal year (or such portion of the fiscal year) during which the Loan is closed, an annual financial statement prepared and certified by an independent certified public accountant reasonably satisfactory to Mortgagee, in accordance with generally accepted accounting principles relating to real estate consistently applied, which shall include: (1) a balance sheet with respect to the Secured Property, (2) a statement of cash flows by Mortgagor with respect to the Secured Property, (3) a detailed summary of operations relating to the ownership and operation of the Secured Property, including, all rents and other income derived therefrom and all operating and capital expenses paid or incurred in connection therewith and (4) a certified rent roll with respect to the Secured Property and any other pertinent information regarding the leasing of the Secured Property as may be required by Mortgagee. In addition to such annual financial statements, Mortgagor shall furnish to Mortgagee such interim financial statements (but no more than two (2) times per year), including any of the information described in the foregoing clauses (1) through (4), as Mortgagee shall require. Mortgagor shall also furnish, or cause to be furnished, to Mortgagee, within one hundred twenty (120) days after the end of each fiscal year of each Guarantor, if any, including the fiscal year during which the Loan is closed, an annual audited financial statement for each Guarantor, prepared and certified by an independent, certified public accountant, reasonably satisfactory to Mortgagee, in accordance with generally accepted accounting principles, consistently applied, which shall include a balance sheet, a statement of cash flows and statement of profit and loss.

1.06B Right to Inspect Books and Records. Upon prior written notice to Mortgagor, Mortgagee or its representatives shall have the right to examine and make copies of all books and records and all supporting vouchers and data related to the Secured Property one (1) time per year unless an Event of Default has occurred. Such examination may occur at the Secured Property or at Mortgagor's principal place of business.

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1.07 Condemnation.

1.07A Mortgagee's Right to Participate in Proceedings. If the Secured Property, or any part thereof, shall be taken in condemnation proceedings or by exercise of any right of eminent domain (collectively, "Condemnation Proceedings"), Mortgagee shall have the right to participate in any such Condemnation Proceedings and all awards or payments (collectively, "Award") that may be made in any such Condemnation Proceedings are hereby assigned to Mortgagee, and shall be deposited with Mortgagee and applied in the manner set forth in this Section 1.07. Mortgagor shall give Mortgagee prompt notice of the actual or threatened commencement of any Condemnation Proceedings affecting all or any part of the Secured Property including all such Condemnation Proceedings as to severance and consequential damage and change in grade in streets, and will deliver to Mortgagee copies of any and all papers served or received in connection with any Condemnation Proceedings. Notwithstanding the foregoing, Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any Condemnation Proceedings and to settle or compromise any claim in connection therewith, provided, however, that absent an Event of Default Mortgagor shall have the right to settle, adjust or compromise all claims of loss, damage or destruction of \$500,000 or less provided that Mortgagor delivers Mortgagee with written notice regarding same. No settlement for the damages sustained in connection with any Condemnation Proceedings in excess of \$500,000 shall be made by Mortgagor without Mortgagee's prior written approval. Mortgagor shall execute any and all further documents that may be required in order to facilitate the collection of each Award.

1.07B Application of Condemnation Award. (1) If at any time title or temporary possession of the whole or any part of the Secured Property shall be taken in any Condemnation Proceeding or pursuant to any agreement among Mortgagor, Mortgagee and/or those authorized to exercise the right of condemnation, Mortgagee, in its reasonable discretion and without regard to the adequacy of its security hereunder, shall have the right to apply any Award received to payment of the Obligations whether or not due, in such order as Mortgagee shall determine. If all or substantially all of the Secured Property is taken and the amount of the Award received by Mortgagee is not sufficient to pay the then unpaid balance of the Obligations, the balance of the Obligations shall, at the option of Mortgagee, become immediately due and payable and Mortgagor shall, within ten (10) days after notice to Mortgagor that Mortgagee has so applied the Award, pay the difference between such balance and the amount of the Award. "Substantially all of the Secured Property" shall be deemed to have been taken if the balance of the Secured Property, in the opinion of Mortgagee, (a) cannot be restored to a self-contained and architecturally complete unit or units or (b) the balance of the Secured Property as restored will not be economically viable and capable of supporting all carrying charges and operating and maintenance expenses. Notwithstanding the foregoing, subject to the provisions contained in Section 1.07A above, Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any Condemnation Proceedings and to settle or compromise any claim in connection therewith. Subject to the provisions contained in Section 1.07A above, no settlement for the damages sustained in connection with any Condemnation Proceedings shall be made by Mortgagor without Mortgagee's prior written approval. Mortgagor shall execute any and all further documents that may be required in order to facilitate the collection of each Award. Moreover,

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notwithstanding anything contained herein to the contrary, provided no Event of Default has occurred under any of the Loan Instruments and no event has occurred which, with the giving of notice or lapse of time, or both, would constitute an Event of Default under any of the Loan Instruments, if, in connection with any condemnation of all or any portion of the Secured Property, Mortgagee elects to apply all or any portion of the Award to reduce any or all of the Obligations, then Mortgagor shall not be obligated to pay the Make-Whole Amount to the extent the Obligations are so reduced. After the Obligations and the other expenses of Mortgagee covered in this Section 1.07B have been paid, the remainder of any Award shall be paid to Mortgagor.

(2) Notwithstanding any provision contained herein to the contrary, but subject to the provisions of Section 1.07B(3), if less than substantially all of the Secured Property shall be taken in a Condemnation Proceeding (except for a taking (a) not more than thirty-five percent (35%) of the leasable area of the Improvements, or (b) of not more than the minimum number of on-site parking spaces required to be located on the Secured Property by any and all applicable Legal Requirements, or (c) that impedes, restricts or otherwise adversely affects access to the Premises or any part thereof from a public right of way), Mortgagee shall, after deducting Mortgagee's costs in connection with collection, review and disbursement related to the Award and the Condemnation Proceeding, apply the balance of the Award to the cost of restoring, repairing or altering the remaining portion of the Secured Property, subject to the provisions of Section 1.03(H) (which provisions shall apply in all respects except that any reference therein to Proceeds shall be deemed to refer to the Award), and Mortgagor will promptly restore, repair or alter the remaining Secured Property, subject to the provisions of Section 1.03(H). The provisions of this Section 1.07(B)(2) shall not apply unless Mortgagor shall furnish to Mortgagee evidence reasonably satisfactory to Mortgagee that the Secured Property, as so restored, reconstructed or altered, and its use would fully comply with all Legal Requirements. The balance of the Award so deposited with Mortgagee, after disbursement in accordance with this Section 1.07(B)(2), shall be applied to the payment of the Obligations, whether or not due, in such order as Mortgagee shall determine. The Award and other sums deposited with Mortgagee, until disbursed or applied as provided in this Section 1.07(B)(2), may be commingled with the general funds of Mortgagee, shall constitute additional security for the Obligations, and shall not bear interest.

(3) In all cases in which any taking occurs during the last twenty-four (24) months prior to the Maturity Date, or in Mortgagee's reasonable judgment, Mortgagor is not proceeding with the repair or restoration in a manner that would entitle Mortgagor to have the Award disbursed to it, Mortgagee, without regard to the adequacy of its security hereunder, shall have the right to apply the Award to payment of the Obligations, whether or not due, in such order as Mortgagee shall determine.

1.07C Reimbursement of Costs. In the case of any taking covered by the provisions of this Section 1.07, Mortgagee (to the extent that Mortgagee has not been reimbursed therefor by Mortgagor) shall be entitled, as a first priority, to reimbursement out of any Award for all reasonable costs, fees, and expenses incurred in the determination and collection of the Award.

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1.07D Existing Obligations. Notwithstanding any taking by Condemnation Proceedings or any application of the Award to the Obligations, Mortgagor shall continue to pay the monthly installments due pursuant to the Note, as well as all other sums secured by this Mortgage. If prior to Mortgagee's receipt of the Award, the Secured Property shall have been sold through foreclosure of this Mortgage or other similar proceeding, Mortgagee shall have the right to receive the Award to the extent that any portion of the Obligations are still unpaid after application of the proceeds of the foreclosure sale or similar proceeding, with interest thereon at the Increased Rate, plus attorneys' fees and other costs and disbursements incurred by Mortgagee in connection with the collection of the Award and in establishing the amount of, and collecting, any deficiency. The application of the Award to the Obligations, whether or not then due or payable, shall not postpone, abate or reduce any of the periodic installments of interest or principal thereafter to become due pursuant to the Note or this Mortgage until the Obligations are paid and performed in full.

1.08 Leases

1.08A Performance of Lessor's Covenants. Mortgagor, as lessor, has entered and will enter into leases or licenses with tenants, as lessees or licensees, respectively, for parts or all of the Secured Property including Commercial and Residential Leases (all such leases and licenses are hereinafter referred to individually as a "Lease", and collectively as "Leases" and the lessees or licensees under such Leases are hereinafter referred to individually as a "Lessee" and collectively as "Lessees"). Mortgagor shall faithfully perform the lessor's covenants under the Leases. Mortgagor shall neither do, nor neglect to do, nor permit to be done (other than enforcing the terms of such Leases and exercising the lessor's remedies thereunder following a default or event of default on the part of any Lessee in the performance of its obligations pursuant to the Lease), anything which may cause the modification of a Commercial Lease or termination of any of the Leases, or of the obligations of any Lessee or any other person claiming through such Lessee, or which may diminish or impair the value of any Lease or the rents provided for therein, or the interest of the lessor or of Mortgagee therein or thereunder. Each Commercial Lease entered into after the date hereof shall make provision for the attornment of the Lessee thereunder to any person succeeding to the interest of Mortgagor as the result of any judicial or nonjudicial foreclosure or transfer in lieu of foreclosure hereunder, such provision to be in form and substance approved by Mortgagee, provided that nothing herein shall be construed to require Mortgagee to agree to recognize the rights of any Lessee under any Lease following any such foreclosure or transfer in lieu thereof unless Mortgagee shall expressly hereafter agree thereto in writing with respect to a particular Lease.

1.08B Notice of Default. Mortgagor shall give Mortgagee prompt notice of any notice of default beyond any applicable notice and cure period set forth in any Material Commercial Lease, or of any extension, renewal, expansion, surrender or cancellation given to or received from any Lessee or from any other Person with respect to any Material Commercial Lease and shall furnish Mortgagee with a copy of each such notice.

1.08C Representations Regarding Leases

(1) Residential Leases. Mortgagor represents and warrants that (1) to the best of Mortgagor's knowledge, all representations made by it in the Residential Leases are

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true; (2) all Improvements and the leased space demised and let pursuant to each Residential Lease have been completed; (3) except as otherwise set forth in the certified rent roll delivered to Mortgagee by Mortgagor, each Lessee under a Residential Lease has commenced payment of Rent under its Residential Lease; (4) except as otherwise set forth in the certified rent roll delivered to Mortgagee by Mortgagor, all Rents and other charges due and payable under the Residential Leases have been paid; (5) no Rent has been prepaid, except as expressly provided pursuant to the applicable Residential Lease; (6) there is no existing default or breach of any covenant or condition on the part of lessor under any Residential Lease; (7) to the best of Mortgagor's knowledge and except as otherwise set forth in the certified rent roll certificate delivered to Mortgagee by Mortgagor or otherwise disclosed to by Mortgagor to Mortgagee in writing, there is no existing default or breach of any covenant or condition on the part of any Lessee under any Residential Lease; (8) there are no options to purchase all or any portion of the Secured Property contained in any Residential Lease; (9) there are no options to renew, cancel, extend or expand by any Lessee except as stated in the Residential Leases; (10) there are no amendments of or modifications to any Residential Leases that materially affect the terms of the standard form of Residential Lease approved by Mortgagee; (11) Mortgagor is the absolute owner of each Residential Lease with full right and title to assign the same and the Rents thereunder to Mortgagee; (12) each Residential Lease is valid and in full force and effect; (13) there is no outstanding assignment or pledge thereof or of the Rents due or to become due; (14) to the best of Mortgagor's knowledge and except as set forth in the certified rent roll delivered to Mortgagee by Mortgagor, no Lessee under any Residential Lease has any defense, set-off or counterclaim against Mortgagor; and (15) other than in the ordinary course of Mortgagor's business of owning and operating the Secured Property as an apartment project in a prudent manner, no Rents payable pursuant to any Lease have been or will be anticipated, discounted, released, waived, compromised or otherwise discharged, except as may be expressly permitted by such Residential Lease.

(2) Commercial Leases. Mortgagor represents and warrants that (1) to the best of Mortgagor's knowledge, all representations made by it in the Commercial Leases are true; (2) all Improvements and the leased space demised and let pursuant to each Commercial Lease have been completed to the satisfaction of the applicable Lessee; (3) except as otherwise disclosed in writing by Mortgagor to Mortgagee, each Lessee under a Commercial Lease is in possession of its leased space, has opened for business and has commenced payment of Rent under its Commercial Lease; (4) except as otherwise set forth in the certified rent roll delivered to Mortgagee by Mortgagor, all Rents and other charges due and payable under the Commercial Leases have been paid; (5) no Rent has been prepaid, except as expressly provided pursuant to the applicable Commercial Lease; (6) there is no existing default or breach of any covenant or condition on the part of lessor under any Commercial Lease; (7) to the best of Mortgagor's knowledge and except as otherwise set forth in the certified rent roll certificate delivered to Mortgagee by Mortgagor or otherwise disclosed to by Mortgagor to Mortgagee in writing, there is no existing default or breach of any covenant or condition on the part of any Lessee under any Commercial Lease; (8) there are no options to purchase all or any portion of the Secured Property contained in any Commercial Lease; (9) there are no options to renew, cancel, extend or expand by any Lessee except as stated in the Commercial Leases; (10) there are no amendments of or modifications to any Commercial Leases except as disclosed in writing to Mortgagee; (11) Mortgagor is the absolute owner of each Commercial Lease with full right and title to assign the

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same and the Rents thereunder to Mortgagee; (12) each Commercial Lease is valid and in full force and effect; (13) there is no outstanding assignment or pledge thereof or of the Rents due or to become due; (14) to the best of Mortgagor's knowledge and except as set forth in the certified rent roll delivered to Mortgagee by Mortgagor, no Lessee under any Commercial Lease has any defense, set-off or counterclaim against Mortgagor; and (15) no Rents payable pursuant to any Commercial Lease have been or will be anticipated, discounted, released, waived, compromised or otherwise discharged, except as may be expressly permitted by such Commercial Lease.

1.08D Covenants Regarding Residential and Non-Material Commercial Leases.

In connection with Residential Leases and Non-Material Commercial Leases, Mortgagor shall not, without the prior written consent of Mortgagee obtained in each instance, which consent shall not be unreasonably withheld or delayed:

(1) lease to any Person, all or any part of the space in, on or over any of the Premises, except leases for actual occupancy by the Lessee made in the ordinary course of the business of owning and operating a mixed-use project in a prudent manner, on Mortgagor's standard lease form of Residential Leases, approved by Mortgagee, without material deviation therefrom;

(2) cancel, terminate or accept a surrender or suffer or permit any cancellation, termination or surrender of any Lease or any guaranty of any Lease, except, with respect to any Lease, in the ordinary course of business of owning and operating a mixed-use project in a prudent manner;

(3) other than those modifications made in the ordinary course of the business of owning and operating a mixed-use project in a prudent manner, modify or amend any Lease so as to (i) reduce the term thereof or the Rents payable thereunder, (ii) change any renewal provision contained therein, (iii) otherwise increase any obligation of Mortgagor thereunder, or (iv) reduce any obligation of Lessee thereunder;

(4) commence any summary proceeding or other action to recover possession of any space demised pursuant to any Lease, other than a proceeding brought in good faith by reason of a default of any Lessee;

(5) receive or collect, or permit the receipt or collection of, any Rents for more than one month in advance of the payment due dates;

(6) take any other action with respect to any Lease which would tend to impair the security of Mortgagee pursuant to this Mortgage;

(7) extend any present Lease other than in accordance with the terms presently provided for therein, except leases for actual occupancy by the Lessee made in the ordinary course of business of owning and operating a mixed-use project in a prudent manner;

(8) except for Subordinate Financing as expressly permitted by the terms of Section 1.13 of this Mortgage, execute any agreement or instrument or create or permit a lien which may be or become superior to any Lease;

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(9) suffer or permit to occur any release of liability of any Lessee or the accrual of any right in any Lessee to withhold payment of any Rent, except in the ordinary course of business of owning and operating a mixed-used project in a prudent manner;

(10) except for Subordinate Financing as expressly permitted by the terms of Section 1.13 of this Mortgage, sell, assign, transfer, mortgage, pledge or otherwise dispose of or encumber, whether by merger, consolidation, operation of law or otherwise, any Lease or any Rents;

(11) alter, modify or change the terms of any guaranty of any Lease or consent to the release of any party thereto, except in the ordinary course of business of owning and operating a mixed-use project in a prudent manner; or

(12) except for Subordinate Financing as expressly permitted by the terms of Section 1.13 of this Mortgage and except for the Ground Leases, request, consent, agree to, or accept, the subordination of any Lease to any mortgage (other than this Mortgage) or other encumbrance now or hereafter affecting the Premises.

1.08E Covenants Regarding Material Commercial Leases. In connection with Material Commercial Leases, Mortgagor shall not, without the prior written consent of Mortgagee obtained in each instance:

(1) lease to any Person, all or any part of the space in, on or over any of the Premises;

(2) cancel, terminate or accept a surrender or suffer or permit any cancellation, termination or surrender of any Material Commercial Lease or any guaranty of any Material Commercial Lease;

(3) modify or amend any Material Commercial Lease so as to (i) reduce the term thereof or the Rents payable thereunder, (ii) change any renewal provision contained therein, (iii) otherwise increase any obligation of Mortgagor thereunder, or (iv) reduce any obligation of Lessee thereunder;

(4) commence any summary proceeding or other action to recover possession of any space demised pursuant to any Lease, other than a proceeding brought in good faith by reason of a default of any Lessee;

(5) receive or collect, or permit the receipt or collection of, any Rents for more than one month in advance of the payment due dates;

(6) take any other action with respect to any Lease which would tend to impair the security of Mortgagee pursuant to this Mortgage;

(7) extend any present Material Commercial Lease other than in accordance with the terms presently provided for therein;

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(8) except for Subordinate Financing as expressly permitted by the terms of Section 1.13 of this Mortgage, execute any agreement or instrument or create or permit a lien which may be or become superior to any Material Commercial Lease;

(9) suffer or permit to occur any release of liability of any Lessee or the accrual of any right in any Lessee to withhold payment of any Rent;

(10) except for Subordinate Financing as expressly permitted by the terms of Section 1.13 of this Mortgage, sell, assign, transfer, mortgage, pledge or otherwise dispose of or encumber, whether by merger, consolidation, operation of law or otherwise, any Material Commercial Lease or any Rents;

(11) alter, modify or change the terms of any guaranty of any Material Commercial Lease or consent to the release of any party thereto; or

(12) except for Subordinate Financing as expressly permitted by the terms of Section 1.13 of this Mortgage and except for the Ground Leases, request, consent, agree to, or accept, the subordination of any Material Commercial Lease to any mortgage (other than this Mortgage) or other encumbrance now or hereafter affecting the Premises.

1.08F Deemed Approved Material Commercial Leases. Notwithstanding the provisions of Section 1.08E of this Mortgage to the contrary, Mortgagee agrees to allow Mortgagor to enter into a new Material Commercial Lease or otherwise modify or renew an existing Material Commercial Lease (in each instance, a "Deemed Approved Material Commercial Lease") without Mortgagee's prior consent if, and only if, the following requirements are fully and timely satisfied:

(1) no Event of Default has occurred and is continuing under any of the Loan Instruments at the time such Deemed Approved Material Commercial Lease is entered into and no event has occurred and is continuing which, with the giving of notice or passage of time, or both, would constitute an Event of Default under any Loan Instrument at the time such Deemed Approved Material Commercial Lease is entered into;

(2) the Deemed Approved Material Commercial Lease is set forth on Mortgagor's standard lease form previously approved by Lender, without material deviation from such form;

(3) the lease term for the Deemed Approved Material Commercial Lease is less than ten (10) years in duration;

(4) all components of rent payable under the Deemed Approved Material Commercial Lease, in the aggregate, equal or exceed the market rental rates then in effect, including, without limitation, base rent, percentage rent, additional rent, reimbursement amounts for taxes, insurance and operating expenses;

(5) the annual minimum gross rent (inclusive of base rent, rental abatements, rental concessions, expense reimbursements and tenant improvement allowances)

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payable under the Deemed Approved Material Commercial Lease must be equal to or greater than \$30.00 per rentable square foot;

(6) the Deemed Approved Material Commercial Lease does not provide for concession amounts, tenant improvement amounts or other similar amounts in excess of the then-applicable market amounts for such items, and does not require the landlord to pay for (or reimburse the tenant for) any such amounts at any time other than within twelve (12) months following the commencement of the Deemed Approved Material Commercial Lease;

(7) Mortgagor has delivered to Mortgagee a subordination, non-disturbance and attornment agreement which is on Mortgagee's then current form of such document which shall include non-disturbance provision from Mortgagee in favor of such tenant, as executed by tenant and Mortgagor or, in the alternative, the Lease contains a provision acceptable to Mortgagee and its counsel which is sufficient to prevent a termination of the Lease upon foreclosure without Mortgagee's consent; and

(8) Mortgagor shall deliver and Mortgagee shall receive a fully executed copy of the Deemed Approved Lease, identified by Mortgagor as true and complete, within five (5) business days after the execution thereof.

1.08G All Other Material Commercial Leases.

(1) New Material Commercial Leases that are not Deemed Approved Material Commercial Leases. Notwithstanding the provisions of Section 1.08E of this Mortgage to the contrary, for all new Material Commercial Leases that are not "Deemed Approved Material Commercial Leases" as set forth in Section 1.08F hereinabove, and therefore require Mortgagee's prior written approval, Mortgagor shall deliver for Mortgagee's review and approval, a copy of the proposed new Material Commercial Lease. Mortgagee shall respond to Mortgagor with its approval or disapproval of the new Material Commercial Lease within ten (10) business days within receipt thereof. Mortgagee's failure to respond to Mortgagor's written request for approval of such new Material Commercial Lease within ten (10) business days of Mortgagee's receipt of such written request, shall be deemed to be Mortgagee's approval of said new Material Commercial Lease submitted by Mortgagor for approval; provided, however, in order for such written request to be effective, such written notice must (a) be simultaneously submitted to (x) Mortgagee at the addresses for Notices provided in Section 5.07 of this Mortgage, and (y) Mortgagee's field office located at 303 W. Madison, Suite 2050, Chicago, Illinois 60606, and (b) must include the following statement on the first page in all capital letters and boldface type:

"YOUR FAILURE TO RESPOND TO BORROWER'S REQUEST FOR APPROVAL OF THE MATERIAL COMMERCIAL LEASE DESCRIBED HEREIN RELATING TO A LEASE AT _____, CHICAGO, ILLINOIS, AS SET FORTH HEREIN WITHIN TEN (10) BUSINESS DAYS FROM THE DATE YOU RECEIVE THIS REQUEST SHALL BE DEEMED TO CONSTITUTE LENDER'S APPROVAL OF SUCH REQUEST."

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Following Mortgagee's approval (or deemed approval) of any such new Material Commercial Lease, Mortgagor may, without Mortgagee's prior written consent, enter into such new Material Commercial Lease (without modification or amendment from the version submitted to and approved by Mortgagee), provided that within five (5) business days after the execution thereof, Mortgagor delivers to Mortgagee and Mortgagee receives from Mortgagor a true and complete copy of such fully executed new Material Commercial Lease.

1.08H Application of Rents. Following the payment of sums due under the Ground Leases, Mortgagor shall use and apply all Rents from the Secured Property first to the payment and performance of the Obligations in accordance with the terms of the Loan Instruments, and then to the payment of all Impositions and the costs and expenses of management, operation, repair, maintenance, preservation, reconstruction and restoration of the Secured Property in accordance with the requirements of this Mortgage and the obligations of Mortgagor as the lessor under any Lease. Mortgagor shall not use any Rents for purposes unrelated to the Secured Property unless and until all current payments of the Obligations, Impositions and such costs and expenses have been paid or provided for and cash reserves required by this Mortgage have been set aside to ensure the timely future payment of all such items.

1.08I Indemnity Against Unapproved Lease Modifications and Amendments. In the event that Mortgagee or any grantee or assignee of Mortgagee takes title to, or otherwise comes into possession of, the Secured Property and thereafter a Lessee under a Lease attorns to Mortgagee or such other party pursuant to a Subordination, Non-Disturbance and Attornment Agreement entered into by Mortgagee and such Lessee, Mortgagor hereby indemnifies and holds Mortgagee harmless from and against any and all claims, liabilities, costs and expenses of any kind or nature against or incurred by Mortgagee arising out of the enforcement by any Lessee against Mortgagee or any grantee or assignee of Mortgagee, of any affirmative claim, cost or expense, or any defense, abatement or right of set off under any modification or amendment to a Lease which is binding upon Mortgagee and which was entered into by Mortgagor after the date of this Mortgage in violation of the requirements of subsection 1.08D hereof

1.09 Assignment of Leases, Rents, Income, Profits and Cash Collateral

1.09A Assignment; Discharge of Obligations. Mortgagor hereby unconditionally, absolutely and presently bargains, sells, grants, assigns, releases and sets over unto Mortgagee (1) all Leases and all other tenancies, occupancies, subleases, franchises and concessions of the Land or Improvements or which in any way affect the use or occupancy of all or any part of the Land or Improvements, and any other agreements affecting the use and occupancy of all or any part of the Land or Improvements, in each case, whether now or hereafter existing, and all right, title and interest of Mortgagor thereunder, including all rights to all security or other deposits, (2) all guarantees of the Obligations of any lessee, licensee or other similar party under any of the foregoing, whether now or hereafter existing, and (3) the Rents, regardless of whether the Rents accrue before or after foreclosure or during the full period of redemption. For the aforesaid purpose, Mortgagor does hereby irrevocably constitute and appoint Mortgagee its attorney-in-fact, in its name, to receive and collect all Rents, as the same accrue, and, out of the amount so collected, Mortgagee, its successors and assigns, are hereby authorized

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(but not obligated) to pay and discharge the Obligations (including any accelerated Obligations) in such order as Mortgagee may determine and whether due or not, and to pay the remainder, if any, to Mortgagor, or as otherwise required by law. Neither this assignment nor any such action shall constitute Mortgagee as a "mortgagee in possession" or otherwise make Mortgagee responsible or liable in any manner with respect to the Secured Property or the use, occupancy, enjoyment or operation of all or any portion thereof, unless and until Mortgagee, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Secured Property by any court at the request of Mortgagee or by agreement with Mortgagor, or the entering into possession of the Secured Property or any part thereof by such receiver, be deemed to make Mortgagee a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Secured Property or the use, occupancy, enjoyment or operation of all or any portion thereof. The assignment of all Leases and Rents in this Section 1.09 is intended to be an absolute, unconditional and present assignment from Mortgagor to Mortgagee and not merely the passing of a security interest. Mortgagor shall, at any time or from time to time, upon request of Mortgagee, execute and deliver any instrument as may be requested by Mortgagee to further evidence the assignment and transfer to Mortgagee of Mortgagor's interest in any Lease or Rents. Nothing herein shall in any way limit Mortgagee's remedies or Mortgagor's Obligations under the Assignment.

1.09B Entry Onto Secured Property; Lease of Secured Property. Mortgagee, at its option, may enter and take possession of the Secured Property and manage and operate the same as provided in Section 4.01, such management and operation to include the right to enter into Leases and new agreements and to take any action which, in Mortgagee's judgment, is necessary or proper to conserve the value of the Secured Property. The expenses (including any receiver's fees, attorneys' fees and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any Rents actually received by Mortgagee.

1.09C License to Manage Secured Property. Notwithstanding anything to the contrary contained in Section 1.09A or Section 1.09B, so long as there shall exist no Event of Default hereunder, Mortgagor shall have the license to manage and operate the Secured Property, including the right to enter into Leases, and collect all Rents as they accrue (but not more than one month in advance).

1.09D Delivery of Assignments. Mortgagor shall execute such additional documents as may be requested from time to time by Mortgagee, to evidence the assignment to Mortgagee or its nominee of any Leases now or hereafter made, such assignment documents to be in form and content acceptable to Mortgagee. Mortgagor shall deliver to Mortgagee, within thirty (30) days after Mortgagee's request (1) a duplicate original or photocopy of each Lease which is at the time of such request outstanding upon the Secured Property and (2) a complete schedule, certified by Mortgagor, of each Lease, showing the unit number, type, Lessee name, monthly rental, date to which Rents have been paid, term of Lease, date of occupancy, date of expiration, existing defaults, if any, and every special provision, concession or inducement granted to such Lessee.

1.09E Indemnity. Mortgagor shall assert no claim or liability related to Mortgagee's exercise of its rights pursuant to this Section 1.09. Mortgagor expressly waives all

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such claims and liabilities. Mortgagor hereby holds Mortgagee harmless from and against any and all claims, liabilities and expenses of any kind or nature against or incurred by Mortgagee arising out of Mortgagee's exercise of its rights pursuant to this Section 1.09, including Mortgagee's management, operation or maintenance of the Secured Property or the collection and disposition of Rents.

1.10 Further Assurances.

1.10A General; Appointment of Attorney-in-Fact. Upon request by Mortgagee, from time to time, Mortgagor shall prepare, execute and deliver, or cause to be prepared, executed and delivered, to Mortgagee, all instruments, certificates and other documents which may, in the reasonable opinion of Mortgagee, be necessary or desirable in order to effectuate, complete, perfect or continue and preserve the Obligations and the lien of this Mortgage. Upon any failure by Mortgagor to do so, Mortgagee may prepare, execute and record any such instruments, certificates and documents for and in the name of Mortgagor and Mortgagor hereby appoints Mortgagee the agent and attorney-in-fact of Mortgagor for such purposes. This power is coupled with an interest and shall be irrevocable so long as any part of the Obligations remain unpaid or unperformed. Mortgagor shall reimburse Mortgagee for all sums expended by Mortgagee in preparing, executing and recording such instruments, certificates and documents and such sums shall be secured by this Mortgage.

1.10B Statement Regarding Obligations. Either party shall, within ten (10) days after request by the other party, furnish such party with a written statement, duly acknowledged, setting forth (1) the unpaid principal balance of the Loan and the accrued but unpaid interest thereon, (2) whether or not any setoffs or defenses exist against the payment of such principal or interest, and (3) if such setoffs or defenses exist, the particulars thereof.

1.10C Additional Security Instruments. Mortgagor, from time to time and within fifteen (15) days after request by Mortgagee, shall execute, acknowledge and deliver to Mortgagee such chattel mortgages, security agreements or other similar security instruments, in form and substance satisfactory to Mortgagee, covering all property of any kind whatsoever owned by Mortgagor or in which Mortgagor may have any interest which, in the opinion of Mortgagee, is necessary to the operation and maintenance of the Secured Property or is otherwise a part of the Secured Property. Mortgagor, from time to time and within fifteen (15) days after request by Mortgagee, shall also execute, acknowledge and deliver any financing statement, renewal, affidavit, certificate, continuation statement, supplementary mortgage or other document as Mortgagee may request in order to perfect, preserve, continue, extend or maintain the security interest under, and the priority of, this Mortgage or such chattel mortgage or other security instrument, as a first lien. Mortgagor shall pay to Mortgagee on demand all costs and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and refiling of any such instrument or document, including charges for examining title and attorneys' fees and expenses for rendering an opinion as to the priority of this Mortgage and of each such chattel mortgage or other security agreement or instrument as a valid and subsisting first lien on such property. Neither a request so made by Mortgagee, nor the failure of Mortgagee to make such a request, shall be construed as a release of such property, or any part thereof, from the lien of this Mortgage. This covenant and each such mortgage, chattel or other security agreement or instrument, delivered to Mortgagee are cumulative and given as

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additional security. Mortgagor shall pay all premiums and related costs in connection with any title insurance policy or policies in full or partial replacement of the title insurance policy now insuring or which will insure the lien of this Mortgage.

1.10D Security Agreement. This Mortgage shall constitute a security agreement under Article 9 of the Code with respect to the Personal Property covered by this Mortgage. Pursuant to the applicable Granting Clauses hereof, Mortgagor has granted Mortgagee a security interest in the Personal Property and in all additions and accessions thereto, substitutions therefor and proceeds thereof for the purpose of securing all Obligations now or hereafter secured by this Mortgage. The following provisions relate to such security interest:

(1) The Personal Property includes all now existing or hereafter acquired or arising equipment, inventory, accounts, chattel paper, instruments, documents, deposit accounts, investment property, letter-of-credit rights, commercial tort claims, supporting obligations and general intangibles now or hereafter used or procured for use on the Premises or otherwise relating to the Premises. If Mortgagor shall at any time acquire a commercial tort claim relating to the Premises, Mortgagor shall promptly notify Mortgagee in a writing signed by Mortgagor of the brief details thereof and grant to Mortgagee a security interest therein and in the proceeds thereof.

(2) Mortgagor hereby irrevocably authorizes Mortgagee at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that (a) indicate the collateral as "all assets used or procured for use or otherwise relating to" the Premises or words of similar effect, or as being of equal or lesser scope or in greater detail, and to indicate the Premises as defined, or in a manner consistent with the term as defined, in this Mortgage and (b) contain any other information required by part 5 of Article 9 of the Uniform Commercial Code of the filing office for the sufficiency or filing office acceptance of any initial financing statement or amendment, including whether Mortgagor is an organization, the type of organization and any organizational identification number issued to Mortgagor. Mortgagor agrees to provide any such information to Mortgagee promptly upon request. Mortgagor also ratifies its authorization for Mortgagee to have filed in any filing office in any Uniform Commercial Code jurisdiction any like initial financing statements or amendments thereto if filed prior to the date hereof. Mortgagor shall pay to Mortgagee, from time to time, upon demand, any and all costs and expenses incurred by Mortgagee in connection with the filing of any such initial financing statements and amendments, including attorneys' fees and all disbursements. Such costs and expenses shall bear interest at the Increased Rate from the date paid by Mortgagee until the date repaid by Mortgagor and such costs and expenses together with such interest, shall be part of the Obligations and shall be secured by this Mortgage.

(3) Mortgagor shall any time and from time to time take such steps as Mortgagee may reasonably request for Mortgagee to obtain "control" of any Personal Property for which control is a permitted or required method to perfect or to insure priority of the security interest in such Personal Property granted hereby.

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(4) Upon the occurrence of an Event of Default, Mortgagee shall have the rights and remedies of a secured party under the Code as well as all other rights and remedies available at law or in equity or under this Mortgage.

(5) Mortgagor hereby acknowledges and agrees, to the extent permitted by law, that: (a) all of the goods described within the definition of the phrase "Secured Property" herein are or are to become "fixtures" (within the meaning of Section 9-313 of the Code) on the land described in Schedule A; (b) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of Sections 9-313 and 9-402 of the Code; and (c) Mortgagor is the record owner of the leasehold interest in the Land described in Schedule A.

(6) If Mortgagor does not have an organizational identification number and later obtains one, Mortgagor shall forthwith notify Mortgagee of such organizational identification number.

(7) Terms defined in the Code and not otherwise defined in this Mortgage have the same meanings in this Section 1.10D as are set forth in the Code. In the event that a term is used in Article 9 of the Code and also in another Article of the Code, the term used in this Section 1.10D is that used in Article 9. The term "control", as used in this Paragraph, has the meaning given in Section 9-104, 9-105, 9-106 or 9-107 of Article 9 of the Code, as applicable.

1.10E Preservation of Mortgagor's Existence. Mortgagor shall do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges under the laws of the state of its formation and of the State, and shall comply with all applicable Legal Requirements to maintain such existence.

1.10F Further Indemnities. In addition to any other indemnities contained in the Loan Instruments, Mortgagor hereby agrees to indemnify and hold Mortgagee harmless from and against all losses, liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including architects', engineers' and attorneys' fees and disbursements which may be imposed upon, incurred or asserted against Mortgagee by reason of: (1) the construction of the Improvements, (2) any capital improvements, other work or things, done in, on or under the Secured Property or any part thereof, (3) any use, nonuse, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Secured Property or any part thereof, (4) any negligence or willful act or omission on the part of Mortgagor, any Lessee or any agent, contractor, servant, employee, licensee or invitee of any Lessee or of Mortgagor, (5) any accident, injury (including death) or damage to any person or property occurring in, on or under the Secured Property or any part thereof or in, on or under any street, drive, sidewalk, curb, passageway or space adjacent thereto, (6) any default under any Loan Instrument or any Event of Default, (7) any lien or claim arising or alleged to have arisen on or against the Secured Property or any part thereof under any Legal Requirement or any liability asserted against Mortgagee with respect thereto, (8) any tax attributable to the execution, delivery, filing or recording of any Loan Instrument, (9) any contest permitted pursuant to the provisions of this Mortgage, or (10) the enforcement or attempted enforcement of this indemnity.

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1.10G Absence of Insurance. The obligations of Mortgagor under this Mortgage and the other Loan Instruments shall not in any way be affected by (1) the absence, in any case, of adequate insurance, (2) the amount of the insurance or (3) the failure or refusal of any insurer to perform any obligation required to be performed by it pursuant to any insurance policy affecting the Secured Property. If any claim, action or proceeding is made or brought against Mortgagee by reason of any event as to which Mortgagor is obligated to indemnify Mortgagee, then, upon demand by Mortgagee, Mortgagor, at Mortgagor's sole cost and expense, shall resist or defend such claim, action or proceeding in Mortgagee's name, if necessary, by such attorneys as Mortgagee shall approve. Notwithstanding the foregoing, Mortgagee may engage its own attorneys, in its discretion, to defend it or to assist in its defense, and Mortgagor shall pay the fees and disbursements of such attorneys and, until so paid, such amounts shall bear interest at the Increased Rate and shall be secured by this Mortgage.

1.10H Lost Note. Upon Mortgagee furnishing to Mortgagor an affidavit stating that the Note has been mutilated, destroyed, lost or stolen, Mortgagor shall deliver to Mortgagee, in substitution therefor, a new note containing the same terms and conditions as the Note, with a notation thereon of the unpaid principal balance and accrued and unpaid interest thereon.

1.11 Transfer or Further Encumbrances.

1.11A Continuing Ownership and Management. Mortgagor acknowledges that the continuous ownership of the Secured Property and its continuous management and operational control by Mortgagor are material to the making of the Loan.

1.11B Transfer or Encumbrance of Secured Property. Mortgagor shall not, without the prior written consent of Mortgagee, voluntarily or involuntarily, by operation of law or otherwise, transfer or dispose of, or suffer any third party to transfer or dispose of, all or any part of the Secured Property, the Rents, or any interest therein or the management and operation by Mortgagor of the Secured Property. Without limiting the generality of the foregoing, for purposes of this Section 1.11, a transfer or disposition of the Secured Property (or the Rents, as applicable) or any part thereof or interest therein shall include (1) the change of Mortgagor's type of organization, jurisdiction of organization or other legal structure, (2) the transfer of the Secured Property or any part thereof or interest therein to a cooperative corporation or association, (3) the conversion of all or any part of the Secured Property or interest therein to a condominium form of ownership, (4) the execution of a contract to sell or option to purchase all or any part of the Secured Property or any interest therein, (5) any lease for space in any Improvements for purposes other than occupancy by the tenant, (6) any lease for space in the Improvements containing an option to purchase, (7) any direct or indirect sale, assignment, conveyance, transfer (including a transfer as a result of or in lieu of condemnation) or other alienation of all or any part of the Rents or the Secured Property or any interest therein, (8) the creation of a lien or other encumbrance on the Secured Property or the Rents or any part thereof or interest therein, (9) any assignment, pledge, hypothecation, grant of security interest in, or the execution of a conditional sale or a title retention agreement with regard to, all or any part of the Secured Property or the Rents and (10) unless Mortgagor has provided Mortgagee with at least thirty (30) days prior written notice thereof, any change of Mortgagor's name, place of business or, if Mortgagor has more than one place of business, any change of its chief executive office, or any change of Mortgagor's mailing address or organizational identification number if it has one.

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Any such action described in this Section 1.11B is herein called a “Transfer” and all Transfers are prohibited without the prior written consent of Mortgagee. A Transfer shall also include any of the following events, whether made directly or through an intermediary, and whether made in one transaction or effected in more than one transaction:

(a) If Mortgagor or any partner or member of Mortgagor is a corporation, a transfer or disposition of any of the outstanding voting stock of Mortgagor or such partner or member of Mortgagor or of any other corporation directly or indirectly owning or controlling 50% or more of the voting stock of Mortgagor or such partner or member;

(b) If Mortgagor or any partner or member of Mortgagor is a partnership, a transfer or disposition of any partnership interest in Mortgagor or in such partner or member of Mortgagor;

(c) If Mortgagor or any partner or member of Mortgagor is a limited liability company, a transfer or disposition of any membership or manager interest in Mortgagor or in such partner or member of Mortgagor; or

(d) If Mortgagor or any partner or member of Mortgagor is a trust or other entity, a transfer or disposition of any of the beneficial interests in Mortgagor or such partner or member of Mortgagor.

For purposes of the preceding sentence a Transfer shall include any direct or indirect sale, any execution of a contract or other agreement to sell or option to purchase such stock or such partnership, membership or other beneficial interests, or any assignment or pledge of such stock or such partnership, membership or other beneficial interests, including any assignment or pledge for security purposes. Notwithstanding the foregoing, regardless of whether or not any transfer of (i) any interest in Mortgagor or in any of its constituent entities or (ii) any voting stock in any corporation directly or indirectly owning 50% or more of the voting stock of Mortgagor or of any of its constituent entities (the “Related Corporation”), is prohibited or not by this Section 1.11, no shareholder, partner, member or other beneficial owner of Mortgagor or of any of its constituent entities and no shareholder of any Related Corporation may pledge or assign for security purposes any of their respective interest(s) in Mortgagor or its constituent entities or in any Related Corporation, as applicable. Any pledge or assignment prohibited by the previous sentence shall be included in the term Transfer.

1.11C Acceleration of Obligations. In the event of a Transfer without the prior written consent of Mortgagee, which in connection therewith, Mortgagor has not otherwise indefeasibly paid the Obligations (including any Make-Whole Amount due under the Note or any other sum due and payable pursuant to the terms of Section 4.06 hereinbelow), Mortgagee may, without limiting any other right or remedy available to Mortgagee at law, in equity or by agreement with Mortgagor, and in Mortgagee’s discretion, and without regard to the adequacy of its security, accelerate the maturity of the Note and require the payment of all then existing Obligations, including the Make-Whole Amount provided in Section 4.06. The giving of consent by Mortgagee to a Transfer in any one or more instances shall not limit or waive the need for such consent in any other or subsequent instances.

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1.12 Expenses. Promptly after Mortgagee's demand therefor, Mortgagor shall pay Mortgagee for all costs and expenses, including attorneys' fees and expenses and costs of obtaining evidence of title, incurred by Mortgagee in connection with any action, suit, legal proceeding, claim or dispute (a) arising under or in connection with the performance of any rights or obligations under any Loan Instrument or affecting the Obligations or the Secured Property, (b) involving any insurance proceeds or condemnation awards with respect to the Secured Property, (c) to protect the security hereof, (d) as to any concern of Mortgagee with the condition of the Secured Property, or (e) of any other kind or nature in which Mortgagee is made a party relating to the Secured Property or the Loan, or appears as a party, including those related to the estate of an insolvent or decedent or any bankruptcy, receivership, or other insolvency under any chapter of the Bankruptcy Code (Title 11 of the United States Code), as amended, or any other insolvency proceeding or any exercise of the power of sale or judicial foreclosure as set forth in this Mortgage. If the Obligations are referred to attorneys for collection, foreclosure or any cause set forth in Article III, Mortgagor shall pay all costs and expenses incurred by Mortgagee, including attorneys' fees and expenses, all costs of collection, litigation costs and costs (which may be estimated as to items to be expended after completion of any foreclosure or other action) of procuring title insurance policies, whether or not obtained, Torrens certificates and similar assurances with respect to title and value as Mortgagee may deem necessary together with all statutory costs, with or without the institution of an action or proceeding. All costs and expenses described in this Section 1.12, with interest thereon at the Increased Rate from the date paid by Mortgagee to the date paid by Mortgagor, shall be paid by Mortgagor on demand, and shall be secured by this Mortgage.

1.13 Subordinate Indebtedness.

1.13A Permitted Subordinate Indebtedness. Pursuant to the terms of that certain Right of First Opportunity to Provide Subordinate Mortgage Financing by and between Mortgagee and Mortgagor of even date herewith, Mortgagor has granted Mortgagee a right of first opportunity to provide Mortgagor subordinate mortgage financing by giving Mortgagee written notice of Mortgagor's intent to seek additional financing in a specified amount. Nothing in this Mortgage shall prohibit Mortgagor from contacting other prospective lenders regarding the subordinate financing. In the event that Mortgagee elects not to provide Mortgagor additional financing in the requested amount, then, notwithstanding the prohibition contained in Section 1.11 hereinabove, Mortgagor may, following September 10, 2007, obtain subordinate financing in the specified amount (the aggregate of the indebtedness and other monies due pursuant to any such subordinate loan is herein called the "Subordinate Indebtedness") if (and only if) Mortgagor satisfies each of the following conditions:

(1) The proposed lender providing the Subordinate Indebtedness shall be a recognized institutional lender reasonably approved by the Mortgagee;

(2) No Event of Default shall have occurred and be continuing beyond any applicable cure period under the terms of any of the Loan Instruments and no event has occurred and is continuing beyond any applicable cure period which, with the giving of notice or lapse of time, or both, would constitute an Event of Default under any of the Loan Instruments, on the date of the proposed subordinate financing;

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(3) The projected Debt Service Coverage Ratio for the Secured Property with respect to the Loan and the proposed Subordinate Indebtedness shall, as determined by Mortgagee based on actual debt service payments required, be no less than 1.50:1. For the purpose of computing the Debt Coverage Ratio, if interest on the Subordinate Indebtedness is payable other than at a fixed rate, such interest shall be deemed payable at the maximum rate that may be payable during the fiscal year in question pursuant to the instrument(s) evidencing the Subordinate Indebtedness;

(4) The loan-to-value ratio with respect to the Secured Property, the Loan and the proposed Subordinate Indebtedness, as determined pursuant to an appraisal satisfactory to Mortgagee, completed at Mortgagor's sole cost and expense, by an MAI appraiser acceptable to Mortgagee, shall be not greater than fifty-five percent (55%);

(5) Mortgagee has received not less than thirty (30) days prior written notice of the proposed subordinate financing, together with copies of the proposed documentation for the proposed subordinate financing, which documents shall be in form and substance acceptable to Mortgagee; and

(6) Any lender (other than Mortgagee) providing such proposed Subordinate Indebtedness must enter into an increditor agreement with Mortgagee, in form and substance reasonably satisfactory to Mortgagee;

(7) The maturity of the proposed Subordinate Indebtedness shall be no later than September 10, 2016;

(8) Mortgagor shall pay all fees and expenses incurred in connection with the closing of any such Subordinate Indebtedness, including, without limitation fees and expenses of counsel retained by Mortgagee in connection therewith, together with an administrative fee in the amount of \$10,000.

1.13B Interest Payments. For the purpose of this Section 1.13, interest and other charges which shall accrue during any such period shall be deemed payable during such period, notwithstanding that the payment of all or any portion thereof may be deferred to a subsequent period. For the purposes of this Section 1.13, the calculation of the projected net operating income of the Premises shall not take into account any payments of interest, principal and any other amounts payable to Mortgagee under this Mortgage or to any holder of the Subordinate Indebtedness.

1.14 Single Purpose Entity. Mortgagor represents, warrants, and covenants with Mortgagee that without Mortgagee's prior written consent, it has not and shall not:

(1) engage in any business other than ownership, management and operation of the Secured Property;

(2) acquire or own any asset or property other than the Secured Property and incidental personal property necessary for the ownership, management and operation of the Secured Property;

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- (3) maintain assets in a way difficult to segregate and identify, or commingle its assets with the assets of any other person or entity;
- (4) fail to hold itself out to the public as a legal entity separate from any other,
- (5) fail to conduct business solely in its name or fail to maintain capital sufficient to conduct its business;
- (6) fail to maintain records, accounts or bank accounts separate from any other person or entity;
- (7) file or consent to a petition pursuant to applicable bankruptcy, insolvency, liquidation or reorganization statutes, or make an assignment for the benefit of creditors;
- (8) except as may be expressly permitted pursuant to the terms and conditions of Section 1.13 of this Mortgage, incur additional indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation) except for trade payables in the ordinary course of business of owning, managing and operating the Secured Property, provided that any such trade payable indebtedness is paid within sixty (60) days of when incurred;
- (9) not guaranty, become obligated for, or hold itself out to be responsible for the debts or obligations of any other person or entity, or the decisions or actions respecting the daily business or affairs of any other person or entity, or pledge its assets for the benefit of any other person or entity;
- (10) make any loans or loan advances to any third party (including any member, manager, partner, principal or affiliate of the Mortgagor);
- (11) dissolve, liquidate, consolidate, merge or sell all or substantially all of its assets;
- (12) seek, upon the commencement of a voluntary or involuntary bankruptcy proceeding by or against Mortgagor, a supplemental stay or otherwise pursuant to 11 U.S.C. §105 or any other provision of the Delaware Limited Liability Company Act, or any other debtor relief law (whether statutory, common law, case law, or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, to stay, interdict, condition, reduce or inhibit the ability of Mortgagee to enforce any rights of Mortgagee against any guarantor or indemnitor of the secured obligations or any other party liable with respect thereto by virtue of any indemnity, guaranty or otherwise; or
- (13) modify, amend or revise its organizational documents in a manner that would result in a breach of any of the foregoing covenants.

Notwithstanding anything contained herein to the contrary, Mortgagor's operating agreement must explicitly provide that no member of Mortgagor shall be allowed to vote to allow

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Mortgagor to file a voluntary petition for bankruptcy or other voluntary insolvency proceeding, assignment for the benefit of creditors or other similar action, during the term of the Loan and for an additional ninety (90) days after the Loan has been paid in full..

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

Mortgagor represents and warrants:

2.01 Warranty of Title. Mortgagor (a) lawfully owns and holds fee or leasehold title to the Secured Property (other than the Personal Property), in fee simple, subject to no mortgage, lien, charge or other encumbrance, except as specifically set forth in the title insurance policy issued to Mortgagor upon recordation of this Mortgage, (b) has full power and lawful authority to grant, bargain, sell, convey, assign, release, pledge, set over, transfer and mortgage the Secured Property as set forth herein, (c) lawfully owns and holds title to or leases the Personal Property subject to no mortgage, lien, charge or other encumbrance, and (d) does warrant and will defend the fee or leasehold, as applicable, title to the Secured Property against all claims and demands whatsoever.

2.02 Ownership of Additional or Replacement Improvements and Personal Property. All Improvements and Personal Property hereafter affixed, placed or used by Mortgagor on the Secured Property shall be owned by Mortgagor free from all mortgages, liens, charges or other encumbrances other than (i) the Ground Leases and (ii) liens and encumbrances placed upon Personal Property that is leased by Mortgagor in the ordinary course of its business.

2.03 No Pending Material Litigation or Proceeding; No Hazardous Materials.

2.03A Proceedings Affecting Mortgagor. There are no actions, suits, investigations or proceedings of any kind pending, or, to the best knowledge and belief of Mortgagor, threatened in writing, against or affecting Mortgagor, or any Guarantor, or against any shareholder, general partner or member of Mortgagor or any Guarantor, or the business, operations, properties or assets of Mortgagor or any shareholder, general partner or member of Mortgagor or any Guarantor, or before or by any Governmental Agency, which may result in any material adverse change in the business, operations, properties or assets or in the condition, financial or otherwise, of Mortgagor or any Guarantor or any general partner or member of Mortgagor, or in the ability of Mortgagor to pay or otherwise perform the Obligations. To the best knowledge and belief of Mortgagor, no default exists with respect to any judgment, order, writ, injunction, decree, demand, rule or regulation of any Governmental Agency, which might materially and adversely affect the business, operations, properties or assets or the condition, financial or otherwise, of Mortgagor or any Guarantor or any general partner or member of Mortgagor or the ability of Mortgagor to pay or otherwise perform the Obligations.

2.03B Proceedings Affecting Secured Property. There are no actions, suits, investigations or proceedings of any kind pending, or, to the best knowledge and belief of Mortgagor, threatened in writing, against or affecting the Secured Property (including any attempt or threat by any Governmental Agency to condemn or rezone all or any portion of the

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Secured Property), or involving the validity, enforceability or priority of the Loan Instruments or enjoining or preventing or threatening to enjoin or prevent the use and occupancy of the Secured Property or the performance by Mortgagee of the Obligations, and there are no rent controls, governmental moratoria or environmental controls (other than those generally imposed by federal or state law) presently in existence or, to the best knowledge and belief of Mortgagor, threatened, affecting the Secured Property.

2.03C No Hazardous Material. Except as otherwise disclosed in the Environmental Report, neither Mortgagor nor, to the best knowledge and belief of Mortgagor, any other Person has ever:

(1) caused or knowingly permitted any Hazardous Material to be placed, held, located or disposed of, in, on, under or about the Secured Property or any part thereof, except for the use and storage (in accordance with all applicable Legal Requirements) of such amounts of janitorial and cleaning supplies and other Hazardous Materials typically and customarily used in the ordinary course of operating and maintaining a mixed-use project consisting of residential apartment units, commercial space and related facilities, or caused or knowingly permitted, in violation of any Legal Requirement, any Hazardous Material to be placed, held, located or disposed of, in, on or under any other real property legally or beneficially owned (or any interest or estate which is so owned) by Mortgagor in any jurisdiction now or hereafter having in effect a so-called "superlien" law or ordinance (the effect of which superlien law or ordinance would be to permit the creation of a lien on the Secured Property to secure any obligation), and neither the Secured Property, nor any part thereof, nor any other real property legally or beneficially owned (or any interest or estate therein which is so owned) by Mortgagor in any jurisdiction now or hereafter having in effect a so-called "superlien" law or ordinance or any part thereof, has ever been used (whether by Mortgagor or, to the best knowledge or belief of Mortgagor, by any other Person) as a dump site, storage (whether permanent or temporary) site or transfer site for any Hazardous Material; or

(2) caused or knowingly permitted any asbestos or underground fuel storage facility to be located in, on or under the Secured Property; or

(3) discovered any occurrence or condition on any real property adjoining the Secured Property that could cause the Secured Property or any part thereof to be subject to any remediation requirements or any restrictions on the ownership, occupancy, transferability or use of the Secured Property under any Environmental Requirement.

2.03D No Litigation Regarding Hazardous Material. No Person has brought, settled or, to the best knowledge and belief of Mortgagor, threatened in writing any litigation or administrative action or proceeding against Mortgagor alleging the presence, Release or threatened Release of any Hazardous Material in, on, or under the Secured Property.

2.04 Valid Organization, Good Standing and Qualification of Mortgagor; Other Organizational Information. Mortgagor is a duly and validly organized and existing limited liability company in good standing under the laws of the jurisdiction of its organization, and is duly licensed or qualified and in good standing in all other jurisdictions where its ownership or leasing of property or the nature of the business transacted by it makes such qualification

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necessary, and is entitled to own its properties and assets and to carry on its business, all as, and in the places where, such properties and assets are now owned or operated or such business is now conducted. Mortgagor has paid all franchise and similar taxes in the jurisdiction in which the Secured Property is located and in all of the jurisdictions in which it is so qualified, insofar as such taxes are due and payable at the date of this Mortgage. Mortgagor's exact legal name is that indicated on the signature page hereof. Mortgagor is an organization of the type, and is organized in the jurisdiction, as set forth in the first paragraph of this Mortgage. Mortgagor's organizational identification number is 20-4409161. Section 6.07 accurately sets forth Mortgagor's place of business or, if Mortgagor has more than one place of business, its chief executive office as well as Mortgagor's mailing address if different.

2.05 Authorization; No Legal Restrictions on Performance. The execution and delivery by Mortgagor of the Loan Instruments and its compliance with the terms and conditions of the Loan Instruments have been duly and validly authorized by all necessary corporate, partnership, membership or other applicable action by Mortgagor and its constituent entities. Neither the execution and delivery by Mortgagor of the Loan Instruments, nor the consummation of the transactions contemplated by the Loan Instruments, nor compliance with the terms and conditions thereof will, to the best knowledge and belief of Mortgagor, (A) conflict with or result in a breach of, or constitute a default under, any of the terms, obligations, covenants or conditions or provisions of (1) any corporate charter or bylaws, partnership agreement, limited liability company operating agreement, or other organizational or qualification document, restriction, indenture, mortgage, deed of trust, pledge, bank loan or credit agreement, or any other agreement or instrument to which Mortgagor is now a party or by which Mortgagor or its properties may be bound or affected, or (2) any judgment, order, writ, injunction, decree or demand of any Governmental Agency, or (B) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any property or asset of Mortgagor pursuant to the terms or provisions of any of the foregoing. To the best of Mortgagor's knowledge, Mortgagor is not in default in the performance, observance or fulfillment of any of the terms, obligations, covenants or conditions contained in any indenture or other agreement creating, evidencing or securing the Obligations or pursuant to which Mortgagor is a party or by which the Mortgagor or its properties may be bound or affected.

2.06 Compliance With Laws. Mortgagor has, to the best knowledge and belief of Mortgagor, complied with all applicable Legal Requirements with respect to the conduct of its business and ownership of its properties. Except for filings required by the Uniform Commercial Code and the recordation of this Mortgage, no governmental orders, permissions, consents, approvals or authorizations are required to be obtained, and no registrations or declarations are required to be filed in connection with the execution, delivery or performance by Mortgagor of its Obligations.

2.07 Tax Status. Mortgagor has filed all United States income tax returns and all state and municipal tax returns which are required to be filed, and has paid, or made provision for the payment of, all taxes which have become due pursuant to such returns or pursuant to any assessment received by Mortgagor.

2.08 Absence of Foreign or Enemy Status; Foreign Corrupt Practices Act.

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2.08A Mortgagor represents and warrants that it is in compliance with the requirements of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Person Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001) (the “Order”) and other similar requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (“OFAC”) and in any enabling legislation or other executive orders or regulations in respect thereof (the Order and such other rules regulations, legislation or orders are collectively referred to herein as the “Orders”).

2.08B Neither the Loan, nor Mortgagor’s use of the proceeds thereof, will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto. Without limiting the generality of the foregoing, neither Mortgagor, nor any subsidiary or affiliate of Mortgagor, nor any member, partner or shareholder or other beneficial owner of Mortgagor or of any such subsidiary, affiliate, member, partner, shareholder or other beneficial owner (A) is listed on the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to the Order and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders, (B) is or will become a “blocked person” described in Section 1 of the Order or (C) knowingly engages or will engage in any dealings or transactions, or is or will be otherwise associated, with any such blocked person. No part of the proceeds of the Loan will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the Foreign Corrupt Practices Act of 1977, as amended.

2.09 Federal Reserve Board Regulations. No part of the proceeds of the Loan will be used, directly or indirectly, for the purpose of buying or carrying any margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System (12 CFR 221), or for the purpose of buying or carrying or trading in any securities under such circumstances as to involve Mortgagor in a violation of Regulation X of said Board (12 CFR 224) or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). Margin stock does not constitute any of the value of the consolidated assets of Mortgagor and its subsidiaries, if any, and Mortgagor does not have any present intention that margin stock will constitute any of the value of such assets. As used in this Section, the terms “margin stock” and “purpose of buying or carrying” shall have the meanings assigned to them in said Regulation U.

2.10 Investment Company Act and Public Utility Holding Company Act. Neither Mortgagor, nor any subsidiary of Mortgagor, if any, is subject to regulation under the Investment Company Act of 1940, as amended, the Public Utility Holding Company Act of 1935, as amended, the Interstate Commerce Act, as amended, or the Federal Power Act as amended.

2.11 Exempt Status of Transactions Under Securities Act and Representations Relating Thereto. Neither Mortgagor, nor anyone acting on its behalf, has (a) solicited offers to make all or any part of the Loan, from more than 35 Persons or (b) otherwise approached, negotiated or

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communicated with more than 35 Persons regarding the making of all or any part of the Loan by such Person(s). Neither Mortgagor, nor anyone acting on its behalf has taken, or will take, any action that would subject the making of the Loan to the registration requirements of Section 5 of the Securities Act of 1933, as amended.

2.12 ERISA Compliance.

2.12A ERISA Representations and Warranties.

(1) For purposes hereof, "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as in effect on the date hereof and as such Act may be amended thereafter from time to time. The term "Plan" shall mean an employee benefit plan that is an investor in Mortgagor.

(2) Mortgagor advises, represents and warrants to Mortgagee that its structure is as follows: (1) Mortgagor is a Delaware limited liability company whose sole member is MEPT-501, Inc., a Delaware corporation whose sole stockholder is NewTower Trust Company Multi-Employer Property Trust (the "Trust"), which is a co-mingled open-end real estate equity fund that invests in a portfolio of institutional-quality properties in major metropolitan areas around the United States; (2) NewTower Trust Company, a Maryland chartered trust company ("NTTC") serves as the Trustee for the Trust and, as such, manages and/or controls the assets of the Trust and thereby Mortgagor; (3) NTTC is a fiduciary and "investment manager" within the meaning of ERISA Section 3(38), and (4) Kennedy Associates Real Estate Counsel, Inc. ("Kennedy Associates") is an entity providing services to NTTC.

(3) Mortgagor further represents, warrants and agrees that the Trust constitutes a "collective investment fund" within the meaning of U.S. Department of Labor Prohibited Transaction Class Exemption ("PTCE") 91-38.

(4) Mortgagor also represents, warrants and advises that (i) NTTC is a properly appointed "qualified professional asset manager" ("QPAM") with respect to the Trust within the meaning of U.S. Department of Labor PTCE 84-14; (ii) NTTC and/or Kennedy Associates (acting at NTTC's discretion) have negotiated the terms of the Loan Instruments, and NTTC has made the determination to enter into the Loan Instruments on behalf of Mortgagor consistent with the terms of PTCE 84-14; (iii) the assets of a Plan invested in the Trust (together with other Plans sponsored by the same employer or its affiliates or employee organization) do not represent more than twenty percent (20%) of the total client assets managed by NTTC; and (iv) condition (g) of Part I of PTCE 84-14 is satisfied.

(5) Mortgagor also represents, warrants and advises that any transactions in which Mortgagor is a party, including the loan transactions, will not be deemed prohibited under ERISA or shall be exempt from the prohibited transaction provisions of ERISA pursuant to one or more of the following: (a) PTCE 91-38, (b) PTCE 84-14, (c) ERISA section 408(b)(17).

(6) Mortgagor is not and will continue not to be a "governmental plan" within the meaning of Section 3(32) of ERISA and transactions by or with Mortgagor are not and

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will not be subject to any Legal Requirements regulating investments of and fiduciary obligations with respect to governmental plans.

(7) Mortgagor will not engage in any transaction which would cause any obligation or any action under the Loan Instruments, including Mortgagee's exercise of the remedies available to Mortgagee pursuant to the Loan Instruments or at law or equity, to be a non-exempt prohibited transaction under ERISA.

(8) Mortgagor represents and warrants that any liability that Mortgagor (or any of its affiliates) may have in respect of an employee benefit plan as defined in Section 3(4) of ERISA has been and shall continue to be satisfied in full.

2.13 Lease. Except as disclosed to Mortgagee by Mortgagor in writing, there have been no modifications of the Commercial Leases from the information disclosed in the estoppel certificates obtained by Mortgagor during its acquisition of the Secured Property in May, 2006, of which true and correct copies of such estoppel certificates were delivered to Mortgagee on or before the date hereof.

ARTICLE 3

DEFAULTS

3.01 Events of Default. The existence of any of the following circumstances shall be deemed an "Event of Default" pursuant to this Mortgage, without cure or grace period unless expressly otherwise provided herein:

3.01A if Mortgagor fails to pay any portion of the Obligations as and when the same shall become due and payable as provided in the Loan Instruments and such failure continues for three (3) days following written notice from Mortgagee, provided that Mortgagee shall not be required to send such notice more than one (1) time during any twelve (12) month period; or

3.01B if Mortgagor fails to perform or observe any other term, provision, covenant or agreement in the Loan Instruments other than as described in the other clauses of this Section 3.01 and such failure continues for thirty (30) days following written notice from Mortgagee; provided, however, that if any such failure is susceptible to cure and cannot reasonably be cured within said thirty (30) day period, then Mortgagor shall have such longer period of time as may be required (but in no event to exceed an additional sixty (60) days) to cure such failure and no Event of Default shall be deemed to exist hereunder so long as Mortgagor commences such cure within the initial thirty (30) day period and diligently and in good faith pursues such cure to completion within ninety (90) days after the date of Mortgagee's notice; or

3.01C if any representation, warranty, certification, financial statement or other information made or furnished at any time pursuant to the terms of the Loan Instruments or otherwise, by or on behalf of Mortgagor, any Guarantor or any other Person liable for the Obligations, shall prove to be materially false or materially misleading; provided, however, if

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any such materially false and/or materially misleading warranty, representation, certification, financial statement or other information made or furnished (i) was not intentionally made at the time, and (ii) is, in the judgment of Mortgagee, susceptible to cure, then no Event of Default shall be deemed to exist hereunder so long as Mortgagor cures such false or misleading warranty, representation certification or financial statement within thirty (30) days following the earlier to occur of (x) the date on which Mortgagor becomes aware that any such warranty, representation, certification or financial statement made or furnished was or is materially false or misleading, or (y) written notice from Mortgagee to Mortgagor; or

3.01D if Mortgagor shall:

(1) apply for, consent to or acquiesce in the appointment of a receiver, trustee or liquidator of Mortgagor or of all or any part of Mortgagor's assets or the Secured Property or any interest in any part thereof (the term "acquiesce" includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree providing for such appointment within thirty (30) days after the appointment); or

(2) commence a voluntary case or other proceeding in bankruptcy, or admit in writing its inability to pay its debts as they come due; or

(3) make a general assignment for the benefit of creditors; or

(4) file a petition or an answer seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future bankruptcy code or any other statute or law relating to bankruptcy, insolvency or other relief for debtors; or

(5) file an answer admitting the material allegations of, or consent to, or default in answering, a petition filed against it in any bankruptcy, reorganization or insolvency case or proceeding; or

3.01E if a court of competent jurisdiction enters an order for relief against Mortgagor under any present or future bankruptcy code or any other statute or law relating to bankruptcy, insolvency or other relief for debtors, which order shall continue unstayed and in effect for any period of sixty (60) consecutive days; or

3.01F if a court of competent jurisdiction enters an order, judgment or decree adjudicating Mortgagor insolvent, approving a petition seeking reorganization or arrangement of Mortgagor or appointing a receiver, custodian, trustee or liquidator of Mortgagor or of all or any part of Mortgagor's assets or the Secured Property or any interest in any part thereof, and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) consecutive days; or

3.01G if Mortgagor assigns or purports to assign the whole or any part of the Rents arising from the Secured Property or any part thereof without the prior written consent of Mortgagee; or

3.01H if a Transfer shall occur in violation of this Mortgage; or

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3.01I if Mortgagor shall be in default beyond any applicable grace period pursuant to any other mortgage, security instrument or other agreement affecting Mortgagor or any substantial part of its assets or all or any part of the Secured Property; or

3.01J if any mechanic's, laborer's or materialman's lien, federal tax lien, broker's lien or other lien not permitted hereunder and affecting the Secured Property or any part thereof is not discharged, by payment, bonding, order of a court of competent jurisdiction or otherwise or otherwise being contested pursuant to the terms contained in this Mortgage, within thirty (30) days after Mortgagor receives notice thereof from the lienor or from Mortgagee.

3.01K if any of the events described in Section 3.01(D), Section 3.01(E) and/or Section 3.01(F) shall occur and continue beyond the applicable cure period in respect of any Guarantor; or

3.01L if a default beyond any cure period by any Guarantor or other Person (other than Mortgagee) shall occur under any guaranty, indemnity agreement, or other instrument which it has executed in connection with the Loan; or

3.01M if Mortgagor shall be in default under any Ground Lease beyond any and all applicable notice and cure periods; or

3.01N if Mortgagor or Guarantor shall be in default under the Agreement to Master Lease beyond any and all applicable notice and cure periods; or

3.01O if any Guarantor shall contest, repudiate or purport to revoke any guaranty, indemnity agreement or other instrument which it has executed in connection with the Loan for any reason or if any such guaranty, indemnity or other instrument shall cease to be in full force and effect as to the Guarantor or shall be judicially declared null and void as to the Guarantor, or if any Guarantor shall be liquidated, dissolved or wound-up.

ARTICLE 4

REMEDIES

4.01 Acceleration, Foreclosure, etc. Upon the happening of any Event of Default, Mortgagee may, at its sole option, declare the entire unpaid balance of the Obligations, including, the Make-Whole Amount and any other prepayment charges, if any, due pursuant to any Loan Instrument, immediately due and payable without notice or demand, provided, however, simultaneously with the occurrence of an Event of Default under Section 3.01D, 3.01E or 3.01F, and without the necessity of any notice or other action by the Mortgagee, all Obligations shall automatically become and be due and payable, without notice or demand. In addition, upon the happening of any Event of Default, Mortgagee may, at its sole option, without further delay, undertake any one or more of the following or exercise any other remedies available to it under applicable law or equity:

4.01A Foreclosure. Institute an action, judicial or otherwise, to foreclose this Mortgage, or take such other action as may be allowed at law or in equity, for the enforcement

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hereof and realization on the Secured Property or any other security which is herein or elsewhere provided for in the Loan Instruments, or proceed thereon to final judgment and execution thereon for the entire unpaid balance of the Obligations, including interest at the rate specified in the Loan Instruments to the date of the Event of Default and thereafter at the Increased Rate, and all other sums secured by this Mortgage, including all attorneys' fees and expenses, costs of suit and other collection costs, interest at the Increased Rate on any judgment obtained by Mortgagee from and after the date of any sale of the Secured Property (which may be sold in one parcel or in such parcels, manner or order as Mortgagee shall elect) until actual payment is made of the full amount due Mortgagee pursuant to the Loan Instruments, any law, usage or custom to the contrary notwithstanding.

4.01B Partial Foreclosure. Mortgagee shall have the right to foreclose the lien hereof to satisfy payment and performance of any part of the Obligations from time to time. If an Event of Default exists as to the payment of any part of the Obligations, as an alternative to the right of foreclosure to satisfy payment of the Obligations after acceleration thereof, to the extent permitted by applicable law, Mortgagee may institute partial foreclosure proceedings ("Partial Foreclosure") with respect to the portion of the Obligations as to which the Event of Default exists, as if under a full foreclosure, and without declaring the entire unpaid balance of the Obligations due. If Mortgagee institutes a Partial Foreclosure, Mortgagee may sell, from time to time, such part or parts of the Secured Property as Mortgagee, in its discretion, deems appropriate, and may make each such sale subject to the continuing lien of this Mortgage for the remainder, from time to time, of the Obligations. No Partial Foreclosure, if so made, shall in any manner affect the remainder, from time to time, of the Obligations or the priority of this Mortgage. As to such remainder, this Mortgage and the lien hereof shall remain in full force and effect as though no foreclosure sale had been made pursuant to the provisions of this Section 4.01B. Notwithstanding the filing of any Partial Foreclosure or the entry of a decree of sale therein, Mortgagee may elect, at any time prior to any Partial Foreclosure, to discontinue such Partial Foreclosure and the acceleration of the Obligations by reason of any Event of Default upon which such Partial Foreclosure was predicated, and to proceed with full foreclosure proceedings. Mortgagee may commence a Partial Foreclosure, from time to time, as to any part of the Obligations without exhausting the right of full foreclosure or Partial Foreclosure for any other part of the Obligations as to which such Partial Foreclosure shall not have occurred.

4.01C Entry. To the extent permitted by applicable law, Mortgagee personally, or by its agents or attorneys, may enter all or any part of the Secured Property, and may exclude Mortgagor, its agents and servants wholly therefrom without liability for trespass, damages or otherwise. Mortgagor shall surrender possession of the Secured Property to Mortgagee on demand after the happening of any Event of Default. Thereafter, Mortgagee may use, operate, manage and control the Secured Property and conduct the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or receivers. Upon each such entry, Mortgagee, at the expense of Mortgagor from time to time, either by purchase, repairs or construction, may maintain and restore the Secured Property, may complete the construction of the Improvements and in the course of such completion may make such changes in the contemplated or completed Improvements as Mortgagee may deem desirable and may insure the same. At the expense of Mortgagor, Mortgagee may make, from time to time, all necessary or desirable repairs, renewals and replacements and such alterations, additions, betterments and

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improvements thereto and thereon as Mortgagee may deem advisable. In each of the circumstances described in this Section 4.01C, Mortgagee shall have the right to manage and operate the Secured Property and to carry on the business thereof and exercise all rights and powers of Mortgagor with respect thereto, either in the name of Mortgagor or otherwise as Mortgagee shall deem best.

4.01D Collection of Rents, etc. Mortgagee may collect and receive all Rents. Mortgagee may deduct, from the monies so collected and received, all expenses of conducting the business of the Secured Property and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for Impositions, insurance, taxes and assessments, liens or other charges upon the Secured Property or any part thereof, as well as reasonable compensation for the services of Mortgagee and for all attorneys, agents, clerks, servants, and other employees engaged and employed by Mortgagee. After such deductions and the establishment of all reasonable reserves, Mortgagee shall apply all such monies to the payment of the unpaid Obligations. Mortgagee shall account only for Rents actually received by Mortgagee.

4.01E Receivership. Mortgagee may have a receiver appointed to enter into possession of the Secured Property, collect the Rents therefrom and apply the same as the court may approve. Mortgagee may have a receiver appointed, as a matter of right with notice to the extent required by law and without the necessity of proving either the inadequacy of the security provided by this Mortgage or the insolvency of Mortgagor or any other Person who may be legally or equitably liable to pay the Obligations. Mortgagor and each such Person, presently and prospectively, waive such proof and consent to the appointment of such receiver. If Mortgagee or any receiver collects the Rents, the monies so collected shall not be substituted for payment of the Obligations, nor shall said sums of Rents collected be used to cure an Event of Default without the prior written consent of Mortgagee. Subject to the immediately preceding sentence, following the payment of any and all proper costs, charges and expenses related to the Secured Property or the Loan, including without limitation, the payment of any sums due to Mortgagee pursuant to this Mortgage or any other Loan Instrument, any then-remaining sums of Rent collected following the payment of such costs, charges and expenses may be applied toward the Obligations. Mortgagee shall not be liable to account for Rents not actually received by Mortgagee, nor can they be used to cure an Event of Default, without the prior written consent of Mortgagee.

4.01F Specific Performance. Mortgagee may institute an action for specific performance of any covenant contained herein or in aid of the execution of any power herein granted.

4.01G Recovery of Sums Required to be Paid. Mortgagee may, from time to time, take action to recover any sum or sums which constitute a part of the Obligations as such sums shall become due, without regard to whether or not the remainder of the Obligations shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure or any other action for each Event of Default existing from time to time.

4.01H Other Remedies. Mortgagee may take all actions permitted under the Uniform Commercial Code of the State and may take any other action, or pursue any other right

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or remedy, as Mortgagee may have under applicable law, and Mortgagor does hereby grant such rights to Mortgagee.

4.011 Illinois Mortgage Foreclosure and Remedies.

(1) All advances, disbursements and expenditures (collectively “advances”) made by Mortgagee before and during foreclosure, prior to sale, and where applicable, after sale, for the following purposes, including interest thereon at the Increased Rate (as defined in the Note), are hereinafter referred to as “Protective Advances” and shall constitute additional indebtedness hereunder and shall be secured by the lien hereof:

(a) any amount for restoration or rebuilding in excess of the actual or estimated proceeds of insurance or condemnation award for the purpose of such repair or replacement;

(b) advances in accordance with the terms of this Mortgage to: (i) protect, preserve or restore the Secured Property; (ii) preserve the lien of this Mortgage or the priority thereof; or (iii) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the Illinois Mortgage Foreclosure Law 735 ILCS 5/15-1101 et seq., as amended from time to time (the “Act”);

(c) payments of (i) when due installments of principal, interest or other obligations in accordance with the terms of any Prior Encumbrance (as hereinafter defined); (ii) when due installments of real estate taxes and other Impositions; (iii) other obligations authorized by this Mortgage; or (iv) with court approval any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, all as referred to in Section 15-1505 of the Act;

(d) attorneys’ fees and other costs incurred in connection with the foreclosure of this Mortgage as referred to in Sections 1504 (d)(2) and 15-1510 of the Act and in connection with any other litigation or administrative proceeding to which the Mortgagee may be or become or be threatened or contemplated to be a party, including probate and bankruptcy proceedings, or in the preparation for the commencement or defense of any such suit or proceeding; including filing fees, appraisers’ fees, outlays for documents and expert evidence, witness fees, stenographer’s charges, publication costs, and costs (which may be estimated as to items to be expended after entry of judgment) of procuring all such abstracts of title, title charges and examinations, foreclosure minutes, title insurance policies, appraisals, and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute or defend such suit or, in case of foreclosure, to evidence to bidders at any sale which may be had pursuant to the foreclosure judgment the true condition of the title to or the value of the Secured Property;

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(e) Mortgagee's fees and costs arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b) (1) of Section 15-1508 of the Act;

(f) payment by Mortgagee of Impositions as required of Mortgagor by Section 1.02 of this Mortgage;

(g) Mortgagee's advances of any amount required to make up a deficiency in deposits for installments of Impositions, as may be required of Mortgagor under this Mortgage;

(h) expenses deductible from proceeds of sale referred to in Subsections (a) and (b) of Section 15-1512 of the Act; and

(i) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) if any of the Secured Property consists of an interest in a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (ii) premiums upon casualty and liability insurance made by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, without regard to the limitation to maintaining of insurance in effect at the time any receiver or mortgagee takes possession of the Secured Property imposed by Subsection (c)(1) of Section 15-1704 of the Act; (iii) payments required or deemed by Mortgagee to be for the benefit of the Secured Property or required to be made by the owner of the Secured Property under any grant or declaration of easement, easement agreement, reciprocal easement agreement, agreement with any adjoining land owners or other instruments creating covenants or restrictions for the benefit of or affecting the Secured Property; (iv) shared or common expense assessments payable to any association or corporation in which the owner of the premises is a member in any way affecting the Secured Property; (v) operating deficits incurred by Mortgagee in possession or reimbursed by Mortgagee to any receiver; (vi) fees and costs incurred to obtain an environmental assessment report relating to the Secured Property; and (vii) any monies expended in excess of the face amount of the Note.

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

The Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, be included in:

(a) determination of the amount of indebtedness secured by this Mortgage at any time;

(b) the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent amendment of such judgment,

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supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after entry of such judgment, it being hereby agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(c) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act;

(d) determination of the application of income in the hands of any receiver or mortgagee in possession; and

(e) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Section 15-1508 and Section 15-1511 of the Act.

All moneys paid for Protective Advances or any of the other purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by Mortgagee to protect the Secured Property and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the Increased Rate. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

(3) Should the proceeds of the Note or any part thereof, or any amount paid out or advanced hereunder by Mortgagee, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any senior mortgage (as described in Subsection (i) of Section 15-1505 of the Act) or any other lien or encumbrance upon the Mortgaged Property or any part thereof on a parity with or prior or superior to the lien hereof ("Prior Encumbrance"), then as additional security hereunder, the Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, however remote, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

(4) If an Event of Default has occurred hereunder, or when the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof and pursue all remedies afforded to a mortgagee under and pursuant to the Act.

(5) The proceeds of any foreclosure sale of the Secured Property shall be distributed and applied in accordance with the provisions of Subsection (c) of Section 15-1512 of the Act. The judgment of foreclosure or order confirming the sale shall provide (after application pursuant to Subsections (a) and (b) of said Section 15-1512) for application of sale proceeds in the following order of priority: first, all items not covered by the provisions of said Subsections (a) and (b), which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; and second, all principal and interest remaining unpaid on the Note.

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(6) Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall appoint a receiver of the Secured Property whenever Mortgagee, when entitled to possession, so requests pursuant to Section 15-1702(a) of the Act or when such appointment is otherwise authorized by operation of law. Such receiver shall have all powers and duties prescribed by Section 15-1704 of the Act, including the power to make leases to be binding upon all parties, including the Mortgagor after redemption, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Secured Property after entry of a judgment of foreclosure, all as provided in Subsection (g) of Section 15-1701 of the Act. In addition, such receiver shall also have the following powers: (a) to extend or modify any then existing leases, which extensions and modifications 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 hereunder 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 Mortgagor and all persons whose interests in the Secured Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, discharge of the mortgage indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; and (b) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Secured Property during the whole of the period of receivership. The court from time to time, either before or after entry of judgment of foreclosure, may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (a) the indebtedness secured hereby, or by or included in any judgment of foreclosure or supplemental judgment or other item for which Mortgagee is authorized to make a Protective Advance; and (b) the deficiency in case of a sale and deficiency.

(7) In any case in which under the provisions of this Mortgage Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after judgment thereunder, and at all times until confirmation of sale, Mortgagor shall forthwith, upon demand of Mortgagee, surrender to Mortgagee and Mortgagee shall be entitled to take and upon Mortgagee's request to the court to be placed in actual possession of, Mortgagee shall be placed in possession of the Secured Property or any part thereof, personally, or by its agent or attorneys as provided in Subsections (b)(2) and (c) of Section 1701 of the Act. In such event Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain or may apply to the court in which a foreclosure is pending to be placed in possession of all or any part of said Secured Property, together with all documents, books, records, papers and accounts of Mortgagor or then owner of the Secured Property relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may, as attorney in fact or agent of Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the Secured Property and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Secured Property, including actions for the recovery of rent, actions in forcible detainer and

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actions in distress for rent, and with full power: (a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (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 make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder 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 Mortgagor and all persons whose interests in the Secured Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to enter into any management, leasing or brokerage agreements covering the Secured Property; (e) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Secured Property as to it may seem judicious; (f) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (g) to receive all of such avails, rents, issues and profits; hereby granting 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 Mortgagor. Without limiting the generality of the foregoing provisions of this Section, Mortgagee shall also have all power, authority and duties as provided in Section 15-1703 of the Act.

(8) Mortgagor acknowledges that the Secured Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act. To the extent not otherwise prohibited by law, Mortgagor hereby waives any and all rights of redemption from sale under any judgment of foreclosure of this Mortgage on behalf of Mortgagor and on behalf of each and every person acquiring any interest in or title to the Secured Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of right of redemption is made pursuant to the provisions of Section 15-1601(b) of the Act.

(9) At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage secures (in addition to the amounts secured hereby) the payment of any and all Loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee in connection with the Loan; provided, however, that in no event shall the total amount secured hereby exceed two hundred percent (200%) of the face amount of the Note.

(10) At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any Condemnation Proceeds), to any and all leases of all or any part of the Secured Property upon the execution by Mortgagee and recording thereof, at any time hereafter in the appropriate official records of the County wherein the Secured Property are situated, of a unilateral declaration to that effect.

4.02 No Election of Remedies. Mortgagee may, in its discretion, exercise all or any of the rights and remedies provided herein or in the other Loan Instruments, or which may be provided by statute, law, equity or otherwise, in such order and manner and from time to time, as

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Mortgagee shall elect without impairing Mortgagee's lien, or rights pursuant to any of the Loan Instruments and without affecting the liability of Mortgagor for the Obligations or of the Guarantor for the Guaranteed Obligations (as such term is defined in the Non-Recourse Guaranty).

4.03 Mortgagee's Right to Release, etc. Mortgagee may, in its discretion, from time to time, release (for such consideration as Mortgagee may require) any part of the Secured Property (A) without notice to, or the consent, approval or agreement of any other party in interest, (B) without, as to the remainder of the Secured Property, in any way impairing or affecting the validity or the lien of this Mortgage or any of the other Loan Instruments, or the priority thereof and (C) without releasing Mortgagor from any liability for any of the Obligations. Mortgagee may accept by assignment, pledge or otherwise, any other property in place of any part of the Secured Property as Mortgagee may require without being accountable for so doing to any other lienor or other Person. To the extent permitted by law, neither Mortgagor, nor the holder of any lien or encumbrance affecting the Secured Property or any part thereof shall have the right to require Mortgagee to marshal assets.

4.04 Mortgagee's Right to Remedy Defaults, etc. If Mortgagor defaults in the performance of any of the covenants or agreements contained in this Mortgage or any of Mortgagor's other obligations under the other Loan Instruments, or if any action or proceeding is commenced which affects Mortgagee's interest in the Secured Property or any part thereof, including, but not limited to, eminent domain, code enforcement, or proceedings of any nature whatsoever under any federal or state law whether now existing or hereafter enacted or amended, relating to bankruptcy, insolvency, arrangement, reorganization or other form of debtor relief, then Mortgagee may, but without obligation to do so and without releasing Mortgagor from any obligation hereunder, cure such defaults, make such appearances, disburse such sums and/or take such other action as Mortgagee deems necessary or appropriate to protect Mortgagee's interest, including disbursement of attorneys' fees, entry upon the Secured Property to make repairs, payment of Impositions or insurance premiums or otherwise cure the default in question or protect the security of the Secured Property, and payment, purchase, contest or compromise of any encumbrance, charge or lien encumbering the Secured Property. Mortgagor further agrees to pay all expenses incurred by Mortgagee (including fees and disbursements of counsel) pursuant to this Section 4.04, including those incident to the curing of any default and/or the protection of the rights of Mortgagee hereunder, and enforcement or collection of payment of the Note or any future advances whether by judicial or nonjudicial proceedings, or in connection with any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding of Mortgagor, or otherwise. Any amounts disbursed by Mortgagee pursuant to this Section 4.04 shall be additional indebtedness of Mortgagor secured by this Mortgage as of the date of disbursement and shall bear interest at the Increased Rate from such date until paid by Mortgagor in full. All such amounts shall be payable by Mortgagor immediately without demand. Nothing contained in this Section 4.04 shall be construed to require Mortgagee to incur any expense, make any appearance, or take any other action and any action taken by Mortgagee pursuant to this Section 4.04 shall be without prejudice to any other rights or remedies available to Mortgagee pursuant to any Loan Instrument or at law or in equity.

4.05 Waivers. To the extent not otherwise prohibited by law, Mortgagor waives and releases (A) all benefits that might accrue to Mortgagor by virtue of any present or future laws

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exempting the Secured Property, or any part of the proceeds arising from any sale of the Secured Property, from attachment, levy or sale under execution, or providing for any stay of execution, exemption from civil process or extension of time; (B) all benefits that might accrue to Mortgagor from requiring valuation or appraisal of any part of the Secured Property levied or sold on execution of any judgment recovered for the Obligations; (C) all notices not herein or in any other Loan Instrument specifically required as a result of Mortgagor's default or of Mortgagee's exercise, or election to exercise, any option pursuant to any of the Loan Instruments; and (D) all rights of redemption to the extent that Mortgagor may lawfully waive same. At no time will Mortgagor insist upon, plead or in any manner whatsoever claim or take any benefit or advantage of any stay or extension or moratorium law or any exemption from execution or sale of the Secured Property or any part thereof, whenever enacted, now or at any time hereafter in force, which may affect the covenants or terms of performance of the Loan Instruments. Similarly, Mortgagor will not claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Secured Property or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision hereof, or pursuant to the decree, judgment or order of any court of competent jurisdiction. After any such sale or sales, to the extent permitted by law, Mortgagor shall not claim or exercise any right under any law or laws heretofore or hereafter enacted to redeem the property so sold or any part thereof. Mortgagor waives all benefits or advantages of any such law or laws, and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Mortgagee. Mortgagor shall suffer and permit the execution of every such power as though no such law or laws had been made or enacted. To the extent permitted by law, the Secured Property may be sold in one parcel, as an entirety, or in such parcels, manner or order as Mortgagee in its discretion may decide. To the extent permitted by law, neither Mortgagor nor the holder of any lien or encumbrance affecting the Secured Property or any part thereof may require Mortgagee to marshal assets.

4.06 Prepayment. Mortgagor shall pay the charge provided in the Note for prepayment of the Obligations if for any reason (including the acceleration of the due date of the Obligations by Mortgagee following the occurrence of an Event of Default) any of such Obligations shall be due and payable or paid prior to the stated maturity date thereof, whether or not such payment is made prior to or at any sale held pursuant to or by virtue of this Article IV. Mortgagee has relied on Mortgagor's creditworthiness and its agreement to repay the Obligations in strict accordance with the terms set forth in the Loan Instruments, and would not make the Loan without the promises by Mortgagor to make all payments due pursuant to the Loan Instruments and not to prepay all or any part of the principal balance of the Note prior to the final maturity date thereof, except on the terms expressly set forth herein and in the Note. Therefore, any prepayment of the Note, whether occurring as a voluntary prepayment by Mortgagor or occurring upon an acceleration of the Note by Mortgagee or otherwise, will prejudice Mortgagee's ability to meet its obligations and to earn the return on the funds advanced to Mortgagor, which Mortgagee intended and expected to earn when it made the Loan, and will also result in other losses and additional expenses to Mortgagee. In consideration of Mortgagee making the Loan at the interest rate and for the term set forth in the Note, Mortgagor expressly waives all rights it may have under applicable law to prepay, without charge or premium, all or any part of the Note, either voluntarily or upon an acceleration of the Note by Mortgagee, including an acceleration upon the making or suffering by Mortgagor of any transfer or disposition prohibited by Section

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1.11. If a prepayment of all or any part of the principal balance of the Note is made by or on behalf of Mortgagor, for any reason, whether due to the voluntary acceptance by Mortgagee of a prepayment tendered by Mortgagor, or the acceleration of the Note by Mortgagee, or in connection with any reinstatement of the Loan Instruments pursuant to any foreclosure proceedings, or any right of redemption exercised by Mortgagor or any other party having the right to redeem or to prevent any foreclosure of this Mortgage, or upon the consummation of any foreclosure sale, or under any other circumstances, Mortgagor or any other Person making any such prepayment shall be obligated to pay, concurrently therewith, the Make-Whole Amount, as defined and as set forth in the Note, and the payment of the Make-Whole Amount shall be a condition to the making of such prepayment, and the payment of the Make-Whole Amount shall be secured by this Mortgage and the other Loan Instruments. Mortgagor shall pay the Make-Whole Amount without prejudice to the right of Mortgagee to collect any other amounts due pursuant hereto or to declare a default hereunder. Nothing herein shall be construed as permitting any partial prepayment of the Obligations, except with Mortgagee's prior written consent thereto obtained in each instance.

ARTICLE 5 LEASEHOLD PROVISIONS

5.01 Ground Lease Representations, Warranties and Covenants. Mortgagor hereby represents, warrants as of the date hereof and further covenants to Mortgagee as follows:

5.01A Leasehold Estate. As of the date hereof and continuing the term of the Loan, Mortgagor will have a good and valid fee or leasehold estate in the Land.

5.01B Full Force and Effect. As of the date hereof, each of the Ground Leases is in full force and effect and there are no existing defaults thereunder.

5.01C Ground Lease Obligations. Subject to any applicable notice and cure periods, Mortgagor will pay or cause to be paid all rent and other charges required under each Ground Lease as and when the same are due and Mortgagor will keep, observe and perform, or cause to be kept, observed and performed, all of the other terms, covenants, provisions and agreements of the Ground Leases in all material respects on the part of the lessee thereunder to be kept, observed and performed, and will not in any manner cancel, terminate or surrender, or permit any cancellation, termination or surrender of any of the Ground Leases, in whole or in part, or, without the written consent of Mortgagee (which consent may be withheld in Mortgagee's sole discretion), either orally or in writing, modify or amend, or permit any modification or amendment of, any of the terms thereof in any respect, and any attempt on the part of Mortgagor to exercise any such right without such written consent of Mortgagee (which consent may be withheld in Mortgagee's sole discretion) shall be null and void and of no effect; provided, however, that Mortgagor may, upon prior written notice to Mortgagee but without Mortgagee's prior consent, enter into an amendment or other supplement to each of the Ground Leases that serves to establish a new rent under such Ground Lease(s) based on the appraised value of the Land govern by such Ground Lease(s) under the mechanism expressly set forth in Article II of each of said Ground Leases.

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5.01D Preservations of Leasehold Rights. Mortgagor will do, or cause to be done, all things necessary to preserve and keep unimpaired the rights of Mortgagor as lessee under the Ground Leases, and to prevent any default by Mortgagor under the Ground Leases beyond any applicable notice and cure periods, or any termination, surrender, cancellation, forfeiture or impairment thereof, and in the event of the failure of Mortgagor to make any payment required to be made by Mortgagor pursuant to the provisions of any of the Ground Leases or to keep, observe or perform, or cause to be kept, observed or performed, any of the terms, covenants, provisions or agreements of the lessee under the Ground Leases in all material respects, Mortgagee may (but shall not be obligated to), after reasonable prior written notice to Mortgagor (provided, however, that no such notice shall be required to be given if an Event of Default exists hereunder or under any of the other Loan Instruments) take any action on behalf of Mortgagor, to make or cause to be kept, observed or performed any such terms, covenants, provisions or agreements and to enter upon the applicable portion of the Secured Property and take all such action thereof as may be reasonably necessary therefor, to the end that the rights of Mortgagor in and to the ground leasehold estate created by the Ground Leases shall be kept unimpaired and free from default by Mortgagor, and all money so expended by Mortgagee, with interest thereon at the Increased Rate provided for in Note from the date of each such expenditure, shall be paid by Mortgagor to Mortgagee promptly within ten (10) days following written demand by Mortgagee and shall be added to the Obligations and secured by this Mortgage and Mortgagee shall have, in addition to any other remedy of Mortgagee, the same rights and remedies in the event of non-payment by Mortgagor of any such sum expended by Mortgagee pursuant to this paragraph as in the case of a default by Mortgagor in the payment of any unscheduled sums due under the Note.

5.01E Enforcement of Leasehold Rights. Mortgagor will to the extent commercially reasonable under the circumstances enforce the obligations of the lessor under each of the Ground Leases to the end that Mortgagor may enjoy all of the rights granted to it under the Ground Leases, and will promptly notify Mortgagee in writing of any default by the lessor or by Mortgagor in the performance or observance of any of the terms, covenants and conditions on the part of the lessor or Mortgagor, as the case may be, to be performed or observed under the Ground Leases and Mortgagee will promptly advise Mortgagee in writing of the occurrence of any of the events of default enumerated in the Ground Leases and of the giving of any notice by the lessor to Mortgagor of any default by Mortgagor in performance or observance of any of the terms, covenants or conditions of the Ground Lease on the part of Mortgagor to be performed or observed and will deliver to Mortgagee a complete copy of each such notice. If, pursuant to any Ground Lease, the lessor shall deliver to Mortgagee a copy of any notice of default given to Mortgagor, such notice shall constitute full authority and protection to Mortgagee for any action taken or omitted to be taken by Mortgagee in good faith in reliance thereon to cure such default pursuant to Section 5.01D above.

5.01F Eviction Proceedings; Notice, etc. If any action or proceeding shall be instituted to evict Mortgagor or to recover possession of any portion of the Secured Property or for any other purpose affecting any Ground Lease or this Mortgage, Mortgagor will, promptly following service thereof on or to Mortgagor, deliver to Mortgagee a true copy of each petition, summons, complaint, notice of motion, order to show cause and of all other provisions,

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pleadings, and papers, however designated, served on or to Mortgagor in any such action or proceeding.

5.01G Merger of Title. Mortgagor covenants and agrees that unless Mortgagee shall otherwise expressly consent in writing (which consent may be withheld in Mortgagee's sole discretion), the fee title to the property demised by the Ground Lease and the Mortgagor's ground leasehold estate therein shall not merge but shall always remain separate and distinct, notwithstanding the union of said estates either in the lessor, Mortgagor, or a third party by purchase or otherwise; and in case Mortgagor acquires the fee title or any other estate, title or interest in any portion of the Secured Property currently covered under any Ground Lease, this Mortgage shall attach to and cover and be a lien upon the fee title or such other estate so acquired, and such fee title or other estate shall, without further assignment, mortgage or conveyance, become and be subject to the lien of and covered by this Mortgage. Notwithstanding anything contained herein to the contrary, Mortgagor may acquire the fee title to the real property demised by the Ground Lease(s) provided that the following conditions have been satisfied: (i) Mortgagor has given Mortgagee not less than thirty (30) days prior written notice of the proposed acquisition of the fee simple estate, together with such documentation as Mortgagee may reasonably request in connection therewith, (ii) Mortgagor executes such security instruments as may be requested by Mortgagee, including, without limitation, a modification of this Mortgage, so as to ensure that the lien of this Mortgage shall attach to and cover the fee simple title interests acquired by Mortgagor, (iii) Mortgagee shall be provided with either (x) a lender's ALTA title insurance policy or (y) a date down endorsement to Lender's title insurance policy issued in connection with the Loan, in either case covering the full amount of the Loan, insuring the Mortgage, as of the date of acquisition of the fee simple title by Mortgagor, as a valid, first lien, in form and substance reasonably acceptable to Lender, and (iv) all reasonable costs and expenses incurred by Mortgagee (including reasonable legal fees) in connection with the acquisition of the fee simple title by Mortgagor are paid by Mortgagor.

5.01H Release or Forbearance of Ground Lease Obligations. No release or forbearance of any of Mortgagor's obligations under any Ground Lease, pursuant to any such Ground Lease, or otherwise, shall release Mortgagor from any of its obligations under this Mortgage, including, without limitation, its obligation with respect to the payment of rent as provided for in the Ground Leases and the performance of all of the terms, provisions, covenants, conditions and agreements contained in the Ground Leases in all material respects, to be kept, performed and complied with by the lessee therein.

5.01I Mortgagee's Consent. At anytime while an Event of Default exists, Mortgagor shall not make any election or give any consent or approval for which a right to do so is conferred upon Mortgagor as lessee under any Ground Lease without Mortgagee's prior written consent (which consent may be withheld in Mortgagee's sole discretion). At anytime while any Event of Default exists under this Mortgage or any of the Loan Instruments, all such rights, together with the right of termination, cancellation, modification, change, supplement, alteration or amendment of any Ground Lease, all of which have been assigned for collateral purpose to Mortgagee, shall vest in and be exercisable solely by Mortgagee.

5.01J Bankruptcy Provisions; Assignment of Claims; Rejection of Ground Lease.

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(1) The lien of this Mortgage shall attach to all of Mortgagor's rights and remedies at any time arising under or pursuant to Subsection 365(h) of the Bankruptcy Code, 11 U.S.C. Sec. 365(h), including without limitation, all of Mortgagor's rights to remain in possession of the Secured Property. Mortgagor shall not, without Mortgagee's prior written consent (which consent may be withheld in Mortgagee's sole discretion), elect to treat any Ground Lease as terminated under Subsection 365(h)(1) of the Bankruptcy Code, 11 U.S.C. Sec. 365(h)(1). Any such election made without Mortgagee's consent (which consent may be withheld in Mortgagee's sole discretion) shall be void.

(2) Mortgagor hereby unconditionally assigns, transfers and sets over to Mortgagee as additional security for the Loan, all of Mortgagor's claims and rights to the payment of damages arising from any rejection of any Ground Lease by the lessor thereunder or any other fee owner of the Secured Property under the Bankruptcy Code. Mortgagee shall have the right to proceed in its own name or in the name of Mortgagor in respect of any claim, suit, action or proceeding relating to the rejection of any Ground Lease, including, without limitation, the right to file and procure, either in its own name or in the name of Mortgagor, any proofs of claim, complaint, motions, applications, notices and other documents, in any case in respect to such lessor or any such fee owner under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the obligations secured by this Mortgage shall have been satisfied and discharged in full. Any amounts received by Mortgagee as damages arising out of the rejection of any Ground Lease as aforesaid shall be applied first to all costs and expenses of Mortgagee (including, without limitation, reasonable attorney fees) incurred in connection with the exercise of any of its rights or remedies under this section and then Mortgagee shall apply all such remaining towards the payment of the unpaid Obligations. Mortgagor shall promptly make, execute, acknowledge and deliver, in form and substance reasonably satisfactory to Mortgagee and all such additional instruments, agreements and other documents, as may at any time hereafter be reasonably required by Mortgagee to effectuate and carry out the assignment made pursuant to this section.

(3) If pursuant to Subsection 365(h)(2) of the Bankruptcy Code, 11 U.S.C. Sec. 365(h)(2), Mortgagor shall seek to offset against the rent reserved in any Ground Lease the amount of any damages caused by the nonperformance by the lessor or any fee owner of any of their obligations under any such Ground Lease after the rejection by the lessor or any fee owner of any such Ground Lease under the Bankruptcy Code, Mortgagor shall, prior to effecting such offset, notify Mortgagee of its intent to do so, setting forth the amount proposed to be so offset and the basis therefor. Mortgagee shall have the right to object to all or any part of such offset that, in the reasonable judgment of Mortgagee, would constitute a breach of said Ground Lease, and in the event of such objection, Mortgagor shall not effect any offset of the amounts so objected to by Mortgagee. Neither Mortgagee's failure to object as aforesaid nor any objection relating to such offset shall constitute an approval of any such offset by Mortgagee.

(4) If any action, proceeding, motion or notice shall be commenced or filed in respect of the lessor or by fee owner, the Secured Property or any Ground Lease in connection with any case under the Bankruptcy Code, Mortgagee shall have the option, exercisable upon notice from Mortgagee to Mortgagor, to conduct and control any such litigation with counsel of Mortgagee's choice. Mortgagee may proceed in its own name or in the name of

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Mortgagor in connection with any such litigation, and Mortgagor agrees to execute any and all powers, authorizations, consents or other documents reasonably required by Mortgagee in connection therewith. Mortgagor shall, within ten (10) days following written demand therefor, pay to Mortgagee all costs and expenses (including, without limitation, attorney fees) paid or incurred by Mortgagee in connection with the prosecution or conduction of any such proceedings. Any such costs or expenses not paid by Mortgagor as aforesaid shall be secured by the lien of this Mortgage and shall be added to the principal amount of the Secured Obligations. Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion (unless such motion is for the purpose of protecting the Ground Lease(s) and its value as security for the obligations secured by this Mortgage), in respect of a Ground Lease in any such case under the Bankruptcy Code without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed.

(5) Mortgagor shall, after obtaining knowledge thereof, promptly notify Mortgagee of any filing by or against the lessor or other fee owner of the Land of a petition under the Bankruptcy Code. Mortgagor shall promptly deliver to Mortgagee, following receipt, copies of any and all notices, summonses, pleadings, applications and other documents received by Mortgagor in connection with any such petition and any proceedings relating thereto.

(6) If there shall be filed by or against Mortgagor a petition under the Bankruptcy Code and Mortgagor, as lessee under the Ground Leases, shall determine to reject any of the Ground Leases pursuant to Section 265(a) of the Bankruptcy Code, Mortgagor shall give Mortgagee not less than thirty (30) days' prior notice of the date on which Mortgagor shall apply to the Bankruptcy Court for authority to reject any such Ground Lease. Mortgagee shall have the right, but not the obligation, to serve upon Mortgagor within such thirty (30) day period a notice stating that Mortgagee demands that Mortgagor assume and assign the applicable Ground Lease(s) to Mortgagee pursuant to Section 365 of the Bankruptcy Code. If Mortgagee shall serve upon Mortgagor the notice described in the preceding sentence, Mortgagor shall not seek to reject the Ground Lease(s) and shall comply with the demand provided for in the preceding sentence.

5.01K Ground Lease Default. If Mortgagor defaults under any Ground Lease and such default continues beyond the applicable notice and/or cure period contained in such Ground Lease, such occurrence shall constitute an Event of Default as such term is used in this Mortgage.

5.01L Assignment of Ground Lease. Notwithstanding anything to the contrary contained herein, this Mortgage shall not constitute an assignment of any of the Ground Leases and Mortgagee shall have no liability or obligation thereunder by reason of its acceptance of this Mortgage.

ARTICLE 6 MISCELLANEOUS

6.01 Non-Waiver. The failure of Mortgagee to insist upon strict performance of any term of this Mortgage or any other Loan Instrument shall not be deemed to be a waiver of any term of this Mortgage or any other Loan Instrument. Mortgagor shall not be relieved of its

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obligation to pay and perform the Obligations, at the time and in the manner provided in the Loan Instruments, by reason of (A) a failure by Mortgagee to take any action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or of any other Loan Instrument (regardless of whether or not Mortgagor has requested Mortgagee to do so), (B) the release, regardless of consideration, of the whole or any part of the Secured Property or any other security for the Obligations, or (C) any agreement or stipulation between Mortgagee and any subsequent owner or owners of the Secured Property or any other Person extending the time of payment or otherwise modifying or supplementing the terms of this Mortgage or any other Loan Instrument, without first having obtained the consent of Mortgagor. Mortgagor shall pay and perform the Obligations at the time and in the manner provided in this Mortgage and the other Loan Instruments as so extended, modified or supplemented, unless expressly released and discharged by Mortgagee. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to the Secured Property, Mortgagee may release any Person at any time liable for the payment or performance of the Obligations, or any part thereof, or any part of the security held for the Obligations, and may extend the time of such payment or performance or otherwise modify the terms of any Loan Instrument, including a modification of the interest rate payable on the principal balance of the Note, without in any manner impairing or affecting any of the Loan Instruments or the lien thereof or the priority of this Mortgage, as so extended and modified, as security for the Obligations over any such subordinate lien, encumbrance, right, title or interest. Mortgagee may resort for the payment and performance of the Obligations to any other security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect. Mortgagee may take action to require payment and performance of the Obligations, or any part thereof, or to enforce any term of this Mortgage, without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage. In addition to the rights and remedies stated in this Mortgage, Mortgagee may exercise every additional right and remedy now or hereafter afforded by law or in equity. Each right of Mortgagee pursuant to this Mortgage shall be separate, distinct and cumulative, and no such right shall be given effect to the exclusion of any other. No act of Mortgagee shall be construed as an election to proceed pursuant to any one provision of this Mortgage to the exclusion of any other provision.

6.02 Sole Discretion of Mortgagee. Whenever pursuant to this Mortgage (A) Mortgagee exercises any right to approve or disapprove or to give or withhold its consent, (B) any arrangement or term is to be satisfactory to Mortgagee, or (C) any other decision or determination is to be made by Mortgagee, Mortgagee may give or withhold such approval or consent, determine whether or not such arrangement or term is satisfactory, and make all other decisions or determinations, in Mortgagee's sole and absolute discretion, and Mortgagee's decision shall be final and conclusive except where this Mortgage expressly provides to the contrary. If Mortgagor shall seek the consent or approval of Mortgagee pursuant to this Mortgage and Mortgagee shall fail or refuse to give such consent or approval, Mortgagor shall not be entitled to any damages for any withholding of such approval or consent by Mortgagee. Mortgagor's sole remedy shall be an action for injunctive or declaratory relief, which remedy shall be available only in those cases where Mortgagee has expressly agreed not to unreasonably withhold or delay its consent or approval.

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6.03 Legal Tender. Mortgagor shall pay all payments of principal, interest or other amounts required or provided for herein in lawful money of the United States of America at the time of payment, at the above described office of Mortgagee or at such other place as Mortgagee may from time to time designate.

6.04 No Merger or Termination. If both the lessor's and Lessee's estates under any Lease or Ground Lease or any portion thereof which constitutes a part of the Secured Property shall at any time become vested in one owner, this Mortgage and the lien created hereby shall not be destroyed or terminated by the application of the doctrine of merger and in such event, Mortgagee shall continue to have and enjoy all of its rights and privileges as to the separate estates. In addition, the foreclosure of this Mortgage shall not destroy or terminate any Lease or sublease then existing and created by Mortgagor, whether by application of the law of merger or as a matter of law or otherwise, unless Mortgagee or any purchaser at any sale related to such foreclosure shall so elect. No act by or on behalf of Mortgagee or any such purchaser shall constitute a termination of any Ground Lease, Lease or sublease, unless Mortgagee or such purchaser shall give written notice thereof to the related Lessee or sublessee.

6.05 Discontinuance of Actions. If Mortgagee shall enforce any right pursuant to this Mortgage by foreclosure, sale, entry or otherwise and discontinue or abandon such enforcement for any reason or any such proceedings shall have been determined adversely, then, in each such case, Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder, and the Secured Property shall remain subject to the lien of this Mortgage.

6.06 Headings. The headings of the Sections and other subdivisions of this Mortgage are for the convenience of reference only, are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

6.07 Notice to Parties. All notices and demands or other communications hereunder shall be in writing, and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by generally recognized overnight delivery service, with postage prepaid, addressed to Mortgagor or Mortgagee, as applicable at the addresses stated below, or at such other address of which either Mortgagor or Mortgagee may hereafter notify the other in writing:

if to Mortgagor: MEPT MCCLURG COURT LLC
c/o NewTower Trust Company
3 Bethesda Metro Center, Suite 1600
Bethesda, MD 20814
Attn: Patrick Mayberry

With a copy to: Kennedy Associates Real Estate Counsel, Inc.
707 Skokie Boulevard, Suite 600
Northbrook, IL 60062
Attn: Paul A. Boneham

with a copy to: MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700

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Seattle, Washington 98101-3143
Attn: Marc Winters, Esq.

if to Mortgagee: NEW YORK LIFE INSURANCE COMPANY
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, New York 10010-1603
Attn: Real Estate Group
Director - Loan Administration Division
Loan No.: 373-1293

with a copy to: NEW YORK LIFE INSURANCE COMPANY
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, New York 10010-1603
Attn: Office of the General Counsel
Managing Director - Real Estate Section

Each notice or demand so given or served shall be deemed given and effective, (A) if personally delivered, on the day of actual delivery or refusal and (B) if sent by generally recognized overnight delivery service, on the next business day. Notwithstanding the foregoing, service of any notice of default or notice of sale provided or required by law shall, if mailed as required by law, be deemed given and effective on the date of mailing.

6.08 Successors and Assigns Included in Parties. Subject to the provisions of Section 1.11, each reference herein to Mortgagor or Mortgagee shall mean and include, the heirs, legal representatives, successors and assigns of such Person. All covenants and agreements contained in this Mortgage by or on behalf of Mortgagor shall bind and inure to the benefit of Mortgagor's heirs, legal representatives, successors and assigns, and all covenants and agreements by or on behalf of Mortgagee shall bind and inure to the benefit of Mortgagee's successors and assigns.

6.09 Changes and Modifications. This Mortgage may only be changed or modified by an agreement in writing, signed by both Mortgagor and Mortgagee.

6.10 Applicable Law. This Mortgage shall be construed and enforced according to the law of the State, other than such law with respect to conflicts of laws.

6.11 Invalid Provisions to Affect No Others. The unenforceability or invalidity of any provision or provisions of this Mortgage as to any Persons or circumstances shall not render that provision or those provisions unenforceable or invalid as to any other Persons or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable.

6.12 Usury Savings Clause. Mortgagor and Mortgagee intend to conform strictly to the usury laws now or hereafter in force in the State and all interest payable pursuant to the Note, this Mortgage or any other Loan Instrument, unless exempt from such laws, shall be subject to reduction to the amount equal to the maximum non-usurious amount allowed pursuant to such

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usury laws as now or hereafter construed by the courts having jurisdiction over such matters. The aggregate of all interest (whether designated as interest, service charges, points or otherwise) contracted for, chargeable or receivable pursuant to the Note, this Mortgage or any other Loan Instrument shall under no circumstances exceed the maximum legal interest rate which Mortgagee may charge under applicable law from time to time. Any interest in excess of the maximum amount permitted by law shall be deemed a mistake and shall be canceled automatically and, if theretofore paid, Mortgagee shall, at its option, either rebate such interest to Mortgagor or credit such interest to the principal amount of the Obligations, or if all such principal has been repaid, Mortgagee shall rebate such excess to Mortgagor.

6.13 No Statute of Limitations. To the full extent permitted by law, Mortgagor hereby waives the pleading of any statute of limitations as a defense to any or all of the Obligations.

6.14 Late Charges. If Mortgagor fails to pay, when due, without regard to any grace period, any installment of interest or principal, any payment due pursuant to Section 1.04 or any deposit or reserve due pursuant to this Mortgage or any other Loan Instrument, Mortgagor shall pay to Mortgagee (unless waived by Mortgagee) the Late Charge as defined and described in the Note. Each such Late Charge, if not previously paid, shall, at the option of Mortgagee, be added to and become part of the succeeding monthly payment to be made pursuant to the Note, and shall be secured by this Mortgage.

6.15 Waiver of Jury Trial. Mortgagor waives any right to trial by jury with respect to any action or proceeding (a) brought by Mortgagor, Mortgagee or any other Person relating to (i) the Obligations or any understandings or prior dealings between Mortgagor and Mortgagee or (ii) the Loan Instruments, or (b) to which Mortgagee is a party.

6.16 Continuing Effectiveness. This Mortgage shall secure all advances made pursuant to the Loan Instruments, all rearrangements and renewals of the Obligations and all extensions as to the time of payment thereof, whether or not such advances, rearrangements, renewals or extensions are evidenced by new promissory notes or other instruments hereafter executed and irrespective of whether filed or recorded. The execution of this Mortgage shall not impair or affect any other security which may be given to secure the payment of the Obligations, and all such additional security shall be considered as cumulative. The taking of additional security, execution from time to time of partial releases as to the Secured Property or any extension of time of payment of the Obligations shall not diminish the force, effect or lien of this Mortgage, and shall not affect or impair the liability of any maker, surety or endorser for the payment of the Obligations.

6.17 Time of Essence. Time is of the essence as to Mortgagor's performance of each provision of this Mortgage, the Note and the other Loan Instruments. Mortgagor agrees that where, by the terms of this Mortgage, the Note or any other Loan Instrument, a day is named or a time is fixed for the payment of any sum of money or the performance of any obligation by Mortgagor, the day and/or time stated enters into the consideration and is of the essence of the whole contract.

6.18 Non-Recourse. If an Event of Default has occurred (and regardless of whether or not it has been cured), Mortgagee shall have all rights provided in the Note, this Mortgage or any

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other Loan Instrument or at law or in equity, and shall have full recourse to the Secured Property and to any other collateral given by Mortgagor to secure any or all of the Obligations, provided that any judgment, order or directive obtained by Mortgagee in any proceeding to enforce such rights shall be enforced only against the Secured Property and such other collateral. Notwithstanding the foregoing, Mortgagee shall not in any way be prohibited from naming Mortgagor or any of its successors or assigns or any Person holding under or through them as parties to any actions, suits or other proceedings initiated by Mortgagee to enforce such rights or to foreclose the lien of this Mortgage or to otherwise realize upon any other lien or security interest created in any other collateral given to secure the payment of the Obligations. The foregoing restriction shall not apply to, and Mortgagor shall be personally liable for

(1) all losses, claims, damages, costs, expenses and/or liabilities, including, without limitation, attorneys' fees and expenses, incurred by Mortgagee as a result of:

(a) any material misstatement of fact (i) by Mortgagor or any Person constituting Mortgagor, made to induce Mortgagee to advance the principal amount evidenced hereby or (ii) contained in any Loan Instrument,

(b) fraud committed by Mortgagor or any Person constituting Mortgagor,

(c) the collection or application of any insurance proceeds, condemnation awards, trust funds or Rents in a manner which is not in accordance with the provisions of the Loan Instruments,

(d) the breach of any representation or warranty contained in the Sections of this Mortgage pertaining to environmental matters, including Section 1.05E(4), 2.03C or 2.03D, or any default with respect to Section 1.05E of this Mortgage,

(e) any default with respect to Mortgagor's covenant to pay Impositions, pursuant to Section 1.02 hereof, or insurance premiums, pursuant to Section 1.03 hereof,

(f) any default with respect to Mortgagor's covenant to complete the Renovation Plan up to the Completion Threshold per the terms of Section 1.05G(2),

(g) any intentional, bad faith waste of the Secured Property committed by Mortgagor or its agents (such damages to include all repair costs incurred by Mortgagor), or

(h) as a result of any Event of Default described in Section 3.01N of this Mortgage.

(2) Mortgagor also shall be personally liable for and Mortgagee may seek judgment against Mortgagor for all outstanding principal, interest and other Obligations for an Event of Default arising out of any of the following:

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(a) if there shall be a violation of Section 1.11 of this Mortgage, and/or

(b) in the event that any petition for bankruptcy, reorganization or arrangement pursuant to federal bankruptcy law, or any similar federal or state law, shall be filed by, consented to or acquiesced in by Maker or any Guarantor and/or if any proceeding for the dissolution, liquidation or receivership of Maker or any Guarantor shall be instituted by Maker or any Guarantor, and/or

(3) In the event of a loss which is or would be covered by the required Terrorism Insurance, an amount equal to the deductible on such Terrorism Insurance, which amount shall either be applied by Mortgagee to the debt secured by this Mortgage or disbursed by Mortgagee for the repair and restoration of the Secured Property, all in accordance with the terms of the Loan Instruments.

The restriction on enforcement contained in the first sentence of this Section 6.18 shall not apply to the Environmental Indemnity Agreement of even date herewith executed by Mortgagor and Guarantor in favor of Mortgagee. It is expressly understood and agreed, however, that nothing contained in this Section 6.18 shall (y) in any manner or way constitute or be deemed to be a release of the Obligations or otherwise affect or impair the enforceability of the liens, assignments, rights and security interests created by this Mortgage or any of the other Loan Instruments or any future advance or any related agreements or (z) preclude Mortgagee from foreclosing this Mortgage or from exercising its other remedies set forth in this Mortgage or the Assignment against the Mortgagor or the Secured Property, or from enforcing any of its rights and remedies in law or in equity against the Mortgagor or the Secured Property (including injunctive and declaratory relief, restraining orders and receivership proceedings), except as provided in this Section 6.18. All losses, claims, damages, costs, expenses, liabilities, obligations and/or other amounts of any kind or nature, including, attorneys' fees and expenses, as to which this Section 6.18 provides that Mortgagor is personally liable shall be referred to herein as the "Non-Recourse Exceptions".

6.19 Non-Business Days. If any payment required hereunder or under any other Loan Instrument becomes due on a Saturday, Sunday, or legal holiday in the state in which the Premises are located, then such payment shall be due and payable on the immediately succeeding business day.

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IN WITNESS WHEREOF, Mortgagor and Mortgagee have each executed this Mortgage as of the date first above written.

MORTGAGOR:

MEPT MCCLURG COURT LLC, a Delaware limited liability company

By: MEPT-501 Inc., a Delaware corporation, its sole member

By: *Patrick O. Mayberry*
Name: Patrick O. Mayberry
Its: President

MORTGAGEE:

NEW YORK LIFE INSURANCE COMPANY

By: _____
Name: _____
Title: _____

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, Mortgagor and Mortgagee have each executed this Mortgage as of the date first above written.

MORTGAGOR:

MEPT MCCLURG COURT LLC, a Delaware limited liability company

By: MEPT-501 Inc., a Delaware corporation, its sole member

By: _____

Name: _____

Its: _____

MORTGAGEE:

NEW YORK LIFE INSURANCE COMPANY

By: *Daniel J. McKillop*

Name: **DANIEL J. MCKILLOP**

Title: **VICE PRESIDENT**

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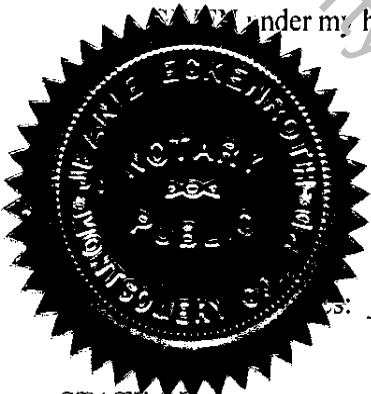
Property of Cook County Clerk's Office

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STATE OF Maryland)
) SS
COUNTY OF Montgomery)

I, Jeanie Eckenroth, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Patrick O. Mayberry, the President of MEPT-501 Inc., a Delaware corporation, the sole member of MEPT MCCLURG COURT LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument in his/her capacity as President of such corporation as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 31st day of August, 2006.



Jeanie Eckenroth
Notary Public

**JEANIE ECKENROTH
STATE OF MARYLAND
My Commission Expires on July 28, 2009**

STATE OF _____)
) SS
COUNTY OF _____)

I, _____, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____, the _____ of NEW YORK LIFE INSURANCE COMPANY, a New York mutual insurance company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument in his/her capacity as President of such corporation as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2006.

Notary Public

My commission expires: _____

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STATE OF _____)
) ss
COUNTY OF _____)

I, _____, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____, the _____ of MEPT-501 Inc., a Delaware corporation, the sole member of MEPT MCCLURG COURT LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument in his/her capacity as President of such corporation as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this ____ day of _____, 2006.

Notary Public

My commission expires: ____

STATE OF NEW YORK)
) ss
COUNTY OF NEW YORK)

I, DADIE DELBRUNE, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DANIEL J. McKILLOP, the VICE PRESIDENT of NEW YORK LIFE INSURANCE COMPANY, a New York mutual insurance company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument in his/her capacity as President of such corporation as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 31st day of August, 2006.

Dadie Delbrune

Notary Public

My commission expires: 12/15/06

DADIE DELBRUNE
Notary Public, State of New York
No. 01DE4849496
Qualified in Nassau County
Commission Expires Dec. 15, 2006

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EXHIBIT A

THE LAND

PARCEL 1:

LOTS 10, 11, 14, 15, 18 AND 19 IN SUB-BLOCK 2 IN THE SUBDIVISION OF BLOCK 31 IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH FRACTIONAL 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN; ALSO

THE SOUTH 1/2 OF THE VACATED EAST/WEST ALLEY, LYING NORTH OF AND ADJOINING LOTS 10, 11, 14, 15, 18 AND 19 IN SUB-BLOCK 2 IN THE SUBDIVISION OF BLOCK 31 OF KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH FRACTIONAL 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 9, 12, 13, 16, 17 AND 20 IN SUB-BLOCK 2 IN THE SUBDIVISION OF BLOCK 31 IN KINZIE'S ADDITION TO CHICAGO IN THE NORTH FRACTIONAL 1/4 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; ALSO

THE NORTH 1/2 OF THE VACATED EAST/WEST ALLEY, LYING SOUTH OF AND ADJOINING LOTS 9, 12, 13, 16, 17 AND 20 IN SUB-BLOCK 2 IN THE SUBDIVISION OF BLOCK 31 OF KINZIE'S ADDITION TO CHICAGO BEING A SUBDIVISION OF THE NORTH FRACTIONAL 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 21, 22, 23 AND 24 (EXCEPT THE EAST 46.00 FEET OF LOTS 21 AND 24) IN CIRCUIT COURT PARTITION OF THE OGDEN ESTATE SUBDIVISION OF PART OF BLOCKS 20, 31, 32 IN KINZIE'S ADDITION TO CHICAGO IN THE NORTH 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOTS 22, 23, 24, 25 AND 26 IN SUBDIVISION BLOCK 2 IN THE SUBDIVISION OF BLOCK 31 IN KINZIE ADDITION TO CHICAGO IN THE NORTH 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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PARCEL 5:

THE NORTH 1/2 OF THE VACATED EAST/WEST ALLEY, LYING SOUTH OF AND ADJOINING LOT 22 AND THE WEST 89.00 FEET OF LOT 21 IN CIRCUIT COURT PARTITION OF THE OGDEN ESTATE SUBDIVISION OF PART OF BLOCKS 20, 31, 32 IN KINZIE'S ADDITION TO CHICAGO IN THE NORTH 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN; ALSO,

THE SOUTH 1/2 OF THE VACATED EAST/WEST ALLEY, LYING NORTH OF AND ADJOINING LOTS 22 TO 26 IN SUBDIVISION BLOCK 2 IN THE SUBDIVISION OF BLOCK 3 IN KINZIE'S ADDITION TO CHICAGO IN THE NORTH 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND LYING NORTH OF AND ADJOINING LOTS 23 AND THE WEST 89.00 FEET OF LOT 24 IN CIRCUIT COURT PARTITION AFORESAID, IN COOK COUNTY, ILLINOIS.

Pin # 17-10-207-008-0000

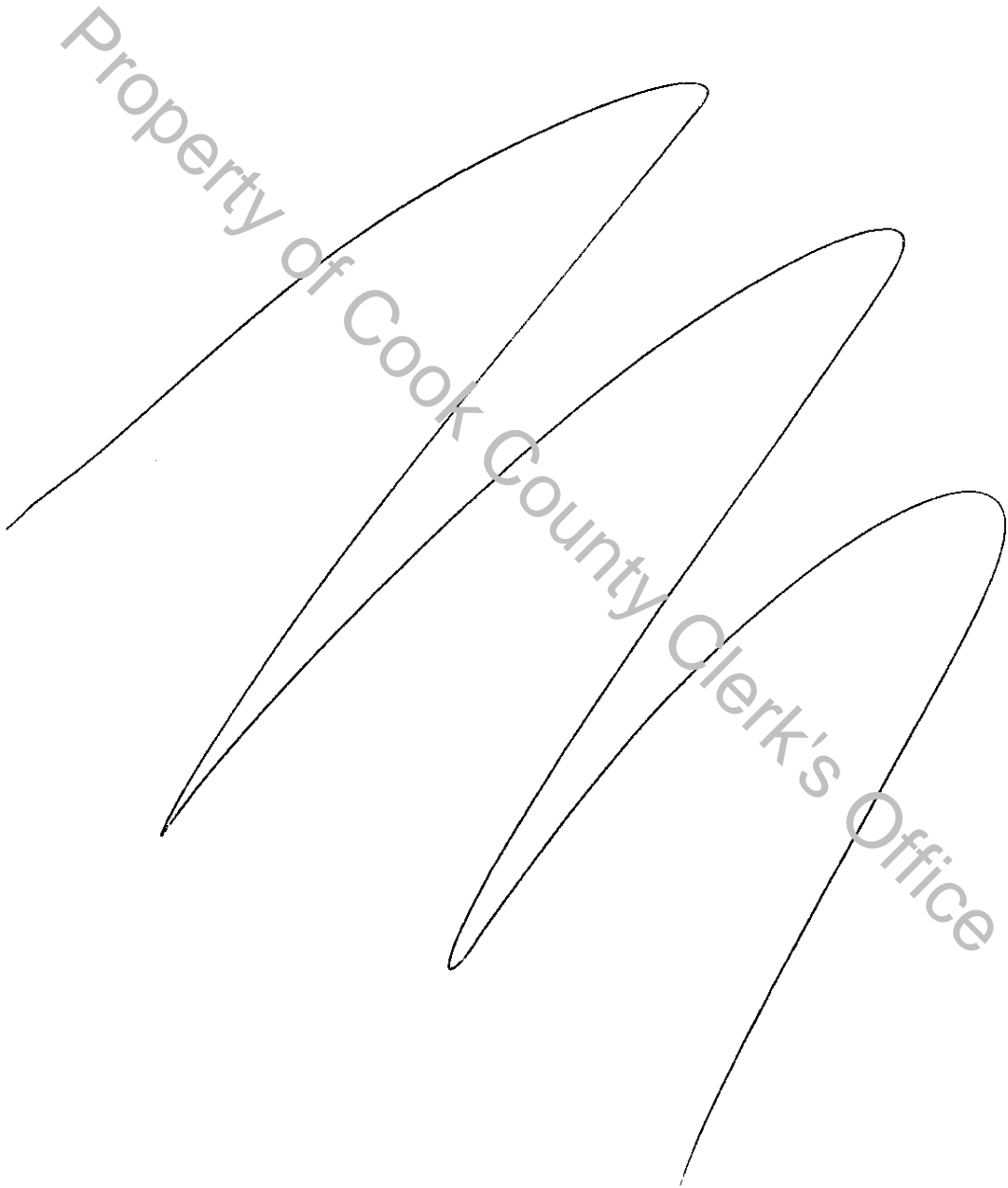
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EXHIBIT B

RENOVATION PLAN

[See Attached]

Property of Cook County Clerk's Office



FINAL FOR INVESTMENT BRIEF CAPITAL EXPENSE BUDGET - McCLURG COURT CENTER

CATEGORY	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	Per Category Total	Total
Life Safety / ADA												
Seal Wall Penetrations	\$2,500										\$2,500	\$2,500
Damaged Fire Doors	\$1,500										\$1,500	\$1,500
Replace Exit Signs	\$500										\$500	\$500
Seal Wall Penetrations	\$2,500										\$2,500	\$2,500
Repair Damaged Conduit	\$500										\$500	\$500
Dual-wall tubes	\$70,000										\$70,000	\$70,000
Circuit Panel Directories	\$180,000										\$180,000	\$180,000
Ground Fault Interrupters	\$52,900										\$52,900	\$52,900
Fated Doors - Elect. Closets	\$80,000										\$80,000	\$80,000
Exhaust Elect. Closets	\$50,400										\$50,400	\$50,400
Remove Halon Unit	\$60,000										\$60,000	\$60,000
Smoke Det. @ Elect. Closets	\$500										\$500	\$500
Smoke Det. @ Air Units	\$25,200										\$25,200	\$25,200
Fireman Ctr. @ Air Units	\$2,400										\$2,400	\$2,400
2-way Comm. System	\$8,000										\$8,000	\$8,000
1-way Comm. System - Apts.	\$25,000										\$25,000	\$25,000
Complete Smoke Det at Halls	\$20,000										\$20,000	\$20,000
Pumps in Bsmr. Elec. Rms.	\$49,200										\$49,200	\$49,200
Add Fire Pumps to Em. Gen.	\$4,500										\$4,500	\$4,500
Jobs at bus duct risers	\$25,000										\$25,000	\$25,000
Bedroom arc fault protection	\$42,000										\$42,000	\$42,000
Fire Panel Diagnostics	\$158,700										\$158,700	\$158,700
Indiv. Phones for each elev.	\$2,000										\$2,000	\$2,000
Floor announc. In Elevators	\$7,500										\$7,500	\$7,500
Auto door openers	\$25,000										\$25,000	\$25,000
New Fire Alarm Panel	\$10,000										\$10,000	\$10,000
TOTAL LIFE SAFETY	\$350,000										\$350,000	\$1,255,800
TOWER SPRINKLERING												
Install 2" Drain Risers	\$120,000										\$120,000	\$120,000
Tower Sprinklering	\$2,435,000										\$2,435,000	\$4,870,000
Fire Detection Panel Devices	\$85,000										\$85,000	\$85,000
Standpipe Alarm	\$5,000										\$5,000	\$5,000
Doors / Jambs / Hdwr.	\$285,000										\$285,000	\$285,000
Shill Carpentry	\$675,000										\$675,000	\$1,350,000
TOTAL TOWER SPRINKLERING	\$210,000										\$3,375,000	\$6,960,000
BASE BUILDING UPGRADE												
Sidewalk Replacement	\$175,000										\$175,000	\$175,000
Upgrade Upgrades	\$5,000,000										\$5,000,000	\$10,375,000
Base Bldg. Sprinklering	\$1,375,000										\$1,375,000	\$1,375,000
Exercise Room	\$125,000										\$125,000	\$125,000
Cyber Cafe	\$100,000										\$100,000	\$100,000
Business Center	\$40,000										\$40,000	\$40,000
Common Interior Upgrades	\$325,000										\$325,000	\$325,000
TOTAL BASE BUILDING UPGRADE	\$2,650,000										\$3,325,000	\$2,640,000
Upgrade Unit Renovations												
Studios - 93 @ \$8 K	\$372,000										\$372,000	\$744,000
Conventiles - 57 @ \$10 K	\$285,000										\$285,000	\$570,000
1 BR - 117 @ \$10 K	\$585,000										\$585,000	\$1,170,000
2 BR - 17 @ \$12 K	\$102,000										\$102,000	\$204,000
TOTAL UPGRADE UNIT RENOVATIONS	\$1,344,000										\$1,344,000	\$2,688,000

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CLERK OF COURT COOK COUNTY

FINAL FOR INVESTMENT BRIEF

CAPITAL EXPENSE BUDGET - McCLURG COURT CENTER

CATEGORY	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	Total Per Category	Total
Facade Repair Program												
Tower/Facade Repairs	\$800,000	\$800,000				\$500,000					\$1,300,000	\$1,300,000
TOTAL FAÇADE REPAIRS PROGRAM	\$800,000	\$800,000				\$500,000					\$1,300,000	\$1,300,000
Garage Repairs												
Garage Repairs - Lev 2 / 3	\$38,500	\$50,000	\$51,500	\$53,045	\$1,950,000	\$35,000	\$35,000	\$36,000	\$37,132	\$38,245	\$1,950,000	\$1,950,000
Garage - Other Repairs	\$38,500	\$50,000	\$51,500	\$53,045	\$1,950,000	\$35,000	\$35,000	\$36,000	\$37,132	\$38,245	\$1,950,000	\$1,950,000
TOTAL GARAGE REPAIRS	\$38,500	\$50,000	\$51,500	\$53,045	\$1,950,000	\$35,000	\$35,000	\$36,000	\$37,132	\$38,245	\$1,950,000	\$1,950,000
Deferred Maintenance												
Elevator Improvements	\$22,900										\$22,900	\$22,900
Foundation Repairs	\$40,000										\$40,000	\$40,000
Brick Repairs at grade	\$10,000										\$10,000	\$10,000
Exterior Soffit Repairs	\$2,000										\$2,000	\$2,000
Deferred Grade Conditions	\$32,500										\$32,500	\$32,500
New Drains - Tower Roofs	\$20,000										\$20,000	\$20,000
Coping Repairs at Parapet	\$25,000										\$25,000	\$25,000
New Roof - Tennis Pavilion										\$165,000	\$165,000	\$165,000
New Roof - Low Rise										\$180,000	\$180,000	\$180,000
Swim Pool Repairs	\$15,000										\$15,000	\$15,000
Spooling Tower Structure	\$7,500										\$7,500	\$7,500
Finace Repairs - Sun Deck	\$3,500										\$3,500	\$3,500
Insulation Repairs at Ducts	\$25,000										\$25,000	\$25,000
Freight Elevator Valves	\$3,000										\$3,000	\$3,000
TOTAL DEFERRED MAINTENANCE	\$206,400										\$345,000	\$551,400
Future Maintenance												
Pavement Repairs											\$50,000	\$50,000
Tower Roof Replacements											\$220,000	\$220,000
Replace Corridor Carpets	\$105,000	\$105,000									\$150,000	\$150,000
Swim Pool Shell Repairs											\$187,500	\$187,500
Plaza Deck Repairs											\$500,000	\$500,000
Boiler Replacements											\$12,000	\$12,000
Cool Tower Circ. Pump											\$5,067	\$5,067
Fin Coil Replacement Prog.	\$4,000	\$4,120	\$4,244	\$4,371	\$4,502	\$4,637	\$4,776	\$4,919	\$5,067	\$5,219	\$45,856	\$45,856
Dom. Water Pipe Repairs											\$83,000	\$83,000
Fire Pump Replacements											\$83,000	\$83,000
TOTAL FUTURE MAINTENANCE	\$109,000	\$109,120	\$216,244	\$210,371	\$486,882	\$560,682	\$229,878	\$236,774	\$826,878	\$251,194	\$3,236,823	\$3,236,823
Construction Management												
Construction Management	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$1,000,000	\$1,000,000
TOTAL CONSTRUCTION MANAGEMENT	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$1,000,000	\$1,000,000
Annual Replacement Reserves												
\$200 / Unit year 1	\$21,600	\$208,600	\$205,600	\$202,600	\$199,600	\$196,600	\$193,600	\$190,600	\$187,600	\$184,600	\$1,981,000	\$1,981,000
TOTAL ANNUAL REPLACEMENT RESERVES	\$21,600	\$208,600	\$205,600	\$202,600	\$199,600	\$196,600	\$193,600	\$190,600	\$187,600	\$184,600	\$1,981,000	\$1,981,000
TOTAL CAPITAL	\$4,540,300	\$8,706,720	\$3,948,344	\$866,016	\$2,636,282	\$1,292,282	\$458,478	\$463,424	\$1,051,609	\$474,039	\$24,137,495	\$24,137,495
TOTAL CAPITAL PER UNIT (based on 1,058 units)	\$4,291	\$8,229	\$3,732	\$835	\$2,492	\$1,221	\$433	\$438	\$994	\$448	\$22,814	\$22,814