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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/04/2006 11:07 AM Pg: 1 of 29

**PREPARED BY AND AFTER
RECORDING RETURN TO:**

John A. Washburn
GOULD & RATNER
222 North La Salle Street
Suite 800
Chicago, Illinois 60601

0609-23009
PRAIRIE TITLE INC.
6821 NORTH AVENUE
OAK PARK, IL 60362

Space Above This Line for Recording Data

**MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING**
(705-711 South Lawndale)

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING ("Mortgage"), made as of this 31st day of October, 2006 between TRUTH AND DELIVERANCE INTERNATIONAL MINISTRIES, an Illinois Not for Profit Corporation ("Truth and Deliverance") and KINGDOM COMMUNITY, INC., an Illinois Not for Profit Corporation ("Mortgagor"), and THE PRIVATE BANK AND TRUST COMPANY ("Lender").

WITNESSETH:

Whereas, Truth and Deliverance and Mortgagor executed and delivered to Lender a Promissory Note of even date herewith in the original principal amount of \$1,100,000 or such lesser amount as may be disbursed thereon, being payable to Lender and bearing interest as more fully set forth therein and with a final payment due and payable on October 31, 2008, (such note, together with all notes issued in substitution or exchange therefor, and as any of the foregoing may from time to time be amended, is hereinafter called the "Note"); and

Whereas, Lender is loaning money to Truth and Deliverance and Mortgagor to finance renovation of the Mortgaged Property (as hereinafter defined) and making a construction loan to Truth and Deliverance and Mortgagor on the terms, all as specified in that certain Construction Loan Agreement of even date herewith (which agreement, as it may be amended from time to time hereafter, hereinafter called the "Loan Agreement") and the indebtedness arising pursuant to the Loan Agreement will be evidenced by and repayable in accordance with the provisions of the Note; and

Whereas, Lender is desirous of securing the prompt payment of the Note, together with interest thereon in accordance with the terms of the Note, and any additional indebtedness accruing to Lender on account of any future payments, advances or expenditures made by Lender

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pursuant to the Loan Agreement or Note or this Mortgage, or the Loan Agreement or any other document or instrument securing the indebtedness evidenced by the Note, all of the foregoing hereinafter sometimes collectively called the "indebtedness secured hereby."

NOW, THEREFORE, to secure the performance and observance by Truth and DeliveranceG and Mortgagor (Truth and Deliverance and Mortgagor sometimes collectively hereinafter "Borrowers") of all of the terms, covenants and conditions in the Note and of in this Mortgage contained, and in order to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for and in consideration of the sum of One Dollar (\$1.00) lawful money of the United States of America to Borrowers duly paid by Lender on or before the delivery of this Mortgage, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrowers have executed and delivered this Mortgage and do hereby grant, warrant, convey, assign, remise, mortgage, grant a security interest in, and confirm, unto Lender and its successors and assigns, forever, all of the following described property (which is hereinafter sometimes referred to as the "**Mortgaged Property**"), to-wit:

A. All those certain tracts, pieces or parcels of land more particularly described in **Exhibit A** attached hereto and made a part hereof (hereinafter called the "**Land**");

B. All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all furnishings, furniture, fixtures, machinery, equipment, appliances, systems, building materials and personal property of every kind and nature whatsoever, including, without limitation, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures and systems, carpeting and other floor coverings, washers, dryers, water heaters, mirrors, mantels, air conditioning apparatus and systems, refrigerating plant, refrigerators, computers and all hardware and software therefor, cooking apparatus and appurtenances, window screens, awnings and storm sashes, which are or shall be attached to said building, structures or improvements, or which are or shall be located in, on or about the Land, or which, wherever located (including, without limitation, in warehouses or other storage facilities or in the possession of or on the premises of vendors or manufacturers thereof), are used or intended to be used in or in connection with the construction, fixturing, equipping, furnishing, use, operation or enjoyment of the Land or the improvements thereon (excluding, however, all vehicles and parts thereof), all warehouse receipts or other documents of title relating to any of the foregoing and all permits, licenses and franchises now or hereafter owned by either Borrowers, or either of them, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing, together with the benefit of any deposits or payments now or hereafter made by Borrowers or either of them, or on its behalf in connection with any of the foregoing but specifically excluding all personal property now or hereafter owned or leased by any tenant leasing any portion of the land or building, structures or improvements located thereon (collectively, the "**Improvements**"); and

C. All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights,

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titles, interests, licenses, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to the Mortgaged Property, or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower and the reversion and reversions, remainder and remainders;

D. All interests of either Borrower in any and all amounts, rents, issues, profits and revenues of the Mortgaged Property from time to time accruing (including, without limitation, all payments under leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits and escrow funds), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Borrower of, in and to the same;

E. Any and all rights of either Borrowers in any and all accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, agreements and general intangibles relating to any of the Land or Improvements, including, without limitation, income and profits derived from the operation of any business on the Land or Improvements or attributable to the services that occur or are provided on the Land or Improvements or generated from the use and operation of the Land or Improvements.

To Have and To Hold the Mortgaged Property and all parts thereof unto Lender, its successors and assigns, to its own proper use, benefit and advantage forever, subject, however, to the terms, covenants and conditions herein contained;

Without limitation of the foregoing, Borrowers hereby further grant unto Lender, pursuant to the provisions of the Uniform Commercial Code of the State of Illinois, a security interest in all of the above-described property, which property includes, without limitation, goods which are or are to become fixtures.

This Mortgage is Given To Secure: (a) payment of the indebtedness secured hereby, and (b) performance of each and every of the covenants, conditions and agreements contained in this Mortgage, in the Note, in the Loan Agreement and in any other agreement, document or instrument to which reference is expressly made in this Mortgage or which secures the payment of the indebtedness secured hereby or any portion thereof.

It is expressly understood and agreed that the indebtedness secured hereby will in no event exceed five hundred percent (500%) of (i) the total face amount of the Note plus (ii) the total interest which may hereafter accrue on such face amount.

Provided, however, that these presents are upon the condition that, if Borrowers shall pay or cause to be paid to Lender the principal, interest, expenses, and costs payable pursuant to the Note, this Mortgage, and any other documents securing the Note, at the time and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by Borrowers, and if Borrowers shall timely perform and observe all of the provisions herein and in the Note and Loan Agreement, then this Mortgage shall cease, terminate and be void, but shall otherwise remain in full force and effect.

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And Borrowers covenant and agree with Lender that:

ARTICLE 1

1.1 **Performance of Note and Mortgage.** Borrowers will perform, observe and comply with all of the provisions hereof and of the Note and will duly and punctually pay to Lender the sum of money expressed in the Note with interest thereon at the times and in the manner provided in the Note and all other sums required to be paid by Borrowers pursuant to the provisions of this Mortgage, all without any deductions or credit for taxes or other similar charges paid by Borrowers.

1.2 **Warranty of Title.** At the time of the delivery of these presents, Mortgagor is the indefeasible estate in fee simple in the portion of the Mortgaged Property which constitutes real property and owns good title to the portion of the Mortgaged Property which constitutes personal property, subject only to those matters set forth in **Exhibit B** attached hereto and made a part hereof (the "**Permitted Exceptions**"), and has good right, full power and lawful authority to convey, mortgage and grant a security interest in the same in the manner and form aforesaid; that, except as set forth in **Exhibit B** hereto, the same is free and clear of all liens, charges, easements, covenants, conditions, restrictions, matters and encumbrances whatsoever, including, as to the personal property and fixtures, security agreements, conditional sales contracts and anything of a similar nature; and that Borrowers shall and will warrant and forever defend the title to the Mortgaged Property against the claims of all persons whomsoever.

1.3 **Taxes, Liens and Other Charges.**

A. Borrowers will pay promptly, when and as due, and will promptly exhibit to Lender receipts for the payment of, all taxes, assessments, water rates, license fees, dues, charges, fines and impositions of every nature whatsoever charged, imposed, levied or assessed or to be charged, imposed, levied, or assessed upon or against the Mortgaged Property or any part thereof; or upon the interest of Lender in the Mortgaged Property, as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any state, county, municipality or other taxing authority in respect of the Mortgaged Property or any part thereof, or any charge which, if unpaid, would or could become a lien or charge upon the Mortgaged Property, or any part thereof.

B. **Tax Escrow.** Lender shall have the right during the term of the Loan to require that Borrowers shall make monthly escrow payments (hereinafter referred to as the "**Tax Payments**") to Lender, in advance, on the first day of the month for each month during the remaining term of the Loan as follows:

(i) **Monthly Payments.** The amount of each such Tax Payment shall be equal to one-twelfth (1/12) of the annual real and personal property taxes assessed against the Premises and/or the use or ownership thereof (hereinafter referred to as the "**Taxes**") (estimated if necessary) to become due for the tax year during which such Tax

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Payment is being made; Lender shall have the right to report Mortgagor's tax identification number with respect to the Tax Payments regardless of the name in which the account is established.

(ii) **Additional Payments.** In addition to the foregoing described monthly payments, Borrowers shall make an initial lump sum payment equal to six (6) times the amount of the Tax Payment. Such lump sum payment shall be delivered to Lender at the closing of the Loan and shall be deemed part of the Tax Payments. If Lender reasonably determines that any amounts previously paid by Borrowers are (or will be) insufficient for the payment in full of the Taxes, Lender shall notify Borrowers of the additional amounts required to provide a sufficient fund and, within ten (10) days after the date of Lender's notice, Borrowers shall pay to Lender the additional amount stated in Lender's notice.

(iii) **Account.** The Tax Payments shall be placed in a non-interest bearing account in the name of Lender only or, in Lender's sole and absolute discretion, in the name of Lender and/or Borrower, and may be commingled with Lender's other funds.

(iv) **Application of Tax Payments.** Lender shall apply the Tax Payments toward the Taxes due from time to time (or, at Lender's option, Lender may issue a check payable jointly to Borrower; and the party to whom such payments are to be made).

(v) **Additional Provisions.** If an Event of Default has occurred and is continuing hereunder, Lender shall have the option of (a) applying all or any part of the Tax Payments against the indebtedness in such order as Lender shall elect, without notice to Borrowers or any other party; and/or (b) pre-paying the Taxes. Upon any assignment of the Mortgage, Lender shall have the right to pay over the balance of the Tax Payments then in Lender's possession to Lender's assignee, whereupon Lender shall then become completely released from all liability with respect thereof.

C. Borrowers will not suffer any mechanics', laborer's, materialmen's, statutory or other lien or any security interest or encumbrance to be created or to remain outstanding upon any of the Mortgaged Property.

D. In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of mortgages or debts secured by mortgages or the manner of collecting taxes so as to affect adversely Lender, all sums secured by this Mortgage and all interest accrued thereon shall, at the option of Lender, become immediately due and payable.

E. Borrowers will pay when due any charges for utilities, whether public or private, with respect to the Mortgaged Property or any part thereof and all license fees,

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rents or other charges for the use of vaults, canopies or other appurtenances to the Mortgaged Property.

1.4 **No Tax Credits**. Borrowers will not claim or demand or be entitled to receive any credit or credits on the principal or interest payable under the terms of the Note or on any other sums secured hereby, for so much of the taxes, assessments or similar charges assessed against the Mortgaged Property or any part thereof, as are applicable to the indebtedness secured hereby or to Lender's interest in the Mortgaged Property. No deduction shall be claimed from the taxable value of the Mortgaged Property or any part thereof by reason of the Note or this Mortgage.

1.5 **Insurance**. A policy or policies of comprehensive general liability insurance (and during any period of construction, contractor's liability and worker's compensation insurance), with liability under the comprehensive liability insurance together with any umbrella insurance policy with general liability coverage, to be not less than Five Million Dollars (\$5,000,000.00) combined single limit, to protect Lender and Borrowers against any liability incident to the use of, or resulting from any accident occurring on or about, the Mortgaged Property or relating to any construction on the Mortgaged Property. An "all risk" policy or policies insuring the Mortgaged Property against loss or damage by fire and such other hazards as may be reasonably required by Lender, including, but not limited to, extended coverage, vandalism, malicious mischief and sprinkler, leakage and including, as to the Mortgaged Property, a so-called Builder's Risk Completed Value non-reporting form of policy for at least one hundred percent (100%) of the insurable replacement value of the Mortgaged Property. As to any portion of the Land located in a flood hazard area, flood hazard insurance with companies and coverage satisfactory to Lender (or evidence satisfactory to Lender that the Land is not in a flood hazard area). Such policies shall have premiums prepaid and shall name Lender as an additional insured or as a mortgagee, as appropriate. Such insurance policies shall be with companies, with coverage and in amounts and shall contain a mortgagee's loss payable clause, all satisfactory to Lender and each such policy shall provide that same may not be cancelled or amended by any party for any reason whatsoever without first giving Lender at least thirty (30) days prior written notice of any proposed cancellation or amendment.

Lender is hereby authorized and empowered, at its option, to make or file proofs of loss or damage and to adjust or compromise any loss under any insurance policies on the Mortgaged Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender instead of to Borrowers. After deducting from such insurance proceeds all of its expenses incurred in the collection and administration of such sums, including attorneys' fees, Lender may apply the net proceeds or any part thereof, at its option, either toward restoring the Mortgaged Property or as a credit on any portion of the indebtedness secured hereby selected by it, whether then matured or to mature in the future, or at the option of Lender, such sums either wholly or in part may be paid over to Borrowers, on such terms and conditions as Lender in its discretion may specify, to be used to repair the building, structures or improvements, or to build new ones in their place, or for any other purpose or object satisfactory to Lender, without affecting the lien of this Mortgage for the full amount secured hereby before such payment took

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place. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

1.6 **Condemnation.** If all or any material part of the Mortgaged Property shall be damaged or taken through condemnation (which term, when used in this Mortgage, shall include any damage or taking by any governmental authority and any transfer by private sale in lieu thereof), either temporarily or permanently, the entire indebtedness secured hereby shall, at the option of Lender, become immediately due and payable. Lender shall be entitled to all compensation, awards and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or Borrowers' name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights, actions and proceedings, and the right thereto, are hereby assigned by Borrowers to Lender. After deducting from such condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorneys' fees, Lender may apply the net proceeds or any part thereof, at its option, either toward restoring the Mortgaged Property or as a credit on any portion of the indebtedness secured hereby selected by it whether then matured or to mature in the future, or for any other purpose or object satisfactory to Lender without affecting the lien of this Mortgage. Borrower agrees to execute such further assignments of any compensation, awards, damages, claims, rights, actions and proceedings as Lender may require. Lender shall not be held responsible for any failure to collect any amount in connection with any such proceeding regardless of the cause of such failure.

1.7 **Care of the Property.**

A. Borrowers will preserve and maintain the Mortgaged Property in good condition and repair, will not commit or suffer any waste thereof, and will keep the same in a clean, orderly and attractive condition. Borrowers will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof.

B. If the Mortgaged Property or any part thereof is damaged by fire or any other cause, Borrowers will give immediate written notice of the same to Lender.

C. Lender or its representative is hereby authorized to enter upon and inspect the Mortgaged Property at any time during normal business hours during the term of this Mortgage, subject to the rights of tenants in possession thereof.

D. Borrowers will promptly comply, and cause the Mortgaged Property and the occupants or users thereof to comply, with all present and future laws, ordinances, orders, rules and regulations and other requirements of any governmental authority affecting the Mortgaged Property or any part thereof or the use or occupancy thereof.

E. If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, Borrowers will promptly restore the Mortgaged Property to the equivalent

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of its original condition, regardless of whether or not there shall be any insurance proceeds therefor and whether or not the same are made available by Lender for such purpose. If a part of the Mortgaged Property shall be physically damaged through condemnation, Borrowers will promptly restore, repair or alter the remaining property in a manner satisfactory to Lender.

1.8 **Further Assurances; After Acquired Property.** At any time and from time to time, upon request by Lender, Borrowers will make, execute and deliver or cause to be made, executed and delivered, to Lender, and where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such other and further mortgages, security agreements, financing statements, continuation statements, instruments of further assurances, certificates and other documents as may, in the opinion of Lender, be necessary or desirable in order to effectuate, complete, enlarge or perfect, or to continue and preserve (a) the obligations of Borrowers under the Note and this Mortgage, and (b) the lien and security interest of this Mortgage as a first and prior lien and security interest upon all of the Mortgaged Property, whether now or hereafter acquired by Borrowers. Upon any failure by Borrowers so to do, Lender may make, execute, record, file, re-record and/or refile any and all such mortgages, security agreements, financing statements, continuation statements, instruments, certificates and documents for and in the name of Borrowers, and Borrowers hereby irrevocably appoint Lender the agent and attorney-in-fact of Borrowers to do so. The lien and security interest hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of any improvements now or hereafter located on the Mortgaged Property or any part thereof.

1.9 **Leases and Other Agreements Affecting the Mortgaged Property.** Borrowers will duly and punctually perform all terms, covenants, conditions and agreements binding upon it or the Mortgaged Property under any lease or any other agreement or instrument of any nature whatsoever which involves or affects the Mortgaged Property or any part thereof. Borrowers represent and warrant that there are no such leases, agreements and instruments existing on the date of this Mortgage. Borrowers agree to furnish Lender with executed copies of all leases hereafter entered into with respect to all or any part of the Mortgaged Property. Borrowers will not, without the express written consent of Lender, enter into any new lease or modify, surrender, terminate, extend or renew, either orally or in writing, any lease now existing or hereafter created upon the Mortgaged Property or any part thereof, nor will Borrowers permit an assignment or sublease without the express written consent of Lender.

1.10 **Estoppel Affidavits.** Borrowers, within ten (10) days after written request from Lender, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the indebtedness secured hereby and whether or not any offsets or defenses exist against such principal and interest.

1.11 **Subrogation.** Lender shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid with the proceeds of the indebtedness secured hereby.

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1.12 **Impairment of Security.** Without limitation of any other provision hereof, Borrowers will not assign, in whole or in part, the rents, income or profits arising from the Mortgaged Property without the prior written consent of Lender; any such assignment made without Lender's prior written consent shall be null and void and of no force and effect and the making thereof shall, at the option of Lender, constitute an Event of Default under this Mortgage. Without limitation of the foregoing, Borrowers will not in any other manner impair the security of this Mortgage for the payment of the indebtedness secured hereby.

1.13 **Use of Mortgaged Property.** Borrowers will not make, suffer or permit, without the prior written consent of Lender, which consent will not be unreasonable withheld, any use of the Mortgaged Property for any purpose other than that for which the same is used or intended to be used as of the date of this Mortgage.

1.14 **Use of Proceeds.**

A. Borrowers represent and agree that the proceeds of the Note secured by this Mortgage will be used for the purposes specified in Section 4(1)(l) of 815 Illinois Compiled Statutes 205/4 (2002), and that the indebtedness secured hereby constitutes a business loan which comes within the purview of said section.

B. All agreements between Borrowers or either of them, and Lender (including, without limitation, this Mortgage, the Note and any other documents securing the indebtedness secured hereby) are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to Lender exceed the highest lawful rate of interest permissible under the laws of the State of Illinois. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Note or any other documents securing the indebtedness secured hereby, at the time performance of such provision shall be due, shall involve payment of interest exceeding the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then ipso facto, the obligation to be fulfilled shall be reduced to the highest lawful rate of interest permissible under the laws of the State of Illinois, and if for any reason whatsoever Lender shall ever receive as interest an amount which would be deemed unlawful, such interest shall be applied to the payment of the principal of the indebtedness secured hereby (whether or not then due and payable) and not to the payment of interest.

1.15 **Prohibition of Transfer.** Neither of Borrowers or either of them, will, without the prior written consent of Lender, sell, assign or transfer, whether by operation of law or otherwise, or contract to sell, assign or transfer all or any portion of its interest in the Mortgaged Property. No ownership interest in either of Borrowers shall be sold, assigned, pledged, or transferred nor, if either Borrower is an Illinois land trust, shall the beneficial interest therein or any portion thereof or any interest in any entities owning such beneficial interest be sold, assigned, mortgage or transferred without the prior written consent of Lender, and any such sale, assignment or transfer made or contracted for without Lender's prior written consent shall be null and void and of no force and effect, but the attempt at the making thereof or contracting therefor shall, at the option of Lender, constitute an event of default under this Mortgage.

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1.16 **Prohibition of Further Encumbrances.** Borrowers will not, without the prior written consent of Lender, further mortgage, grant a deed of trust, pledge or otherwise encumber, whether by operation of law or otherwise, all or any of its interest in the Mortgaged Property. Nor will Borrowers suffer any further assignment, pledge or encumbrance of any beneficial interest in Mortgagor. Any such encumbrance made without Lender's prior written consent shall be null and void and of no force or effect, but the attempt at the making thereof shall, at the option of Lender, constitute an Event of Default under this Mortgage.

1.17 **Bank Accounts.** Borrowers shall maintain all bank accounts relating to the ownership, operation or management of the Property with Lender. Lender may time to time may set off any amounts under the Note, this Mortgage or the Loan Documents against any funds in such accounts, except to the extent they represent security deposits of tenants.

1.18 **Environmental Matters.**

A. **Definitions.** As used herein, the following terms shall have the following meanings:

(i) "Environmental Laws" means all federal, state and local statutes, laws, rules, regulations, ordinances, requirements, or rules of common law, including but not limited to those listed or referred to in paragraph (b) below, any judicial or administrative interpretations thereof, and any judicial and administrative consent decrees, orders or judgments, whether now existing or hereinafter promulgated, relating to public health and safety and protection of the environment.

(ii) "Hazardous Material" means any above or underground storage tanks, flammables, explosives, accelerants, asbestos, radioactive materials, radon, urea formaldehyde foam insulation, lead-based paint, polychlorinated biphenyls, petroleum or petroleum based or related substances, hydrocarbons or like substances and their additives or constituents, methane, hazardous materials, hazardous wastes, toxic substances or related materials, and including, without limitation, substances now or hereafter defined as "hazardous substances", "hazardous materials", "toxic substances" or "hazardous wastes" in The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. S9601, et. seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499, 42 U.S.C.), The Toxic Substance Control Act of 1976 as amended, (15 U.S.C. S2601 et. seq.), The Resource Conservation and Recovery Act, as amended (42 U.S.C. S6901, et. seq.), The Hazardous Materials Transportation Act, as amended 49 U.S.C. ' 1801, et. seq.), The Clean Water Act, as amended (33 U.S.C. ' 1251, et. seq.), The Clean Air Act, as amended (42 U.S.C. ' 7401 et. seq.), The Illinois Environmental Protection Act, as amended (Illinois Compiled Statutes, Ch. 415, ' 5/1 et seq.), any so-called "Superfund" or "Superlien" law or any other applicable federal, state or local law, common law, code, rule, regulation, or ordinance, presently in effect or hereafter enacted, promulgated or implemented.

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(iii) "Environmental Liability" means any losses, liabilities, obligations, penalties, charges, fees, claims, litigation demands, defenses, costs, judgments, suits, proceedings, response costs, damages (including consequential damages), disbursements or expenses of any kind or nature whatsoever (including attorneys' fees at trial and appellate levels and experts' fees and disbursements and expenses incurred in investigating, defending against or prosecuting any litigation, claim or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Lender or any of Lender's parent or subsidiary corporations, and their affiliates, shareholders, directors, officers, employees, and agents (collectively "Affiliates") in connection with or arising from:

- (a) any Hazardous Material on, in, under or affecting all or any portion of the Mortgaged Property, the groundwater, or any surrounding areas;
- (b) any misrepresentation, inaccuracy or breach of any warranty, covenant and agreement contained or referred to in this Section;
- (c) any violation or claim of violation by either Borrowers of any Environmental Laws;
- (d) the imposition of any lien for damages caused by, or the recovery of any costs for, the cleanup, release or threatened release of Hazardous Material;
- (e) the costs of removal of any and all Hazardous Materials from all or any portion of the Mortgaged Property or any surrounding areas;
- (f) costs incurred to comply, in connection with all or any portion of the Mortgaged Property or any surrounding areas, with all Environmental Laws with respect to Hazardous Materials;
- (g) all civil penalties, damages, costs, expenses, and attorneys' fees incurred by reason of any violation of the Illinois Responsible Property Transfer Act, Illinois Compiled Statutes Stat., Ch. 765, ' 5/90 et seq. ("IRPTA"), including, but not limited to, the production and recording and filing of a disclosure document in connection with the execution and delivery of the Mortgage to Lender or the transactions evidenced or secured by the Note, Loan Agreement and this Mortgage.

B. **Representations and Warranties.** Borrowers hereby, jointly and severally represent and warrant to Lender that, to the best of Borrowers' knowledge:

- (i) **Compliance.** The Mortgaged Property (including underlying groundwater and areas leased to tenants, if any), and the use and operation thereof, are currently substantially in compliance with all applicable Environmental Laws. All required governmental permits and licenses are in effect, and Borrowers are in

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compliance therewith, except where failure to have such permit or license would not materially adversely effect Borrowers' operations on the Mortgaged Property. All Hazardous Material generated or handled on the Mortgaged Property, if any, have been disposed of in a lawful manner.

(ii) **Absence of Hazardous Material**. No generation, manufacture, storage, treatment, transportation or disposal of Hazardous Material has occurred nor is occurring on or from the Mortgaged Property, except in compliance with all applicable Environmental Laws. No environmental or public health or safety hazards currently exist with respect to the Mortgaged Property or the business or operations conducted thereon. No underground storage tanks (including petroleum storage tanks) are present on or under the Mortgaged Property.

(iii) **Proceedings and Actions**. There are no pending or threatened: (a) actions or proceedings by any governmental agency or any other entity regarding public health risks or the environmental condition of the Mortgaged Property, or the disposal or presence of Hazardous Material, or regarding any Environmental Laws; or (b) liens or governmental actions, notices of violations, notices of noncompliance or other proceedings of any kind that could impair the value of the Mortgaged Property, or the priority of this Mortgage lien or of any of the other documents or instruments now or hereafter given as security for the indebtedness hereby secured.

C. **Borrowers' Covenants**. Borrowers hereby covenant and agree with Lender as follows:

(i) **Compliance**. The Mortgaged Property and the use and operation thereof shall comply with all Environmental Laws. All required governmental permits and licenses shall remain in effect, and Borrowers shall comply therewith. All Hazardous Material present, handled or generated on the Mortgaged Property will be disposed in a lawful manner. Borrowers will satisfy all requirements of applicable Environmental Laws for the maintenance and removal of all underground storage tanks on the Mortgaged Property, if any. Without limiting the foregoing, all Hazardous Material shall be handled in compliance with all applicable Environmental Laws.

(ii) **Absence of Hazardous Material**. No Hazardous Material shall be introduced to or handled on the Mortgaged Property, except in compliance with all applicable Environmental Laws.

(iii) **Proceedings and Actions**. Borrowers shall immediately notify Lender and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports or notices relating to the condition of the Mortgaged Property or compliance with Environmental Laws. Borrowers shall promptly cure and have dismissed any such actions and proceedings to the satisfaction of Lender. Borrowers shall keep the Mortgaged Property free of any lien imposed pursuant to any Environmental Laws.

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(iv) **Environmental Audit**. Borrowers shall provide such information and certifications which Lender may reasonably request from time to time to insure Borrowers' compliance with this Section. If Lender shall have reason to believe that Borrowers are not in compliance with Environmental Laws or with this Section, Lender shall have the right, but no obligation, at Borrowers' expense, at any time to enter upon the Mortgaged Property, take samples, review Borrowers' books and records, interview Lender's employees and officers, and conduct similar activities to investigate, Lender's compliance with Environmental Laws and with this Section. At such other times as Lender deems appropriate, Lender shall have the right to conduct such an audit, provided such audit shall be at Lender's expense. Borrowers shall cooperate in the conduct of such an audit.

D. **Lender's Right to Rely**. Lender is entitled to rely upon Borrowers' representations and warranties contained in this Section despite any independent investigations by Lender or its consultants. The Borrowers shall take reasonable actions to determine for themselves, and to remain aware of, the environmental condition of the Mortgaged Property and shall have no right to rely upon any environmental investigations or findings made by Lender or its consultants.

E. **Indemnification**. Borrowers agree to indemnify, defend (at trial and appellate levels and with counsel acceptable to Lender and at Borrowers' sole cost) and hold Lender and its Affiliates free and harmless from and against Lender's Environmental Liability. The foregoing indemnity shall survive satisfaction of the loan evidenced by the Notes and any transfer of the Mortgaged Property to Lender by voluntary transfer, foreclosure or by a deed in lieu of foreclosure. This indemnification shall not apply to any liability incurred by Lender as a direct result of actions of Lender or any third party, not affiliated with the Borrowers or John Abercrombie, after Lender has acquired title to the Mortgaged Property and which actions are the direct cause of damage resulting from the introduction and initial release of a Hazardous Material upon the Mortgaged Property; PROVIDED, HOWEVER, this indemnity shall otherwise remain in full force and effect, including, without limitation, with respect to Hazardous Material which is discovered or released at the Mortgaged Property after Lender acquires title to the Mortgaged Property and which is actually introduced at Mortgaged Property by any of the Borrowers, John Abercrombie, or any party affiliated with any of the Borrowers or John Abercrombie, with respect to the continuing migration or release of Hazardous Material introduced at or near the Mortgaged Property prior to the date Lender acquired title, and with respect to all substances which may be Hazardous Material and which are situated at the Mortgaged Property prior to Lender taking title but are removed by Lender subsequent to such date. It is expressly understood and agreed that to the extent that Lender is strictly liable under any Environmental Laws, Borrowers' obligation to Lender under this indemnity shall likewise be without regard to fault on the part of Borrowers with respect to the violation or condition which results in liability to Lender.

F. **Waiver**. Borrowers, their successors and assigns, hereby waive, release and agree not to make any claim or bring any cost recovery action against Lender under

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CERCLA or any state equivalent, or any similar law now existing or hereafter enacted; provided, however, that the foregoing waiver shall be void and of no further force and effect if Lender shall take title to the Mortgaged Property.

ARTICLE 2

2.1 Assignment of Leases and Rents.

A. **Absolute Assignment.** Borrowers hereby absolutely and unconditionally grant, transfer, convey, sell, set over and assign to Lender all of Borrowers' right, title and interest now existing and hereafter arising in and to the leases, subleases, concessions, licenses, franchises, occupancy agreements, tenancies, subtenancies and other agreements either oral or written, now existing and hereafter arising which affect the Mortgaged Property, Borrowers' interest therein or any improvements located thereon, together with any and all security deposits, guarantees of the lessees' or tenants' obligations (including any and all security thereunder) and other security under any such leases, subleases, concessions, licenses, franchises, occupancy agreements, tenancies, subtenancies and other agreements (all of the foregoing, and any and all extensions, modifications and renewals thereof, shall be referred to, collectively, as the "Leases"), and hereby gives to and confers upon Lender the right to collect all the income, rents, issues, profits, royalties and proceeds from the Leases and any business conducted on the Mortgaged Property and any and all prepaid rent and security deposits thereunder (collectively, the "Rents"). This Mortgage is intended by Lender and Borrowers to create and shall be construed to create an absolute assignment to Lender of all of Borrowers' right, title and interest in and to the Leases and the Rents and shall not be deemed merely to create a security interest therein for the payment of any indebtedness or the performance of any obligations under the Loan Documents. Borrowers irrevocably appoint Lender their true and lawful attorney at the option of Lender at any time to demand, receive and enforce payment, to give receipts, releases and satisfactions and to sue, either in the name of Borrowers or either of them or in the name of Lender, for all such Rents and apply the same to the obligations secured by this Mortgage.

B. **Revocable License to Collect.** Notwithstanding the foregoing assignment of Rents, so long as no Event of Default (as hereinafter defined) remains uncured, Borrowers shall have a revocable license, to collect all Rents, and to retain the same. Upon any Event of Default, Borrowers' license to collect and retain Rents shall terminate automatically and without the necessity for any notice.

C. **Collection and Application of Rents by Lender.** While any Event of Default remains uncured, (i) Lender may at any time, without notice, in person, by agent or by court-appointed receiver, and without regard to the adequacy of any security for the obligations secured by this Mortgage, enter upon any portion of the Mortgaged Property and/or, with or without taking possession thereof, in its own name sue for or otherwise collect Rents (including past due amounts), and (ii) without demand by Lender therefor, Borrowers shall promptly deliver to Lender all prepaid rents, deposits relating to Leases

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or Rents, and all other Rents then held by or thereafter collected by Borrowers, whether prior to or during the continuance of any Event of Default. Any Rents collected by or delivered to Lender may be applied by Lender against the obligations secured by this Mortgage, less all expenses, including attorneys' fees and disbursements, in such order as Lender shall determine in its sole and absolute discretion. No application of Rents against any obligation secured by this Mortgage or other action taken by Lender under this Section 2.2 shall be deemed or construed to cure or waive any Event of Default, or to invalidate any other action taken in response to such Event of Default, or to make Lender a Lender-in-possession of the Mortgaged Property.

D. **Direction to Tenants.** Borrowers hereby irrevocably authorize and direct the tenants under all Leases to pay all amounts owing to Borrowers or either of them thereunder to Lender following receipt of any written notice from Lender that states that an Event of Default remains uncured and that all such amounts are to be paid to Lender. Borrowers further authorize and direct all such tenants to pay all such amounts to Lender without any right or obligation to inquire as to the validity of Lender's notice and regardless of the fact that Borrowers have notified any such tenants that Lender's notice is invalid or has directed any such tenants not to pay such amounts to Lender.

ARTICLE 3

3.1 **Events of Default.** The terms "Event of Default" and "Events of Default," wherever used in this Mortgage, shall mean any one or more of the following events:

- A. Failure by Borrowers to pay (i) any payment of principal or interest payable pursuant to the Note on the date when due, or (ii) any other amount payable to Lender under the Note, this Mortgage or any of the other Loan Documents within five (5) days after the same is due, or to make when due any deposits required by Paragraph 1.03 hereof when required by Lender to do so; or
- B. Failure by Borrowers to duly observe or perform any other term, covenant, condition or agreement of this Mortgage and such failure continues for thirty (30) days after written notice to Borrowers of such failure; or
- C. The occurrence of a prohibited transfer, as described in Paragraph 1.15 above; or
- D. The breach of any of the representations or warranties of Borrowers as set forth in this Mortgage; or
- E. The occurrence of an "Event of Default" as defined in the Loan Agreement; or
- F. Failure by Borrowers or either of them, to duly observe or perform any term, covenant, condition or agreement in any assignment of lease, assignment of rents or any other agreement or instrument providing collateral for or guaranteeing the

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performance of the Note or this Mortgage, including, without limitation, any of the Loan Documents (as defined in the Loan Agreement) (and not constituting an Event of Default under subparagraph (a) above) and the expiration of all applicable grace and/or cure periods; or

G. The filing by either Borrower or by any guarantor of the indebtedness secured hereby of a voluntary petition in bankruptcy or Borrowers' or such guarantor's adjudication as a bankrupt or insolvent, or the filing by either Borrower or such guarantor of any petition or answer seeking or acquiescing in an reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself or himself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or Borrowers' or such guarantor's seeking or consenting to or acquiescing in the appointment of any trustee, receiver or liquidator of itself or any portion of its or assets or of all or any part of the Mortgaged Property or of any or all of the rents, issues, profits or revenues thereof, or the making of any general assignment for the benefit of creditors, or the admission in writing of its inability to pay its debts generally as they become due; or

H. The entry by a court of competent jurisdiction of an order, judgment or decree approving a petition filed against either Borrower or guarantor seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other similar relief for debtors, which order, judgment or decree remains unvacated and unstayed for an aggregate of thirty (30) days (whether or not consecutive) from the date of entry thereof, or the appointment of any trustee, receiver or liquidator of either Borrower or any such guarantor or of all or any part of the Mortgaged Property or of any or all of the rents, issues, profits or revenues thereof without its consent or acquiescence, which appointment shall remain unvacated or unstayed for an aggregate of thirty (30) days (whether or not consecutive).

3.2 **Acceleration of Maturity.** If an Event of Default shall have occurred, then the entire indebtedness secured hereby shall, at the option of Lender, immediately become due and payable without notice or demand.

3.3 **Lender's Right to Enter and Take Possession, Operate and Apply Revenues.**

A. If an Event of Default shall have occurred, Borrowers, upon demand of Lender, shall forthwith surrender to Lender the actual possession, and if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession, of all or any part of the Mortgaged Property, and may exclude Borrowers and its agents and employees wholly therefrom, and may have joint access with Borrowers to the books, papers and accounts of Borrowers.

B. If Borrowers shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Lender, Lender may obtain a judgment

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or decree conferring on Lender the right to immediate possession or requiring the delivery of immediate possession of all or part of such Mortgaged Property to Lender, to the entry of which judgment or decree Borrowers specifically consents.

C. Borrowers will pay to Lender, upon demand, all reasonable expenses (including, without limitation, reasonable fees and expenses of attorneys, accountants and agents) of obtaining such judgment or decree or of otherwise seeking to enforce its rights under the Note or this Mortgage; and all such expenses shall, until paid, be secured by the Mortgage and shall bear interest at the Default Rate as defined in the Note.

D. Upon every such entering upon or taking of possession, Lender may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time: (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty or other property; (ii) insure or keep the Mortgaged Property insured; (iii) manage and operate the Mortgaged Property and exercise all the rights and powers of Borrowers to the same extent as Borrowers could in their own names or otherwise with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be to its best advantage. Lender may collect and receive all the rents, issues, profits and revenue of the same, including those past due as well as those accruing thereafter, and, after deducting (aa) all expenses of taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other similar charges as Lender may determine to pay; (ee) other proper charges upon the Mortgaged Property or any part thereof; and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of Lender, shall apply the remainder of the monies and proceeds so received by Lender, first to payment of accrued interest; and second to the payment of principal.

E. Lender shall have no liability for any loss, damage, injury, cost or expense resulting from any action or omission by it or its representatives which was taken or omitted in good faith.

F. If any Event of Default shall occur, Lender may, in addition to any other rights and remedies hereunder and under the Illinois Mortgage Foreclosure Act, exercise any and all remedies provided in the Loan Agreement.

3.4 **Performance by Lender of Defaults.** If default shall occur in the payment, performance or observance of any term, representation, warranty, covenant or condition of this Mortgage (whether or not the same shall constitute an Event of Default), which could endanger or threaten to diminish the value of the Mortgaged Property or any collateral securing the Note, Lender may, at its option, pay, perform, or observe the same or take any action necessary to cause

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any representation or warranty to be true, and all payments made costs or expenses incurred by Lender in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by Borrowers to Lender with interest thereon at the Default Rate. Lender shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Lender is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Borrowers or any person in possession holding under Borrowers.

3.5 **Receiver**. If an Event of Default shall have occurred, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right without notice and without regard to the occupancy or value of any security for the indebtedness or the insolvency of any party bound for its payment to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the rents, issues, profits, and revenues thereof. The receiver shall have all of the rights and powers to the fullest extent permitted by law. Borrowers will pay to Lender upon demand (with interest thereon at the Default Rate) all reasonable expenses, including receiver's fees, attorneys' fees, costs and agent's compensations, incurred pursuant to the provisions of this Paragraph 3.5; and all such expenses shall be secured by this Mortgage and shall bear interest at the Default Rate.

3.6 **Lender's Power of Enforcement**. If an Event of Default shall have occurred, Lender may, either with or without entry or taking possession as herein provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy (a) to enforce payment of the Note or the performance of any term, covenant, condition or agreement of this Mortgage or any other right, (b) to foreclose this Mortgage and to sell the Mortgaged Property as an entirety or otherwise, as Lender may determine, and (c) to pursue any other remedy available to it, including all remedies under the Loan Agreement, all as Lender shall deem most effectual for such purposes. Lender may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Lender may determine. Lender may elect to pursue any one or more or all of the foregoing, all specifically in addition to remedies provided under the Illinois Mortgage Foreclosure Act.

3.7 **Purchase by Lender**. Upon any foreclosure sale, Lender may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part of the indebtedness secured hereby as a credit to the purchase price.

3.8 **Fees and Expenses; Application of Proceeds of Sale**. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness secured hereby in the decree for sale all reasonable costs and expenses which may be paid or incurred by or on behalf of Lender or holders of the Note for attorneys' fees, appraiser's fees, receiver's costs and expenses, insurance, taxes, outlays for documentary and expert evidence, costs for preservation of the Mortgaged Property, stenographer's charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, guarantee policies, Certificates of Title issued by the Registrar of Titles (Torrens certificates), and similar data and assurances with respect to title as Lender or holders of the Note may deem to be reasonably necessary either to prosecute

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such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or value of the Mortgaged Property or for any other reasonable purpose. The amount of any such costs and expenses which may be paid or incurred after the decree for sale is entered may be estimated and the amount of such estimate may be allowed and included as additional indebtedness secured hereby in the decree for sale. In the event of a foreclosure sale of the Mortgaged Property, the proceeds of said sale shall be applied, first, to the expenses of such sale and of all proceedings in connection therewith, including attorneys' fees, then to insurance premiums, liens, assessments, taxes and charges, including utility charges, then to payment of the outstanding principal balance of the indebtedness secured hereby, then to the accrued interest on all of the foregoing, and finally the remainder, if any, shall be paid to Borrowers.

3.9 Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws.

Borrowers agrees to the full extent permitted by law, that if an Event of Default occurs hereunder, neither Borrowers nor anyone claiming through or under Borrowers shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension, homestead, reinstatement or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the property hereby conveyed, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Borrowers, for themselves and all who may at any time claim through or under it, hereby waives and releases to the full extent that it may lawfully so do, the benefit of all such laws (including, without limitation, all rights under and by virtue of the homestead exemption laws of the State of Illinois) and any and all rights to have the assets comprised in the security intended to be created hereby marshalled upon any foreclosure of the lien hereof.

3.10 Leases. Lender, at its option, is authorized to foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by either Borrower, a defense to any proceedings instituted by Lender to collect the sums secured hereby, or any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

3.11 Discontinuance of Proceedings and Restoration of the Parties. In case Lender shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then and in every such case Borrowers and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceeding had been taken.

3.12 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Lender by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

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3.13 **Waiver.** No delay or omission of Lender or of any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver, expressed or implied, by Lender to or of any breach or default by Borrowers in the performance of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Borrowers hereunder. Failure on the part of Lender to complain of any acts or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies on account of any breach or default by either Borrower.

If Lender (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment of any sums secured hereby; (c) waives or does not exercise any right granted herein or in the Note or in any other document or instrument securing the Note; (d) releases with or without consideration any of the Mortgaged Property from the lien of this Mortgage or any other security for the payment of the indebtedness secured hereby; (e) changes any of the terms, covenants, conditions or agreements of the Note or this Mortgage or in any other document or instrument securing the Note; (f) consents to the filing of any map, plat or replat or condominium declaration affecting the Mortgaged Property; (g) consents to the granting of any easement or other right affecting the Mortgaged Property; or (h) makes or consents to any agreement subordinating the lien hereof; any such act or omission shall not release, discharge, modify, change or affect (except to the extent of the changes referred to in clause (e) above) the original liability under the Note, this Mortgage or any other obligation of either Borrower or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any default then made or of any subsequent default, nor, except as otherwise expressly provided in an instrument or instruments executed by Lender, shall the lien of this Mortgage or the priority thereof be altered thereby, whether or not there are junior lienors and whether or not they consent to any of the foregoing. In the event of the sale or transfer, by operation or law or otherwise, of all or any part of the Mortgaged Property, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to such portion of the Mortgaged Property or the indebtedness secured hereby, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings. The foregoing shall not limit the prohibition against such sale or transfer set forth in Paragraph 1.18 hereof.

Without limitation of the foregoing, the right is hereby reserved by Lender to make partial release or releases of the Mortgaged Property, or of any other security held by Lender with respect to all or any part of the indebtedness secured hereby, without notice to, or the consent, approval or agreements of, other parties in interest, including junior lienors, which partial release

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or releases shall not impair in any manner the validity or priority of this Mortgage on the portion of said property not so released.

3.14 **Construction Loan.** A portion of the principal amount evidenced by the Note is to be used in the construction of certain improvements on the real estate herein described and for the purposes set forth in the Loan Agreement, all in accordance with the Loan Agreement. Borrowers covenants that it will perform all of the terms, covenants and conditions of the Loan Agreement to be kept and performed by either Borrower.

ARTICLE 4

4.1 **Suits to Protect the Mortgaged Property.** Lender shall have the power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or in violation of this Mortgage; (b) to preserve or protect its interest in the Mortgaged Property and in the rents, issues, profits and revenues arising therefrom; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, regulation, rule, order or other requirement that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, regulation, rule, order or other requirement would impair the security hereunder or be prejudicial to the interest of Lender, and all costs and expenses incurred by Lender in connection therewith (including, without limitation, attorneys' fees) shall be paid by Borrowers to Lender on demand (with interest at the Default Rate) and shall be additional indebtedness secured hereby.

4.2 **Lender May File Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrowers, its creditors or its property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by either Borrower under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Borrowers hereunder after such date.

4.3 **Successors and Assigns.** This Mortgage shall inure to the benefit of and be binding upon Borrowers and Lender and their respective heirs, executors, legal representatives, successors, and assigns. Whenever a reference is made in this Mortgage to Borrowers or Lender, such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Borrowers or Lender.

4.4 **Notices.** Any notice, communication and waiver which any party hereto may be required or may desire to give hereunder shall be deemed to have been given if delivered personally or if mailed, postage prepaid, by United States registered or certified mail, return receipt requested, addressed as follows:

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If to Borrowers: c/o Truth and Deliverance International Ministries
5151 West Madison
Chicago, IL 60644
Attention: John Abercrombie

If to Lender: The Private Bank and Trust Company
70 West Madison Street
Suite 200
Chicago, IL 60602
Attention: Steven Belser

with copies to: Gould & Ratner
222 North LaSalle Street
Suite 800
Chicago, Illinois 60601
Attention: John A. Washburn, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. Any notice given in accordance with the foregoing shall be deemed given when delivered personally, or if mailed, then on the earlier of the third federal banking day after it shall have been deposited in the United States mails as aforesaid or when actually received.

4.5 **Complete Agreement.** This Mortgage, the Note and the other Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by both Lender and Borrowers.

4.6 **Construction Loan.** The Note evidences a debt created in part by one or more disbursements made by Borrowers to Lender to finance the cost of the construction and/or alteration of certain improvements upon the Mortgaged Property in accordance with the provisions of the Loan Agreement, and this Mortgage is a construction mortgage as such term is defined in Section 9-334(h) of the Uniform Commercial Code of the State of Illinois. The terms and conditions recited and set forth in the Loan Agreement are fully incorporated in this Mortgage and made a part hereof, and an Event of Default under any of the conditions or provisions of the Loan Agreement shall constitute a default hereunder. Upon the occurrence of any such Event of Default, the holder of the Note may at its option declare the Indebtedness **[Is this deleted?]** immediately due and payable, or complete the construction of said improvements and enter into the necessary contracts therefor, in which case all money expended shall be so much additional Indebtedness and any money expended in excess of the amount of the original principal shall be immediately due and payable with interest until paid at the Default Rate **[Is this defined herein?]**. In the event of a conflict between the terms of the Loan Agreement and

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this Mortgage, the provisions of the Loan Agreement shall apply and take precedence over this Mortgage.

4.7 **Terminology.** All personal pronouns used in this Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and sections are for convenience only and neither limit nor amplify the provisions of this Mortgage itself, and all references herein to Articles, Sections or Paragraphs shall refer to the corresponding Articles, Sections or Paragraphs of this Mortgage unless specific reference is made to such Articles, Sections or Paragraphs of another document or instrument.

4.8 **Severability.** If any provision of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

4.9 **Applicable Law.** This Mortgage shall be interpreted, construed and enforced according to the laws of the State of Illinois.

4.10 **Security Agreement.** This Mortgage shall be construed as a "security agreement" within the meaning of and shall create a security interest under the Uniform Commercial Code as adopted by the State of Illinois with respect to any part of the Mortgaged Property which constitutes fixtures or personal property. Lender shall have the rights with respect to such fixtures and personal property afforded to it by said Uniform Commercial Code in addition to, but not in limitation of, the other rights afforded Lender by this Mortgage or any other agreement.

4.11 **Fixture Filing.** Borrowers hereby authorize Lender to file any fixtures whatsoever, fixture filing or similar filing to represent the security interest granted in this Mortgage and including "all assets" filings.

4.12 **Modification.** No change, amendment, modification, cancellation or discharge hereof, or any part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

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

4.14 **Delivery of Summons, Etc.** If any action or proceeding shall be instituted to evict Borrowers or either of them, or recover possession of the Mortgaged Property or any part thereof or otherwise affecting the Mortgaged Property or this Mortgage, Borrowers will

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immediately, upon service thereof on or by Borrowers, deliver to Lender a true copy of each precipe, petition, summons, complaint, notice of motion, order to show cause and all other process, pleadings and papers, however designated, served in any such action or proceeding.

4.15 **No Partnership.** Borrowers acknowledge and agree that in no event shall Lender be deemed to be a partner or joint venturer with Borrowers. Without limitation of the foregoing, Lender shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document securing any portion of the indebtedness secured hereby or on account of receiving contingent interest, if any, or any release fee for partial releases of this Mortgage, or otherwise.

4.16 **TO INDUCE LENDER TO ACCEPT THE NOTE, BORROWERS IRREVOCABLY AGREE THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE LOAN DOCUMENTS WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. BORROWERS HEREBY CONSENT AND SUBMIT TO THE JURISDICTION OF ANY COURT LOCATED WITHIN COOK COUNTY, ILLINOIS, WAIVE PERSONAL SERVICE OF PROCESS UPON BORROWERS, AND AGREE THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO BORROWERS AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.**

4.17 **BORROWERS AND LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS AGREEMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS AGREEMENT OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWERS AGREE THAT NEITHER WILL ASSERT ANY CLAIM AGAINST LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS AGREEMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.**

4.18 **Joint and Several Liability.** If Borrowers shall be jointly and severally liable as to all obligations, representations, warranties, covenants, liabilities and agreements of Borrowers set forth in this Mortgage.

4.19 **Right of First Refusal-Permanent Mortgage.** Lender shall have a right of first refusal to make any permanent loan or provide any other financing required to pay off the Note

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and the loan evidenced thereby. Upon Borrowers' receipt by either of Borrowers of a firm bona fide commitment to make such a loan ("Replacement Loan") from a third party lender ("Bona Fide Commitment"), which for purposes herein must be an institutional lender, Borrowers shall provide a copy thereof to Lender along with such due diligence materials as lender may reasonably request. Lender shall have 30 days from the date of receipt of a copy of such commitment and information in which to elect to make the Replacement Loan to Borrowers on the terms and conditions set forth in the Bona Fide Commitment. In the event lender elects to make the Replacement Loan and gives notice of its election to do so to Borrowers within such thirty day period, Borrowers shall borrow such funds and Lender shall make the Replacement Loan to Borrowers on the terms and conditions set forth in the Bona Fide Commitment, provided closing of the Replacement Loan shall not be required to occur earlier than 60 days after the expiration of such thirty day period. If Lender does not so elect to make the Replacement Loan within such thirty day period, Lender may proceed to borrow the funds to pay off the Note as provided in such Bona Fide Commitment, provided that if such Replacement Loan pursuant to the Bona Fide Commitment offer does not close within ninety days of the expiration of such thirty day period, Lender's right of first refusal to make the Replacement Loan shall be reinstated and Borrowers shall be required to reoffer to Lender the right to make the Replacement Loan prior to borrowing such funds from a party other than Lender.

IN WITNESS WHEREOF, Borrowers have executed this instrument the day and year first above written.

BORROWERS:

TRUTH AND DELIVERANCE
INTERNATIONAL MINISTRIES, an Illinois
not for profit corporation

By: John T. Abercrombie
Name: John T. Abercrombie
Title: Pres

KINGDOM COMMUNITY, INC.

By: John T. Abercrombie
Name: John T. Abercrombie
Title: Pres

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Janice Morehead, A NOTARY PUBLIC IN AND FOR SAID County, in the State aforesaid, DO HEREBY CERTIFY that John T. Abernoble, personally known to me to be the _____ President of Kingdom Community, Inc., and personally known to me to be the same person whose name is subscribed to the foregoing Mortgage, appeared before me this day in person and severally acknowledged that as such _____ President he signed and delivered the said Mortgage as President of said corporation, and caused the corporate seal of said corporation to be affixed thereon pursuant to authority given by the Board of Directors said corporation as his free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 10th day of November 2006.

Janice Morehead
Notary Public

My Commission expires: 2/6/10

(SEAL)



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EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

705-711 S. LAWDALE

LOTS 22, 23 AND 24 IN BLOCK 1 IN BOILVIN'S SUBDIVISION OF 10 ACRES SOUTH OF AND ADJOINING THE NORTH 5 ACRES OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 16-14-308-001-0000

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EXHIBIT B

PERMITTED EXCEPTIONS

705-711 S. LAWDALE

1. REAL ESTATE TAXES FOR 2006 AND SUBSEQUENT YEARS.
2. REDEVELOPMENT AGREEMENT DATED JANUARY 13, 2006 AND RECORDED JANUARY 17, 2006 AS DOCUMENT NUMBER 0601710121 BETWEEN CITY OF CITY, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS DEPARTMENT OF HOUSING, AND KINGDOM COMMUNITY, INC.

Property of Cook County Clerk's Office