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Doc#: 0634618077 Fee: \$74.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/12/2008 02:56 PM Pg: 1 of 26

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MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

This MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "**Mortgage**") is made as of the 7th day of December, 2006 by TRANSWESTERN COLUMBIA CENTRE III, L.L.C., a Delaware limited liability company, having an office at c/o Transwestern Investment Company, L.L.C., 150 N. Wacker Drive, Suite 800, Chicago, Illinois 60606 ("**Borrower**"), to WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, having an office at 123 N. Wacker Drive, Suite 1900, Chicago, Cook County, Illinois 60606, as agent ("**Administrative Agent**") for itself as Lender and for the other Lenders (as each such term is defined in the Loan Agreement described below). Initially capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Loan Agreement (as defined below). 26

WITNESSETH.

WHEREAS, Borrower has executed and delivered to Administrative Agent on behalf of the Lenders a Promissory Note Secured by Mortgage, of even date herewith, payable to the order of the Lenders in the principal amount of Sixty-Seven Million and No/100 Dollars (\$67,000,000.00), or such lesser amount as may be disbursed thereon, which note bears interest and is payable to the Lenders as more fully described therein and which note shall mature as provided therein but in no event later than December 7, 2009, or, if the original maturity date is extended pursuant to the terms of the Loan Agreement, defined herein, December 7, 2010 or December 7, 2011 (the "**Note**"); and

WHEREAS, the Lenders are desirous of securing the prompt payment of the Note together with interest and any premium thereon in accordance with the terms of the Note, and any additional indebtedness accruing to Administrative Agent or the Lenders on account of any future payments, advances or expenditures made by Administrative Agent or the Lenders pursuant to, or any other obligation of Borrower arising under, any of the following documents (collectively, the "**Loan Documents**"): (i) the Note, (ii) this Mortgage, (iii) the Loan Agreement of even date herewith among Administrative Agent, the Lenders, Borrower and the other borrowers thereunder (the "**Loan**

THIS DOCUMENT PREPARED BY
AND AFTER RECORDATION SHOULD
BE RETURNED TO:

Dapo A. Adedeji, Esq.
Barack Ferrazzano Kirschbaum Perlman &
Nagelberg LLP
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606

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Agreement"), (iv) any and all other documents or instruments securing the indebtedness evidenced by the Note, and (v) any and all documents securing, evidencing or otherwise relating to any obligations of Borrower under any interest rate swap, cap, collar or other interest rate hedging product relating to the Loan (as defined in the Loan Agreement) entered into between Borrower and any Lender or any Affiliate of a Lender;

NOW, THEREFORE, to secure the payment, performance and observance by Borrower of all of the terms, covenants and conditions contained herein and in the Note, the Loan Agreement and the other Loan Documents, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged hereby, Borrower has executed and delivered this Mortgage and does hereby grant a lien and/or security interest, as applicable, in, and grant, convey, assign, mortgage and warrant and confirm, to Administrative Agent and its successors and assigns forever, all of the property now or hereafter owned by Borrower or used or obtained by Borrower in connection with the operation of the Project, or other rights or assets, described in the following GRANTING CLAUSES (the "**Mortgaged Property**");

A. All those certain tracts, pieces or parcels of land legally described on Exhibit A attached hereto and hereby made a part hereof and all surface and subsurface soils, minerals and water located thereon and thereunder (the "**Land**"); and

B. All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all furnishings, furniture, fixtures, machinery, inventory, equipment, appliances, systems, building materials, vehicles 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 buildings, 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, now or hereafter owned by Borrower, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing, together with all warehouse receipts or other documents of title relating to any of the foregoing and the benefit of any deposits or payments now or hereafter made by Borrower in connection with any of the foregoing, but expressly excluding any of the foregoing items that are owned by tenants of the Improvements, defined below; 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, 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 thereof, 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, and also including all land split, division and subdivision rights; and

D. Each and every lease or sublease, license, reciprocal or other easement agreement and other document or instrument, including, without limitation, those described in Granting Clause C above, granting to any person or entity any right to use or occupy, and any other agreement with respect to the use or occupancy of, all or any portion of the Land or the improvements of any type or nature located thereon (the "**Improvements**"), whether heretofore, now or hereafter entered into (the "**Leases**"); and

E. The rents, deposits, issues, profits, proceeds, revenues, awards and other benefits of the Mortgaged Property from time to time accruing (including, without limitation, all payments under the Leases, licenses and documents described in Granting Clause D above, proceeds of insurance, condemnation awards and payments in lieu thereof, tenant security deposits and escrow funds, now

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existing or hereafter arising or created out of the sale, lease, sublease, license or other grant of the right of possession, use or occupancy of all or any portion of the Mortgaged Property, or personalty located thereon, or rendering of services by Borrower or any operator or manager of the Project, 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) (collectively, the "**Rents**"); and

F. All proceeds and avails from rentals, mortgages, sales, conveyances or other dispositions or realizations of any kind or character of or from the foregoing Rents now or hereafter existing, all of which shall constitute proceeds of collateral pursuant to Section 9-306 of the Uniform Commercial Code, as adopted in Illinois; and

G. All inventory, accounts, cash receipts, deposit accounts, accounts receivable, general intangibles, payment intangibles, software, chattel paper (whether electronic or tangible), instruments, documents, promissory notes, drafts, letters of credit, letter of credit rights, supporting obligations, proceeds of the sale of promissory notes, and any other rights to the payment of money; and

H. All of the aforementioned personal property and any and all other personal property, whether tangible or intangible, not otherwise described herein and now or at any time hereafter owned by the Borrower and now or at any time hereafter located in or on or otherwise utilized in any one or more of the ownership, use, enjoyment, construction, occupancy, management, maintenance, repair and operation of the Land, the Improvements or the equipment located thereon, including, without limitation, books of account, files, trade names, trademarks, service marks, copyrights, patents, guest lists and other intellectual property and any and all funds of Borrower from time to time in Administrative Agent's possession, all of which shall constitute proceeds of collateral pursuant to Section 9-306 of the Uniform Commercial Code, as adopted in Illinois (the "**Personalty**"); and

I. All of the aforementioned contracts and agreements and any and all other contracts or agreements, whether written or oral, pertaining in any way to the Mortgaged Property to which Borrower is or hereafter becomes a party, including, without limitation, insurance policies, any interest rate swap, cap collar or other interest rate hedging product relating to the Loan entered into between Borrower and any Lender (or its Affiliate), contracts and licenses pertaining to architectural services, contracts pertaining to engineering services, and contracts relating in any manner to the ownership, use, enjoyment, construction, occupancy, management, maintenance, operation or repair of all or any portion of the Land, the Improvements, the equipment located thereon or the Personalty or otherwise related to all or any part of the real and personal property described elsewhere herein, and all rights, powers, privileges, benefits and remedies of Borrower thereunder; and

J. All franchises, permits, licenses, entitlements and rights therein respecting the ownership, use, enjoyment, occupation, management, maintenance, repair and operation of any of the foregoing; and

K. Any and all rights, titles, interests, estates and other claims, at law or in equity, that Borrower now has or may hereafter acquire in or to any proceeds from the sale, assignment, conveyance, hypothecation, grant, pledge or other transfer of any or all of the foregoing real or personal property; and

L. Any and all refunds, rebates, reimbursements, reserves, deferred payments, deposits, cost savings, governmental subsidy payments, governmentally registered credits (such as emissions reduction credits) and payments of any kind due from or payable by any governmental authority or any insurance or utility company relating to any or all of the Mortgaged Property; and

M. Any and all refunds, rebates, reimbursements and payments of any kind due from or payable by any governmental authority for any taxes, assessments or governmental or quasi-governmental charges or levies imposed upon Borrower with respect to the Mortgaged Property or upon any or all of the Mortgaged Property; and

N. All monies relating to the Mortgaged Property held in any cash collateral or operating account maintained with Administrative Agent or any Lender or any Affiliate of Administrative Agent or

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any Lender now or at any time hereafter, and all monies held in any capital expenditure escrows or other operational escrows or reserve funds and any other escrows, reserves or letters of credit benefiting or relating to the Mortgaged Property; and

O. All right, title and interest of Borrower arising from the operation of the Mortgaged Property in and to all payments for goods or property sold or leased or for services rendered, whether or not yet earned by performance, and not evidenced by an instrument or chattel paper including, without limiting the generality of the foregoing, all accounts, accounts receivable, contract rights, book debts, and notes arising from the operation of the Project.

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto Administrative Agent, on behalf of the Lenders, 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, Borrower hereby further grants unto Administrative Agent, on behalf of the Lenders, pursuant to the provisions of the Uniform Commercial Code, as adopted in Illinois, a security interest in all of the Mortgaged Property, which property includes, without limitation, goods which are or are to become fixtures, the Leases and the Rents.

THIS MORTGAGE IS GIVEN TO SECURE payment of the principal and interest evidenced by the Note, and performance of each and every of the covenants, conditions and agreements contained in this Mortgage or in any of the other Loan Documents (all of which obligations are referred to collectively herein as the "indebtedness secured hereby" or the "indebtedness").

THIS MORTGAGE IS GIVEN TO SECURE NOT ONLY EXISTING INDEBTEDNESS, BUT ALSO SUCH FUTURE ADVANCES, IF ANY, WHETHER SUCH ADVANCES ARE OBLIGATORY OR ARE TO BE MADE AT THE OPTION OF ADMINISTRATIVE AGENT OR THE LENDERS, OR OTHERWISE TO THE SAME EXTENT AS IF SUCH FUTURE ADVANCES WERE MADE ON THE DATE OF THE EXECUTION OF THIS MORTGAGE. THE TOTAL AMOUNT OF INDEBTEDNESS THAT MAY BE SO SECURED MAY DECREASE OR INCREASE FROM TIME TO TIME, BUT THE TOTAL UNPAID PRINCIPAL BALANCE SO SECURED AT ONE TIME SHALL NOT EXCEED THREE TIMES THE FACE AMOUNT OF THE NOTE, PLUS INTEREST THEREON, AND ANY DISBURSEMENTS MADE FOR THE PAYMENT OF TAXES, LEVIES OR INSURANCE ON THE MORTGAGED PROPERTY, WITH INTEREST ON SUCH DISBURSEMENTS.

PROVIDED, HOWEVER, THE FOREGOING PRESENTS are made upon the condition that, if Borrower (i) shall pay or cause to be paid to the Lenders the principal and interest payable pursuant to the Note and in accordance with the Loan Agreement, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by Borrower, (ii) shall pay or cause to be paid all amounts to be paid by Borrower under this Mortgage and (iii) shall keep, perform and observe each and every one of the covenants and promises in this Mortgage expressed to be kept, performed and observed by and on the part of Borrower or in any of the other Loan Documents expressed to be kept, performed and observed by and on the part of Borrower, then this Mortgage shall cease, terminate and be void; however, if such conditions are not all satisfied, this Mortgage shall otherwise remain in full force and effect.

BORROWER FURTHER COVENANTS AND AGREES WITH ADMINISTRATIVE AGENT AS FOLLOWS:

ARTICLE 1

BORROWER'S COVENANTS, REPRESENTATIONS AND WARRANTIES

1.1 Performance under the Loan Documents. Borrower shall perform, observe and comply with all of the provisions hereof and of the Note and shall duly and punctually pay to the Lenders the principal sum of money expressed in the Note with interest thereon at the times and in the manner provided in the Note and in the Loan Agreement and all other sums required to be paid by Borrower

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pursuant to the provisions of this Mortgage, all without any deductions or credit for taxes or other similar charges paid by Borrower. In addition, Borrower shall perform or cause to be performed all of the terms, covenants and conditions of the other Loan Documents to be kept and performed by Borrower.

1.2 Warranty of Title. At the time of the recordation of this Mortgage, Borrower is well seized of an indefeasible estate in fee simple in the Land and the other portions of the Mortgaged Property which constitute real property and owns good title to the portion of the Mortgaged Property which constitutes personal property, and Borrower has good right, full power and lawful authority to convey, mortgage and grant a security interest in all of the same in the manner and form contemplated and provided under the Loan Documents. Said title of Borrower in the Mortgaged Property is free and clear of all liens, charges, easements, covenants, conditions, restrictions and encumbrances whatsoever, other than the Permitted Exceptions, including, as to the personal property and fixtures, security agreements, conditional sales contracts and anything of a similar nature. Borrower shall and will forever defend the title to the Mortgaged Property against the claims of all persons whomsoever.

1.3 Taxes. Borrower shall pay, or cause to be paid, all installments of taxes, assessments and other similar charges which are assessed, levied, confirmed, imposed, or which become a lien upon or against the Mortgaged Property, or any portion thereof, or which become payable with respect thereto or with respect to the occupancy, use or possession of the Mortgaged Property before the same become delinquent, and shall promptly deliver to Administrative Agent receipt therefor. In the event Borrower desires to contest the validity of any such taxes or assessments, Borrower shall (i) prior to the due date thereof, notify Administrative Agent in writing that Borrower intends to so contest the same, (ii) pay the entire amounts of such taxes or assessments when due or, if a contest is permitted by law without such payment on or before the due date thereof, deposit with Administrative Agent security in form and content and amounts satisfactory to Administrative Agent for the payment of 125% of such tax or assessment, or provide to Administrative Agent such other indemnity or assurance of timely payment as may be acceptable to Administrative Agent, and (iii) deposit additional security or indemnity, from time to time, so that, at all times, adequate security or indemnity will be available for the payment of the full amount of the taxes or assessments together with all interest, penalties, costs and charges accrued or accumulated thereon. If the foregoing deposits are made and Borrower continues, in good faith, to contest the validity of such taxes or assessments by appropriate legal proceedings which shall operate to prevent the collection thereof and the sale of the Mortgaged Property, or any part thereof, to satisfy the same, Borrower shall be under no obligation to pay such tax or assessment until such time as the same has been decreed, by court order, to be a valid lien on the Mortgaged Property. Administrative Agent shall have full power and authority to reduce any such security or indemnity to cash and apply the amount so received to the payment of any unpaid tax or assessment to prevent the sale or forfeiture of the Mortgaged Property, without any liability on Administrative Agent's or the Lenders' part for any failure to apply the security or indemnity so deposited, unless Borrower requests, in writing, the application thereof to the payment of the particular tax or assessment for which such deposit was made. Any surplus deposit retained by Administrative Agent, after the payment of the tax or assessment for which the same was made, shall be repaid to Borrower, unless a Default (as hereinafter defined) exists, or an event has occurred or condition exists which, with the giving of notice or the passage of time, or both, could give rise to a Default, in which event such surplus shall be applied by Administrative Agent to the Note and in such order and manner as Administrative Agent may determine.

1.4 Mortgage Taxes. In the event of the passage of any federal, state or local governmental law, order, rule or regulation subsequent to the date hereof which changes or modifies in any manner the laws now in force governing the taxation of mortgages or debts secured by mortgages or the manner of collecting taxes so as to materially and adversely affect the Lenders, all sums secured by this Mortgage and all interest accrued thereon shall become due forthwith at the option of Administrative Agent and be payable 90 days after notice to Borrower. Notwithstanding the foregoing, instead of paying all the sums secured by this Mortgage and all interest accrued thereon as provided above, Borrower shall have the right to pay to the applicable Lenders an amount, determined by Administrative Agent, which will place such Lenders in exactly the same position such Lenders would have been in had the events outlined above not occurred, provided, however, if such payment may, in Administrative Agent's judgment, be considered unlawful by a court of competent jurisdiction, then such payment may not be made and all sums secured by this Mortgage and all interest accrued thereon shall become due forthwith at the option of Administrative Agent and payable 90 days after notice to Borrower as aforesaid.

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1.5 No Tax Credits. Borrower shall 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 Administrative Agent'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.

1.6 Utilities. Borrower shall pay when due any and all charges for utilities, whether public or private, with respect to the Mortgaged Property or any part thereof, and all license fees, rents or other charges for the use of any appurtenance to the Mortgaged Property.

1.7 Liens. The Mortgaged Property shall be kept free and clear of all liens and encumbrances (unless the same are bonded or insured over in a manner satisfactory to Administrative Agent) of every nature or description, including, without limitation, liens and encumbrances arising from past due taxes or assessments and from charges for labor, materials, supplies or services, other than the Permitted Exceptions.

1.8 Subrogation. Administrative Agent 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.

1.9 Insurance. Borrower shall, at its expense, maintain insurance policies in accordance with the terms and conditions of the Loan Agreement. Unless Borrower provides Administrative Agent with evidence of the insurance required by this Mortgage or any other Loan Document, Administrative Agent may purchase insurance at Borrower's expense to protect Administrative Agent's interest in the Mortgaged Property or any other collateral for the indebtedness secured hereby. This insurance may, but need not, protect Borrower's interests. The coverage Administrative Agent purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Mortgaged Property or any other collateral for the indebtedness secured hereby. Borrower may later cancel any insurance purchased by Administrative Agent, but only after providing Administrative Agent with evidence that Borrower has obtained insurance as required under by this Mortgage or any other Loan Document. If Administrative Agent purchases insurance for the Mortgaged Property or any other collateral for the indebtedness secured hereby, Borrower shall be responsible for the costs of that insurance, including interest or any other charges that Administrative Agent may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the indebtedness secured hereby. The costs of the insurance may be more than the cost of insurance that Borrower may be able to obtain on its own. For purposes of the Illinois Collateral Protection Act, 815 ILCS 180/1 *et. seq.*, Borrower hereby acknowledges Administrative Agent's right pursuant to this section to obtain collateral protection insurance.

1.10 Damages; Insurance and Condemnation Proceeds.

(a) The following (whether now existing or hereafter arising) are all absolutely and irrevocably assigned by Borrower to Administrative Agent and, at the request of Administrative Agent, shall be paid directly to Administrative Agent: (i) all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Mortgaged Property; (ii) all other claims and awards for damages to, or decrease in value of, all or any part of, or any interest in, the Mortgaged Property; (iii) all proceeds of any insurance policies (whether or not expressly required by Administrative Agent to be maintained by Borrower, including, but not limited to, earthquake insurance and terrorism insurance, if any) payable by reason of loss sustained to all or any part of the Mortgaged Property; and (iv) all interest which may accrue on any of the foregoing. Subject to applicable law, Administrative Agent may at its discretion apply all or any of the proceeds it receives to its expenses in settling, prosecuting or defending any claim and may apply the balance to the indebtedness secured hereby in such order and amounts as Administrative Agent in its sole discretion may choose, and/or Administrative Agent may release all or any part of the proceeds to Borrower upon any conditions Administrative Agent may impose. Administrative Agent may commence, appear in, defend or prosecute any assigned claim or action and may adjust,

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compromise, settle and collect all claims and awards assigned to Administrative Agent; provided, however, in no event shall Administrative Agent be responsible for any failure to collect any claim or award, regardless of the cause of the failure, including, without limitation, any malfeasance or nonfeasance by Administrative Agent or its employees or agents.

(b) If all or substantially all of the Mortgaged Property shall be damaged or taken through condemnation (which term, when used herein, shall include any damage or taking by any governmental authority and any transfer by private sale in lieu thereof), either temporarily, if in Administrative Agent's judgment (after having reviewed any business interruption insurance held by Borrower at the time of such taking) such taking causes a material, adverse impact on (i) the Mortgaged Property and (ii) Borrower's ability to pay the indebtedness secured hereby in accordance with the Loan Documents, or permanently, the entire indebtedness secured hereby shall, at the option of Administrative Agent, become immediately due and payable. At its sole option, Administrative Agent may permit insurance or condemnation proceeds held by Administrative Agent to be used for repair or restoration but may condition such application upon reasonable conditions, including, without limitation: (i) the deposit with Administrative Agent of such additional funds which Administrative Agent determines are needed to pay all costs of the repair or restoration, (including, without limitation, taxes, financing charges, insurance and rent during the repair period); (ii) the establishment of an arrangement for lien releases and disbursement of funds acceptable to Administrative Agent (the arrangement contained in the Loan Agreement for obtaining lien releases and disbursing loan funds shall be deemed reasonable with respect to disbursement of insurance or condemnation proceeds); (iii) the delivery to Administrative Agent of plans and specifications for the work, a contract for the work signed by a contractor acceptable to Administrative Agent, a cost breakdown for the work and a payment and performance bond for the work, all of which shall be acceptable to Administrative Agent; and (iv) the delivery to Administrative Agent of evidence acceptable to Administrative Agent (aa) that after completion of the work the income from the Mortgaged Property will be sufficient to pay all expenses and debt service for the Mortgaged Property; (bb) of the continuation of Leases acceptable to and required by Administrative Agent; (cc) that upon completion of the work, the size, capacity and total value of the Mortgaged Property will be at least as great as it was before the damage or condemnation occurred; (dd) that there has been no material adverse change in the financial condition or credit of Borrower since the date of this Mortgage; and (ee) of the satisfaction of any additional conditions that Administrative Agent may reasonably establish to protect its security. Borrower hereby acknowledges that the conditions described above are reasonable, and, if such conditions have not been satisfied within thirty (30) days of receipt by Administrative Agent of such insurance or condemnation proceeds, then Administrative Agent may apply such insurance or condemnation proceeds to pay the indebtedness secured hereby in such order and amounts as Administrative Agent in its sole discretion may choose.

Notwithstanding the foregoing, if no Default has occurred and is continuing, any insurance or condemnation proceeds which do not exceed One Million and No/100 Dollars (\$1,000,000.00) in the aggregate shall be retained by Borrower, provided, that Borrower shall use such proceeds to replace, restore, repair or rebuild the Mortgaged Property; provided, further, that if Borrower has not completed or entered into binding agreements to complete such replacement, restoration, repair or rebuilding within 180 days of such casualty or condemnation, Borrower shall turn over such proceeds to Administrative Agent and Administrative Agent may apply such proceeds as set forth in this Section 1.10.

1.11 General Care of the Property. Borrower shall preserve and maintain the Mortgaged Property in good condition and repair, shall not commit or suffer any waste thereof, and shall keep the same in a clean, orderly and attractive condition. Borrower shall not do or suffer to be done anything which will increase the risk of fire or of any other hazard to the Mortgaged Property or any part thereof. Except for tenant improvements specified in any Approved Lease, ordinary repair and maintenance and as otherwise may be contemplated by the Loan Documents, no buildings, structures, improvements, fixtures, personal property or other part of the Mortgaged Property shall be removed, added to, demolished or altered structurally to any extent or altered non-structurally in any material respect without the prior written consent of Administrative Agent. Borrower shall 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. Upon reasonable advance notice, Administrative Agent and its representatives are hereby authorized to enter upon and inspect the

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Mortgaged Property at any time during normal business hours during the term of this Mortgage.

1.12 Leases and Other Agreements Affecting the Mortgaged Property. Borrower shall duly and punctually perform all terms, covenants, conditions and agreements binding upon Borrower 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 and which is binding on Borrower. Borrower represents and warrants that Borrower has heretofore furnished Administrative Agent with true and complete copies of all such leases, agreements and instruments existing on the date of this Mortgage. Borrower shall not enter into a new Lease which does not satisfy the requirements of an Approved Lease (without Administrative Agent's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Administrative Agent shall have the right to review and approve (which approval shall not be unreasonably withheld) in advance in writing all Major Leases and all material amendments to existing Leases (it being acknowledged by Borrower that "material" amendments shall include, but not be limited to, amendments providing for changes to the term or economic term of existing Leases, and the granting or exercising of termination, renewal, expansion or other rights). Borrower shall not accept payment of advance rents or security deposits equal, in the aggregate, to more than one month's rent without the express written consent of Administrative Agent. In order to further secure payment of the Note and the observance, performance and discharge of Borrower's obligations hereunder, Borrower hereby assigns, transfers and sets over to Administrative Agent all of Borrower's right, title and interest in, to and under all of the leases now or hereafter affecting the Mortgaged Property or any part thereof and in and to all of the rents, issues, profits, revenues, awards and other benefits now or hereafter arising from the Mortgaged Property or any part thereof. Unless and until a Default occurs, Borrower shall be entitled to collect the rents, issues, profits, revenues, awards and other benefits of the Mortgaged Property (except as otherwise provided in this Mortgage) as and when they become due and payable. Administrative Agent shall be liable to account only for rents, issues, profits, revenues, awards and other benefits of the Mortgaged Property actually received by Administrative Agent pursuant to any provision of this Mortgage.

1.13 Impairment of Security. Without limitation of any other provision hereof, Borrower shall not assign, in whole or in part, the rents, issues, profits, revenues, awards and other benefits from the Mortgaged Property without the prior written consent of Administrative Agent; any such assignment made without Administrative Agent's prior written consent shall be null and void and of no force and effect and the making thereof shall constitute a Default under this Mortgage. Without limitation of the foregoing, Borrower shall not in any other manner impair the security of this Mortgage for the payment of the indebtedness secured hereby.

1.14 Prohibition of Further Encumbrance. Except as expressly permitted in the Loan Agreement, Borrower shall not, without the prior written consent of Administrative Agent, further mortgage, hypothecate, pledge or otherwise encumber, whether by operation of law or otherwise, any interest in the Mortgaged Property. Any such encumbrance made without Administrative Agent's prior written consent shall be null and void and of no force or effect, and any mere attempt to create or cause an encumbrance in default of the terms hereof shall constitute a Default under this Mortgage.

1.15 Prohibition of Transfer. Except as expressly permitted in the Loan Documents, Borrower shall not, without the prior written consent of Administrative Agent, sell, assign or otherwise transfer, whether directly or indirectly, by operation of law or otherwise, all or any portion of any interest in the Mortgaged Property. Any such transfer made without Administrative Agent's prior written consent shall be null and void and of no force and effect, and any mere attempt to create or cause a transfer in default of the terms hereof shall constitute a Default under this Mortgage.

1.16 Further Assurances; After Acquired Property. At any time and from time to time, upon request from Administrative Agent, Borrower shall make, execute and deliver, or cause to be made, executed and delivered, to Administrative Agent and, where appropriate, to cause to be recorded or filed, or both, and from time to time thereafter to be re-recorded or refiled, or both, at such time and in such offices and places as shall be deemed desirable by Administrative Agent, 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 Administrative Agent, be necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve (i) the

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obligations of Borrower under this Mortgage, the Note and the other Loan Documents, and (ii) 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 Borrower. Upon any failure by Borrower to so make, execute and deliver each of such documents after written demand, Administrative Agent may make, execute, record, file, re-record and refile, as appropriate, any and all such mortgages, security agreements, financing statements, continuation statements, instruments, certificates and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Administrative Agent as its agent and attorney-in-fact in connection therewith. The lien and security interest hereof will automatically attach, without further act, to all after-acquired property owned by Borrower attached to or used in connection with the operation of the Mortgaged Property or any part thereof.

1.17 Use of Proceeds. Borrower represents and warrants to Administrative Agent (i) that the proceeds of the Note secured by this Mortgage will be used for the purposes specified in 815 ILCS 205/4 (or any substitute, amended or replacement statute), and that the indebtedness secured hereby constitutes a business loan which comes within the purview of said 815 ILCS 205/4, and (ii) that the Loan evidenced by the Note is an exempted transaction under the Truth In Lending Act, 15 U.S.C. §1601 *et seq.*

ARTICLE 2

BORROWER'S DEFAULT

2.1 Borrower's Defaults and Administrative Agent's Remedies.

- (a) Default. Each of the following shall constitute a "Default" under this Mortgage:
- (i) Borrower fails to pay any interest or installment of principal on the Note; or
 - (ii) Borrower fails to pay, when due, any amount payable under this Mortgage other than principal or interest, and such failure continues for a period of 5 days after notice thereof from Administrative Agent to Borrower; or
 - (iii) Borrower fails to keep or perform any of the agreements, undertakings, obligations, covenants or conditions under this Mortgage not expressly referred to in another clause of this Section and (A) such failure continues for a period of 30 days after notice thereof from Administrative Agent to Borrower, or (B) if such failure cannot, because of its nature, be cured within said 30-day period, then, if Borrower commences curing such failure within said 30-day period and diligently continues such cure, such failure continues for an additional 30-day period after an additional notice; or
 - (iv) any "Default" occurs beyond any applicable grace period, as defined under any of the Loan Documents, including, without limitation, the Loan Agreement or any of the other Mortgages, subject to expiration of any applicable notice and cure period; or
 - (v) any representation, warranty or certification made in this Mortgage by Borrower or otherwise made in writing in connection with or as contemplated by this Mortgage or any of the other Loan Documents by Borrower proves to be materially incorrect or false when made on the Effective Date, or any material representation to Administrative Agent by Borrower as to the financial condition or credit standing of Borrower

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proves to be false or misleading in any material respect when made on the Effective Date; or

- (vi) the recording of any claim of lien against any portion of the Mortgaged Property (other than Permitted Exceptions) and the continuance of such claim of lien for 30 days without discharge, satisfaction, insuring over, bonding or provision for payment being made by Borrower in a manner satisfactory to Administrative Agent, provided that the foregoing shall not be deemed to be a Default to the extent Borrower is diligently contesting any such lien or claim of lien in good faith and Borrower has deposited security with Administrative Agent which is acceptable to Administrative Agent in Administrative Agent's sole and absolute discretion; or the condemnation, seizure or appropriation of, or occurrence of an uninsured casualty with respect to any material portion of the Mortgaged Property; or the sequestration or attachment of, or any levy or execution upon any portion of the Mortgaged Property, any other collateral provided by Borrower under any of the Loan Documents, or any substantial portion of the other assets of Borrower, which sequestration, attachment, levy or execution is not released, expunged or dismissed prior to the earlier of 30 days or the sale of the assets affected thereby, provided that the foregoing shall not be deemed to be a Default to the extent Borrower is diligently contesting any such sequestration, attachment, levy or execution in good faith and Borrower has deposited security with Administrative Agent acceptable to Administrative Agent in Administrative Agent's sole and absolute discretion; or
- (vii) the filing of a petition by Borrower for relief under the Bankruptcy Code (as defined in the Loan Agreement), or under any other present or future state or federal law regarding bankruptcy, reorganization or other debtor relief law; the filing of any pleading or an answer by Borrower in any involuntary proceeding under the Bankruptcy Code or other debtor relief law which admits the jurisdiction of the court or the petition's material allegations regarding Borrower's insolvency; a general assignment by Borrower for the benefit of creditors; or Borrower applying for, or the appointment of, a receiver, trustee, custodian or liquidator of Borrower or any property of Borrower; or
- (viii) the failure of Borrower to effect a full dismissal of any involuntary petition under the Bankruptcy Code or any other debtor relief law that is filed against Borrower or in any way restrains or limits Borrower, Administrative Agent or any Lender regarding the Loan, or all or any portion of the Mortgaged Property, prior to the earlier of the entry of any court order granting relief sought in such involuntary petition or 60 days after the date of filing of such involuntary petition; or
- (ix) the failure at any time of the Mortgage to be a valid first lien upon the Mortgaged Property or any portion thereof, other than as a result of any release or reconveyance of the Mortgage with respect to all or any portion of the Mortgaged Property pursuant to the terms and conditions of the Loan Agreement; or
- (x) other than the sale of inventory or the replacement of furniture, fixtures or equipment, the Mortgaged Property or any part thereof is sold, conveyed, transferred, assigned, disposed of, or is further encumbered, or an agreement for any of the foregoing is entered into, without the prior written consent of Administrative Agent; or

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- (xi) except as permitted in Section 7.17 of the Loan Agreement, Borrower enters into any secondary or additional financing agreements or arrangements of any kind whatsoever secured, in whole or in part, by all or any part of or interest in the Mortgaged Property; or
- (xii) any order or decree is entered by any court of competent jurisdiction directly or indirectly enjoining or prohibiting Administrative Agent, the Lenders or Borrower from performing any of their material obligations under this Mortgage or any of the Loan Documents, and such order or decree is not vacated, and the proceedings out of which such order or decree arose are not dismissed, within 30 days after the granting of such decree or order.

(b) Administrative Agent's Remedies. Upon the happening of any Default, Administrative Agent shall have the right, if such Default shall then be continuing, in addition to all the remedies conferred upon Administrative Agent by law or equity or the terms of any Loan Document, to do any or all of the following, concurrently or successively, without notice to Borrower:

- (i) declare the Note to be, and it shall thereupon become, immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding; or
- (ii) terminate the Lenders' obligations under the Loan Documents to extend credit of any kind or to make any disbursement, whereupon the commitment and obligation of the Lenders to extend credit or to make disbursements shall terminate; or
- (iii) enter upon and take possession of the Mortgaged Property and do anything necessary or desirable to complete construction of the improvements contemplated by the Loan Documents, to fulfill the obligations of Borrower under the Loan Documents and to sell, manage, maintain, repair and protect the Mortgaged Property, and, without restricting the generality of the foregoing and for the purposes aforesaid, Borrower hereby authorizes Administrative Agent (A) to pay, settle or compromise all existing bills and claims which may be liens or security interests, or to avoid such bills and claims becoming liens or security interests against the Mortgaged Property or as may be necessary or desirable for the clearance of title or otherwise, (B) to 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, (C) to insure or keep the Mortgaged Property insured, (D) to manage and operate the Mortgaged Property and exercise all the rights and powers of Borrower to the same extent as Borrower could in the name of Borrower or otherwise with respect to the same, (E) to do any and every act which Borrower might do, including, without limitation, to enter into leases of any portion of the Mortgaged Property and to enter into contracts for the sale of, and to sell and convey title to, the Mortgaged Property or any portion thereof and Borrower agrees to execute and deliver such contracts, deeds, leases and other instrument as may be required by Administrative Agent or Administrative Agent's title company to carry out the intent of this Section, (F) to prosecute or defend any and all actions or proceedings involving the Mortgaged Property or any fixtures, equipment or other installations thereon, and (G) to exclude Borrower and the representatives of Borrower from the Mortgaged Property or any portion thereof, and Administrative Agent shall have joint access with Borrower to the books and accounts of Borrower; furthermore, in

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connection with an exercise by Administrative Agent of the foregoing remedy:

- (1) Administrative Agent and its representatives shall be entitled to the entry, possession and use contemplated herein upon demand and without the consent of any party and without any legal process or other condition precedent whatsoever; however, if Borrower shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Administrative Agent, Administrative Agent may obtain a judgment or decree conferring on Administrative Agent the right to immediate possession or requiring the delivery of immediate possession of all or part of the Mortgaged Property to Administrative Agent, and Borrower hereby specifically consents to the entry of such judgment or decree;
- (2) Borrower acknowledges that any denial of such entry, possession and use by Administrative Agent will cause irreparable injury and damage to Administrative Agent and the Lenders and agrees that Administrative Agent may forthwith sue for any remedy to enforce the immediate enjoyment of such right, and Borrower hereby waives the posting of any bond as a condition for granting such remedy; and
- (3) Borrower shall pay to Administrative Agent, upon demand, all expenses (including, without limitation, attorneys' fees and expenses) of obtaining such judgment or decree or of otherwise seeking to enforce its rights under this Mortgage or any of the other Loan Documents; and all such expenses shall, until paid, be secured by the Loan Documents and shall bear interest at the Default Rate described in the Note (the "**Default Rate**"); or
- (iv) offset and apply any indebtedness now or hereafter owing from Administrative Agent or any Lender to Borrower (including, without limitation, any amounts on deposit in any demand, time, savings, passbook, certificate of deposit or like account maintained by Borrower with Administrative Agent, any Lender or any Affiliate of Administrative Agent or any Lender) against any and all amounts due from Borrower to Administrative Agent or any Lender hereunder or under the other Loan Documents; or
- (v) collect and receive all the rents, issues, profits and revenues of the Mortgaged Property, including those past due as well as those accruing thereafter, after deducting therefrom (A) all expenses of taking, holding, managing and operating the Mortgaged Property (including, without limitation, compensation for the services of all persons employed for such purposes), (B) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions, (C) the cost of such insurance, (D) such taxes, assessments and other similar charges as Administrative Agent may determine to pay, (E) other proper charges upon the Mortgaged Property or any part thereof, and (F) Administrative Agent's attorneys' fee and expenses; or
- (vi) commence foreclosure proceedings against the Mortgaged Property or any of the other properties encumbered by the other Mortgages through judicial proceedings or by advertisement, at the option of Administrative

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Agent, pursuant to applicable law. The commencement by Administrative Agent of foreclosure proceedings shall be deemed an exercise by Administrative Agent and the Lenders of their option to accelerate the indebtedness evidenced by the Note, unless such proceedings on their face specifically indicate otherwise. Borrower hereby grants the power to Administrative Agent to sell the Mortgaged Property or to cause the same to be sold at public sale, and to convey the same to the purchaser, in accordance with applicable statutes in a single parcel or in several parcels at the option of Administrative Agent.

2.2 Protective Advances. If a Default occurs, Administrative Agent may (but shall in no event be required to) cure any such Default and any amounts expended by Administrative Agent in so doing ("**Protective Advances**"), including, without limitation, all funds furnished by Administrative Agent pursuant to Section 2.1(b)(iii) above, shall (i) be deemed advanced by Administrative Agent under an obligation to do so regardless of the identity of the person or persons to whom such funds are furnished, (ii) constitute additional advances hereunder, the payment of which is additional indebtedness evidenced by the Note, and (iii) become due and owing, at Administrative Agent's demand, with interest accruing from the date of disbursement thereof until fully paid at the Default Rate.

2.3 Other Remedies. If any Default shall occur and be continuing, Administrative Agent may, in addition to any other rights and remedies hereunder, exercise any and all remedies provided in any of the other Loan Documents to which it is a party or which runs to its benefit.

2.4 No Administrative Agent Liability. To the extent permitted by law, Administrative Agent shall have no liability for any loss, damage, injury, cost or expense resulting from any action or omission by it, or any of its representatives, which was taken, omitted or made in good faith except losses, damages, injuries, costs or expenses resulting from Administrative Agent's gross negligence or willful misconduct.

2.5 Administrative Agent's Attorneys' Fees. In case of any Default hereunder, Borrower shall pay Administrative Agent's reasonable attorneys' fees and expenses in connection with the enforcement of this Mortgage or any of the other Loan Documents.

2.6 Receiver. If a Default shall have occurred and be continuing, Administrative Agent, 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, revenues, awards and other benefits thereof. The receiver shall have all of the rights and powers to the fullest extent permitted by law. Borrower shall pay to Administrative Agent upon demand all of Administrative Agent's costs and expenses, including, without limitation, receiver's fees and expenses and attorneys' fees and expenses, incurred pursuant to this Section plus interest thereon accruing at the Default Rate, and all such amounts shall be additional indebtedness secured hereby.

2.7 Administrative Agent's Power of Enforcement. If a Default shall have occurred and be continuing, Administrative Agent 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 (i) to enforce payment of the Note or the performance of any term, covenant, condition or agreement of this Mortgage or any other right, (ii) to foreclose this Mortgage and to sell the Mortgaged Property as an entirety or otherwise, as Administrative Agent may determine, and (iii) to pursue any other remedy available to it, including, without limitation, any remedy available to it under any of the Loan Documents, all as Administrative Agent shall deem most effectual for such purposes. Administrative Agent may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Administrative Agent may determine. Administrative Agent may elect to pursue any one or more or all of the foregoing.

2.8 Purchase by Administrative Agent. Upon any foreclosure sale, Administrative Agent or

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any 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.

2.9 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, to the extent permitted by law, all costs and expenses which may be paid or incurred by or on behalf of Administrative Agent, the Lenders or the holder of the Note for attorneys' fees and expenses, appraiser's fees and expenses, receiver's fees and expenses, insurance, taxes, outlays for documentary and expert evidence, costs for preservation of the Mortgaged Property, stenographer's charges, publication cost and costs of procuring all abstracts of title, title searches and examinations, and similar data and assurances with respect to title as Administrative Agent, the Lenders or the holder of the Note may deem to be necessary either to prosecute 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, without limitation, attorneys' fees and expenses, then to insurance premiums, liens, assessments, taxes and charges, including, without limitation, 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 Borrower.

2.10 Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws. Borrower agrees, to the fullest extent permitted by law, that if a Default occurs hereunder, neither Borrower nor anyone claiming through or under Borrower 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 thereof and Borrower, for itself and all who may at any time claim by, through or under it, hereby waives and releases, to the fullest extent permitted by law, the benefit of all such laws 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.

2.11 Leases. Administrative Agent, 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 Borrower, a defense to any proceedings instituted by Administrative Agent to collect the sums secured hereby, or any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

2.12 Discontinuance of Proceedings and Restoration of the Parties. In case Administrative Agent 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 Administrative Agent, then and in every such case, Borrower and Administrative Agent shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Administrative Agent shall continue as if no such proceeding had been taken.

2.13 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Administrative Agent 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. After the occurrence and during the continuance of a Default, Administrative Agent and its duly authorized agents shall be entitled to enter the Mortgaged Property for the purpose of delivering any and all notices and other communications to the tenants and occupiers of the Mortgaged Property as shall be necessary or desirable in Administrative Agent's discretion to exercise its rights and remedies under the statutes referenced in the immediately preceding sentence, and, except only for liability directly caused by the willful misconduct or gross negligence of Administrative Agent, Administrative Agent and its agents shall have absolutely no liability to Borrower arising therefrom. Administrative Agent

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shall not, however, be obligated to give any tenant or occupier of the Mortgaged Property any notice by personal delivery and Administrative Agent may, in its sole discretion, deliver all such notices and communications by ordinary first-class U.S. mail, postage prepaid, or otherwise. After the occurrence and during the continuance of a Default, in the event that Borrower obstructs Administrative Agent in its efforts to collect the Rents from the Mortgaged Property, or after requested by Administrative Agent, refuses, fails or neglects to assist Administrative Agent in collecting such Rent, Administrative Agent shall be entitled to the appointment of a receiver of the Mortgaged Property and of the Rents therefrom, with such powers as the court making such appointment may confer. Administrative Agent shall at no time have any obligation whatever to attempt to collect Rent from any tenant or occupier of the Mortgaged Property notwithstanding that such tenants and occupiers may not be paying Rent to either Borrower or to Administrative Agent.

2.14 Suits to Protect the Mortgaged Property. Upon the occurrence and during the continuance of a Default hereunder, Administrative Agent shall have the power (i) 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; (ii) to preserve or protect its interest in the Mortgage Property and in the rents, issues, profits, revenues, awards and other benefits arising therefrom; and (iii) 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 Administrative Agent, and all costs and expenses incurred by Administrative Agent in connection therewith (including, without limitation, attorneys' fees and expenses) shall be paid by Borrower to Administrative Agent on demand with interest at the Default Rate, and all such amounts shall be additional indebtedness secured hereby.

2.15 Administrative Agent May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower, its creditors or its property, Administrative Agent, 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 Administrative Agent allowed in such proceedings for the entire amount due and payable by 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 Borrower hereunder after such date.

2.16 Automatic Stay Waiver. In consideration of the waivers and forbearances of Administrative Agent as set forth hereunder, and as a material inducement to the Lenders to enter into the Loan Agreement, Borrower hereby irrevocably agrees, in the event Borrower shall become the subject of a proceeding under the Bankruptcy Code, that it shall consent, and hereby does consent, to any motion or request by the Administrative Agent or Administrative Agent's agents or assigns for relief from the automatic stay of Section 362 the Bankruptcy Code, which relief would permit Administrative Agent, its agents or assigns, to exercise all of the rights of the Administrative Agent hereunder and/or Administrative Agent and/or the Lenders under any of the other Loan Documents. Borrower agrees that this agreement may be offered by Administrative Agent, at any hearing and/or in any pleading conducted and/or filed in connection with a motion for relief from the automatic stay, as evidence of Borrower's consent to relief from the automatic stay. Administrative Agent and Borrower agree that the foregoing consent to relief from the automatic stay shall not be binding upon any party that is not an affiliate or insider of Borrower (as those terms are defined in the Bankruptcy Code) and shall become operative only upon Administrative Agent filing a motion for relief from the automatic stay with the appropriate bankruptcy court which motion shall be served by Administrative Agent in accordance with the Federal Rules of Bankruptcy Procedure. Nothing contained herein shall be deemed in any way to bar, limit or otherwise restrict any of Administrative Agent's rights to seek in a bankruptcy court or any other court of competent jurisdiction, any relief that Administrative Agent may deem appropriate in the event that a voluntary or involuntary petition under any title of the Bankruptcy Code or any other bankruptcy or insolvency law is filed by or against Borrower.

ARTICLE 3

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ASSIGNMENT OF LEASES AND RENTS

3.1 Assignment. For ten dollars (\$10.00) and other good and valuable consideration, including the indebtedness evidenced by the Note, the receipt and sufficiency of which are hereby acknowledged, Borrower has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey absolutely unto Administrative Agent the Leases and the Rents, subject only to the hereinafter referenced License, to have and to hold the Leases and the Rents unto Administrative Agent, forever, and Borrower does hereby bind itself, its successors and assigns to warrant and forever defend the title to the Leases and the Rents unto Administrative Agent against every person whomsoever lawfully claiming or to claim the same or any part thereof by or through Borrower; provided, however, if Borrower shall pay or cause to be paid and shall perform and discharge or cause to be performed and discharged, the indebtedness hereby secured on or before the date same is to be paid, performed and discharged, then this assignment shall terminate and be of no further force and effect, and all rights, titles and interests conveyed pursuant to this assignment shall become revested in Borrower without the necessity of any further act or requirement by Borrower or Administrative Agent.

3.2 Limited License. Administrative Agent hereby grants to Borrower a limited license (the "License"), nonexclusive with the rights of Administrative Agent reserved in this Mortgage, to exercise and enjoy all incidents of ownership of the Leases and the Rents, including specifically but without limitation the right to collect, demand, sue for, attach, levy, recover and receive the Rents, and to give proper receipts, releases and acquittances therefor. Borrower hereby agrees to receive all Rents and hold the same as a trust fund to be applied, and to apply the Rent so collected, to the payment, satisfaction and discharge of the indebtedness described in the Note as and when the same shall become due and payable. Thereafter, Borrower may use the balance of the Rent collected in any manner not inconsistent with the Loan Documents.

3.3 Enforcement of Leases. Subject to and in accordance with the terms and conditions of Section 1.12 of this Mortgage, Borrower shall (a) duly and punctually perform and comply with any and all representations, warranties, covenants and agreements expressed as binding upon the landlord under any Lease, (b) maintain each of the Leases in full force and effect during the term thereof, (c) to the extent commercially reasonable, appear in and defend any action or proceeding in any manner connected with any of the Leases, (d) deliver to Administrative Agent copies of executed counterparts of all Leases and (e) deliver to Administrative Agent such further information, and execute and deliver to Administrative Agent such further assurances and assignments, with respect to the Leases as Administrative Agent may from time to time reasonably request. Without Administrative Agent's prior written consent, Borrower shall not materially discount any future accruing Rent under Major Leases, or assign or grant a security interest in or to the License or any of the Leases.

3.4 Suits; Attornment. Subject to the License and the provisions of Section 2.1(b) of this Mortgage, Administrative Agent hereby reserves and may exercise the right and Borrower hereby acknowledges that Administrative Agent has the right (but not the obligation), upon the occurrence and during the continuance of a Default, to collect, demand, sue for, attach, levy, recover and receive any Rent, to give proper receipts, releases and acquittances therefor and, after deducting the expenses of collection, to apply the net proceeds thereof as a credit upon any portion of the indebtedness secured hereby selected by Administrative Agent, notwithstanding that such portion selected may not then be due and payable or that such portion is otherwise adequately secured. Borrower hereby authorizes and directs any lessee of the Mortgaged Property to deliver any such payment to, and otherwise to attorn all other obligations under the Leases direct to, Administrative Agent. Borrower hereby ratifies and confirms all that Administrative Agent shall do or cause to be done by virtue and in compliance with the terms of this assignment. No lessee shall be required to inquire into the authority of Administrative Agent to collect any Rent, and any lessee's obligation to Borrower shall be absolutely discharged to the extent of its payment to Administrative Agent.

3.5 Remedies. Upon or at any time after the occurrence and during the continuance of any Default, Administrative Agent, at its option and in addition to the remedies provided in this Mortgage, shall have the complete, continuing and absolute right, power and authority to terminate the License solely by the giving of written notice of termination to Borrower (and, in the event that the applicable Default is cured, such license shall be reinstated pursuant to the terms hereof). Upon Administrative Agent's giving

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of such notice, the License shall immediately terminate without any further action being required of Administrative Agent. Thereafter, as long as any Default shall exist, Administrative Agent shall have the exclusive right, power and authority to take any and all action as described above, regardless of whether a foreclosure sale of the remainder of the Mortgaged Property has occurred under this Mortgage, or whether Administrative Agent has taken possession of the remainder of the Mortgaged Property or attempted to do any of the same. No action referred to above or in this section taken by Administrative Agent shall constitute an election of remedy. Notwithstanding any term to the contrary herein, in the event of such a termination of Borrower's License, such License shall be reinstated when and if the applicable Default shall have been cured or waived.

3.6 No Obligation of Administrative Agent. Neither the acceptance by Administrative Agent of the assignment granted in this Mortgage, nor the granting of any other right, power, privilege or authority in this Mortgage, nor the exercise of any of the aforesaid, shall (a) prior to the actual taking of physical possession and operational control of the Mortgaged Property by Administrative Agent, be deemed to constitute Administrative Agent as a "mortgagee in possession" or (b) at any time thereafter, obligate Administrative Agent (i) to appear in or defend any action or proceeding relating to the Leases, the Rents or the remainder of the Mortgaged Property, (ii) to take any action hereunder, (iii) to expend any money or incur any expenses or perform or discharge any obligation, duty or liability with respect to any Lease, (iv) to assume any obligation or responsibility for any deposits which are not physically delivered to Administrative Agent or (v) for any injury or damage to person or property sustained in or about the Mortgaged Property, provided that nothing herein shall relieve Administrative Agent of liability for the willful misconduct or gross negligence or omissions of Administrative Agent.

3.7 Borrower's Indemnities. So long as the License is in effect, Borrower shall indemnify and hold Administrative Agent and the Lenders harmless from and against any and all liability, loss, cost, damage or expense which Administrative Agent or the Lenders incur under or by reason of this assignment, or for any action taken by Administrative Agent or any Lender hereunder in accordance with the terms hereof, or by reason of or in defense of any and all claims and demands whatsoever which are asserted against Administrative Agent or the Lenders arising out of the Leases. In the event Administrative Agent or any Lender incurs any such liability, loss, cost, damage or expense, the amount thereof together with all reasonable attorneys' fees and interest thereon at the Default Rate specified in the Note shall be payable by Borrower to Administrative Agent or the Lenders (as applicable), within ten (10) days after demand by Administrative Agent or the Lenders (as applicable), and shall be secured by this Mortgage, provided that Borrower shall have no duty or liability hereunder to indemnify and hold Administrative Agent or the Lenders (as applicable) harmless from matters resulting from the willful misconduct or gross negligence of Administrative Agent or the Lenders (as applicable).

ARTICLE 4

MISCELLANEOUS

4.1 Time of the Essence. Time is of the essence of this Mortgage.

4.2 Severability. Any provision of this Mortgage which is unenforceable or invalid or contrary to law, or the inclusion of which would adversely affect the validity, legality or enforcement of this Mortgage, shall be of no effect and, in such case, all the remaining terms and provisions of this Mortgage shall subsist and be fully effective according to the tenor of this Mortgage the same as though any such invalid portion had never been included herein. Notwithstanding any of the foregoing to the contrary, if any provisions of this Mortgage or the application thereof are held invalid or unenforceable only as to particular persons or situations, the remainder of this Mortgage, and the application of such provision to persons or situations other than those to which it shall have been held invalid or unenforceable, shall not be affected thereby, but shall continue valid and enforceable to the fullest extent permitted by law.

4.3 Notices. Any notice which either party hereto may be required or may desire to give hereunder shall be deemed to have been given if in writing and if delivered personally, or if mailed, postage prepaid, by United States registered or certified mail, return receipt requested, or if delivered by a

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responsible overnight courier, addressed:

if to Borrower: Transwestern Columbia Centre III, L.L.C.
c/o Transwestern Investment Company, L.L.C.
150 N. Wacker Drive, Suite 800
Chicago, Illinois 60606
Attn: Brian Walsh

with a copy to: Drane Freyer & Lapins Limited
150 N. Wacker Drive
8th Floor
Chicago, Illinois 60606
Attn: Scott A. Drane

in the case of Administrative Agent to: Wells Fargo Bank, National Association
123 N. Wacker Drive, Suite 1900
Chicago, Illinois 60606
Attn: David R. Bernas

with a copy to: Wells Fargo Bank, National Association
2030 Main Street, Suite 800
Irvine, California 92614
Attn: Brenda Durrett

and a copy to: Barack Ferrazzano Kirschbaum
Perlman & Nagelberg LLP
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606
Attn: Marc M. Jacobs, Esq.

or to such other address or addresses as the party to be given notice may have furnished in writing to the party seeking or desiring to give notice, as a place for the giving of notice, provided that no change in address shall be effective until 7 days after being given to the other party in the manner provided for above. Any notice given in accordance with the foregoing shall be deemed given when delivered personally or, if mailed, 3 business days after it shall have been deposited in the United States mails as aforesaid or, if sent by overnight courier, the business day following the date of delivery to such courier.

4.4 Documentation. All documents and other matters required by any of the provisions of this Mortgage to be submitted or furnished to Administrative Agent shall be in form and substance satisfactory to Administrative Agent.

4.5 Additional Assurances. Borrower agrees that, at any time or from time to time upon the written request of Administrative Agent, Borrower will execute all such further documents and do all such other acts and things as Administrative Agent may request to effectuate the transaction herein contemplated.

4.6 Choice of Law. This Mortgage shall be governed by and construed in accordance with the internal laws of the State of Illinois. Nothing herein shall be deemed to limit any rights, powers or privileges which Administrative Agent may have pursuant to any law of the United States of America or any rule, regulation or order of any department or agency thereof and nothing herein shall be deemed to make unlawful any transaction or conduct by Administrative Agent which is lawful pursuant to, or which is permitted by, any of the foregoing.

4.7 No Third Party Beneficiary. This Mortgage is made for the sole benefit of Borrower and Administrative Agent, and no other person shall be deemed to have any privity of contract hereunder nor any right to rely hereon to any extent or for any purpose whatsoever, nor shall any other person have any

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right of action of any kind hereon or be deemed to be a third party beneficiary hereunder.

4.8 Interpretation. All references herein to a party's best knowledge shall be deemed to mean the best knowledge of such party based on commercially reasonable inquiry. Unless specified to the contrary herein, all references herein to an exercise of discretion or judgment by Administrative Agent, to the making of a determination or designation by Administrative Agent, to the application of Administrative Agent's discretion or opinion, to the granting or withholding of Administrative Agent's consent or approval, to the consideration of whether a matter or thing is satisfactory or acceptable to Administrative Agent, or otherwise involving the decision making of Administrative Agent, shall be deemed to mean that Administrative Agent shall decide unilaterally using its reasonable discretion or judgment. The terms "herein," "hereof," "hereunder" and any other similar terms used herein shall be deemed to refer to this Mortgage in its entirety. Any reference contained herein to attorneys' fees and expenses shall be deemed to be to reasonable fees and expenses of Administrative Agent's outside counsel and of any other third-party experts or consultants engaged by Administrative Agent's outside counsel on Administrative Agent's behalf. All references to any Loan Document shall be deemed to be to such document as amended, modified or restated from time to time.

4.9 No Waiver.

(a) General Waiver Provisions. No waiver of any term, provision, condition, covenant or agreement herein contained shall be effective unless set forth in a writing signed by Administrative Agent, and any such waiver shall be effective only to the extent set forth in such writing. No failure by Administrative Agent to exercise or delay by Administrative Agent in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right or remedy provided by law. The rights and remedies provided in this Mortgage are cumulative and not exclusive of any right or remedy provided by law or equity. No notice or demand on Borrower in any case shall, in itself, entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of Administrative Agent to any other or further action in any circumstances without notice or demand.

(b) Specific Waiver Provisions. If Administrative Agent (i) grants forbearance or an extension of time for the payment of any sums secured hereby; (ii) takes other or additional security for the payment of any sums secured hereby; (iii) waives or does not exercise any right granted herein or in the Note or in any other document or instrument securing the Note; (iv) 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; (v) 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; (vi) consents to the filing of any map, plat or replat or condominium declaration affecting the Mortgaged Property; (vii) consents to the granting of any easement or other right affecting the Mortgaged Property; or (viii) 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 (v) above] the original liability under the Note, this Mortgage or any other obligation of 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 Administrative Agent from exercising any right, power or privilege herein granted or intended to be granted upon the occurrence of a Default then made or of any subsequent Default, except to the extent expressly agreed to in writing by Administrative Agent, nor, except as otherwise expressly provided in an instrument or instruments executed by Administrative Agent, 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.

(c) Sale or Transfer. In the event of the sale, assignment or other transfer, by operation of law or otherwise, of all or any part of this Mortgage, Administrative Agent, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to 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 transfer set forth in Section 1.15 hereof.

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(d) Partial Releases. Without limitation of the foregoing, Administrative Agent hereby reserves the right to make partial release or releases of the Mortgaged Property, or of any other security held by Administrative Agent or any 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 or releases shall not impair in any manner the validity or priority of this Mortgage on the portion of said property not so released. Administrative Agent hereby agrees to make partial releases from the lien of this Mortgage from time to time upon the terms and conditions set forth in the Loan Agreement.

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 in Illinois, with respect to any part of the Mortgaged Property which constitutes fixtures or personal property. Administrative Agent 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 Administrative Agent by this Mortgage or any of the other Loan Documents.

4.11 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 hereunder understood and agreed that, should Administrative Agent acquire any additional or other interests in or to said property or the ownership thereof, then, unless a contrary interest is manifested by Administrative Agent as evidenced by an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, such that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

4.12 Delivery of Summons, Etc. If any action or proceeding shall be instituted which (i) is intended to evict Borrower or recover possession of the Mortgaged Property or any part thereof, or (ii) could result in a money judgment in excess of \$50,000 for failure to pay any obligation relating to the Mortgaged Property or this Mortgage (which judgment would not be covered and fully paid by applicable insurance), Borrower, to the extent required under the Loan Agreement, shall immediately, upon service thereof on or by Borrower, deliver to Administrative Agent a true copy of each 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.

4.13 Successors and Assigns. This Mortgage shall be binding upon the Borrower and its legal representatives, successors and assigns.

4.14 Future Advances. It is acknowledged and agreed that this Mortgage secures not only the initial advances under the Note but also all future advances and all other additional indebtedness, whether direct, indirect, future, contingent or otherwise, connected with or arising out of the Loan Documents.

4.15 Legal Tender of United States. All payments hereunder shall be made in coin or currency which at the time of payment is legal tender in the United States of America for public and private debts.

4.16 Definitions; Captions. With respect to any reference in this Mortgage to any defined term, (i) if such defined term refers to a person, or a trust, corporation, partnership or other entity, then it shall also mean all heirs, personal representatives, successors and assigns of such person or entity, and (ii) if such defined term refers to a document, instrument or agreement, then it shall also include any replacement, extension or other modification thereof. Captions contained in this Mortgage in no way define, limit or extend the scope or intent of their respective provisions.

4.17 WAIVER OF RIGHT TO JURY TRIAL. EACH OF BORROWER BY ITS EXECUTION AND DELIVERY OF THIS MORTGAGE, AND ADMINISTRATIVE AGENT, BY ITS ACCEPTANCE OF THIS MORTGAGE, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS MORTGAGE, ANY OF THE OTHER LOAN DOCUMENTS OR ANY

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OTHER STATEMENTS OR ACTIONS OF ADMINISTRATIVE AGENT. EACH OF BORROWER, BY ITS EXECUTION AND DELIVERY OF THIS MORTGAGE, AND ADMINISTRATIVE AGENT, BY ITS ACCEPTANCE OF THIS MORTGAGE, ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT FOR SUCH PARTY AND THE LENDERS TO ENTER INTO THE LOAN AGREEMENT AND EACH OF THE OTHER LOAN DOCUMENTS IT EXECUTES, AND THAT THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF THE OTHER LOAN DOCUMENTS AS IF FULLY INCORPORATED THEREIN.

4.18 Compliance with Illinois Mortgage Foreclosure Law. In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 Illinois Compiled Statutes 5 Sections 15-1101 et seq.) (herein called the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. Furthermore, if any provision of this Mortgage shall grant to Administrative Agent any rights or remedies upon default of Borrower which are more limited than the rights that would otherwise be vested in Administrative Agent under the Act in the absence of said provision, Administrative Agent shall be vested with the rights granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Administrative Agent to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

4.19 Waiver of Statutory Rights. Borrower acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act) and, to the fullest extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 15-1601(b) of the Act, and to the fullest extent permitted by law, the benefits of all present and future valuation, appraisal, homestead, exemption, stay, redemption and moratorium laws under any state or federal law.

4.20 Cross Collateralization. The Loan shall be cross-collateralized such that each of the Mortgages and the other Loan Documents and the collateral described therein shall be deemed to secure all of the obligations and liabilities of the Borrower in connection with the Loan.

4.21 Fixture Filing Statement. From the date of its recording this Mortgage shall be effective as a fixture financing statement within the purview of Section 9-502(b) of the Uniform Commercial Code as adopted in Illinois with respect to the Collateral and the goods described herein, which goods are or are to become fixtures related to the Mortgaged Property. The addresses of Borrower (Debtor) and Administrative Agent (Secured Party) are set forth below. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or the counties where the Mortgaged Property is located. For this purpose, the following information is set forth:

(a) Name and Address of Debtor:

Transwestern Columbia Centre III, L.L.C.
c/o Transwestern Investment Company, L.L.C.
150 N. Wacker Drive, Suite 800
Chicago, Illinois 60606

(b) Name and Address of Secured Party:

Wells Fargo Bank, National Association
123 North Wacker Drive, Suite 1900
Chicago, Illinois 60606

(c) This document covers goods which are or are to become fixtures.

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- (d) Debtor is the record fee interest owner of the Land.
- (e) Debtor's chief executive office is located in the State of Illinois.
- (f) Debtor's state of formation is Delaware.
- (g) Debtor's exact legal name is as set forth in the first paragraph of this Mortgage.
- (h) Debtor's organizational identification number is 4240387.
- (i) Debtor agrees that:

(i) Where Personalty is in possession of a third party, Borrower will join with Administrative Agent in notifying the third party of Administrative Agent's interest and obtaining an acknowledgment from the third party that it is holding the Personalty for the benefit of Administrative Agent;

(ii) Borrower will cooperate with Administrative Agent in obtaining control with respect to Personalty consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and

(iii) Until the indebtedness secured hereby is paid in full, Borrower will not change the state where it is located or change its company name without giving Administrative Agent at least thirty (30) days prior written notice in each instance.

4.22 Interest Laws. It being the intention of Administrative Agent and Borrower to comply with the laws of the State of Illinois, it is agreed that notwithstanding any provision to the contrary in the Note, this Mortgage or any of the other Loan Documents, no such provision shall require the payment or permit the collection of any amount ("**Excess Interest**") in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by the Note. If any Excess Interest is provided for, or is adjudicated to be provided for, in the Note, this Mortgage or any of the other Loan Documents, then in such event: (a) the provisions of this **Section 4.22** shall govern and control; (b) neither Borrower nor any other party obligated under the terms of the Note or any of the other Loan Documents shall be obligated to pay any Excess Interest; (c) any Excess Interest that Administrative Agent may have received hereunder shall, at the option of Administrative Agent, be (i) applied as a credit against the then unpaid principal balance under the Note, accrued and unpaid interest thereon not to exceed the maximum amount permitted by law, or both, (ii) refunded to the payor thereof, or (iii) any combination of the foregoing; (d) the Note Rate shall be subject to automatic reduction to the maximum lawful contract rate allowed under the applicable usury laws of the aforesaid State, and the Note, this Mortgage and the other Loan Documents shall be deemed to be automatically reformed and modified to reflect such reduction in the Note Rate; and (e) neither Borrower nor any other party obligated under the terms of the Note or any of the other Loan Documents shall have any action against Administrative Agent or the Lenders for any damages whatsoever arising out of the payment or collection of any Excess Interest.

4.23 Adjustable Mortgage Loan Provision. The Note which this Mortgage secures is an adjustable note on which the interest rate may be adjusted from time to time in accordance with the terms and provisions set forth in the Note.

4.24 Forbidden Entity. Borrower hereby certifies that it is not a "forbidden entity" as that term is defined in Section 22.6 of the Illinois Deposit of State Moneys Act, 15 ILCS 520/22.6; Public Act 094-0079.

4.25 Rights of Tenants. Administrative Agent shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Mortgaged Property having an interest in the Mortgaged Property prior to that of Mortgagee. The failure to join any such tenant or tenants of the Mortgaged Property as party

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defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Borrower as a defense in any civil action instituted to collect the indebtedness secured hereby, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Mortgaged Property, any statute or rule of law at any time existing to the contrary notwithstanding.

4.26 Lien. This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b)(5) of Section 15-1302 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, et. seq.

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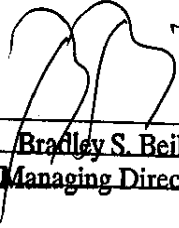
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IN WITNESS WHEREOF, the undersigned has caused these presents to be signed by its duly authorized representatives as of the date first above written.

BORROWER:

TRANSWESTERN COLUMBIA CENTRE III, L.L.C., a
Delaware limited liability company



By: _____
Name: Bradley S. Beile
Its: Managing Director

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EXHIBIT A

Legal Description

PARCEL 1:

THE WEST 558.33 FEET (MEASURED ALONG THE NORTH LINE) OF LOT 1 OF HENRY HACHMEISTER'S DIVISION OF PARTS OF SECTIONS 9 AND 10, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 6, 1908 AS DOCUMENT NUMBER 4183101, EXCEPT THAT PART THEREOF DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE AFORESAID SECTION 10; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 10, A DISTANCE OF 217 FEET FOR THE PLACE OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 10, A DISTANCE OF 200 FEET; THENCE EASTERLY PARALLEL WITH THE SOUTH LINE OF BRYN MAWR AVENUE, A DISTANCE OF 80 FEET; THENCE NORTHERLY PARALLEL WITH THE WEST LINE OF SAID SECTION 10, A DISTANCE OF 200 FEET; THENCE WESTERLY PARALLEL WITH THE SOUTH LINE OF BRYN MAWR AVENUE, A DISTANCE OF 80 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

A PERPETUAL, NON-EXCLUSIVE EASEMENT IN, UNDER THE EASEMENT PARCEL (AS DESCRIBED IN EXHIBIT C) SOLELY FOR THE USE OF SANITARY SEWER AND FOR THE PURPOSE OF SERVICING AND MAINTAINING THE SANITARY SEWER AND EXTENSION IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPHS 2 AND 3 IN THE AGREEMENT AS CREATED, DEFINED AND LIMITED IN THAT CERTAIN EASEMENT AGREEMENT DATED MARCH 1, 1989 AND RECORDED JANUARY 24, 1990 AS DOCUMENT NUMBER 90037337.

PARCEL 3:

EASEMENT OVER PORTIONS OF THE VILLAGE OF ROSEMONT PROPERTY TO THE SOUTH OF PARCEL 1 AS MAY BE INCIDENTAL TO THE USE OF THAT CERTAIN SKYBRIDGE CONNECTING THE 9 STORY BUILDING ON THE LAND WITH THE MULTI-LEVEL CONCRETE PARKING FACILITY ON THE LAND TO THE SOUTH AS CREATED, DEFINED AND LIMITED BY INSTRUMENT RECORDED JULY 25, 1990 AS DOCUMENT 90358728.

PARCEL 4:

ALL RIGHTS, INCLUDING THE USE OF 350 PARKING SPACES, AS GRANTED IN THE PARKING AGREEMENT MADE NOVEMBER 2, 1988 BY AND BETWEEN THE VILLAGE OF ROSEMONT, A MUNICIPAL CORPORATION, AND AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED DECEMBER 12, 1986 AND KNOWN AS TRUST NUMBER 100841-01, A MEMORANDUM OF WHICH WAS RECORDED DECEMBER 14, 1988 AS DOCUMENT 88576474, AS AMENDED BY FIRST AMENDMENT THERETO RECORDED JULY 25, 1990 AS DOCUMENT 90358728, AS AMENDED BY ADDENDUM THERETO RECORDED FEBRUARY 3, 1993 AS DOCUMENT 93087080.

Tax Parcel: 12-10-100-051-0000

Street Address: 9525 Bryn Mawr Avenue, Rosemont, Illinois