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Loan No. 154-0723



Doc#: 0717135266 Fee: \$58.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
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PREPARED BY:
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CONSTRUCTION/PERMANENT MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

THIS CONSTRUCTION/PERMANENT MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT ("Mortgage") is made by Standard Bank and Trust Company, 7800 W. 95th St., Hickory Hills, IL 60457, not personally but as Trustee under a Trust Agreement dated April 23, 2007, and known as Trust 19902 (hereinafter, referred to as the "Trustee").

WITNESSETH

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THAT WHEREAS, Trustee and its beneficiary (hereinafter individually and collectively as the context requires Trustee and its beneficiary are sometimes referred to as "Borrower") have executed a Note bearing the same date herewith, in the principal sum of **Twelve Million Six Hundred Seventy Five Thousand (\$12,675,000.00) Dollars** which sum shall accrue interest at the per annum nominal rate equal to **Seven and Three Quarters (7.75%)** per cent ("Note Rate"). Interest only on the principal balance of the Note outstanding from time-to-time is payable monthly commencing on the **first day** of the first month following the first disbursement under this Note and thereafter on the **first day** of each succeeding month pursuant to the terms and conditions as are more fully set out herein. Interest on the principal balance of the Note outstanding from time to time shall be computed on the basis of a year consisting of **three hundred sixty (360) days** and paid for the actual days elapsed. Any payment due on the Note which is received by the Lender on or prior to fifteen (15) days after such payment's due date will not be deemed late nor subject to late charge or Default Interest. If any installment payment or the Maturity Payment due hereunder whether by acceleration or otherwise according to the terms of the Note or the terms of this Loan Agreement is not paid within **fifteen (15) days** of the due date, then the remaining unpaid principal balance of the Note shall accrue interest at the per annum rate equal to the Note Rate as it changes from time-to-time plus **three (3%) percent** until paid ("Default Rate") and such installment payment or the Maturity Payment due hereunder will be assessed a late charge in the amount of **five (5%) percent** of the installment or Maturity Payment then due. All payments of principal, interest or other fees, costs and expenses due Lender shall be made in lawful money of the United States of America at such place as the holders of the Note may, from time to time in writing appoint, and in the absence of such appointment, then at the address of Lender set forth. The entire outstanding principal balance of the Note and accrued interest thereon due under the Note (the "Maturity Payment"), if not sooner accelerated and demanded, shall be due and payable on **October 31, 2007**. If Borrower is not in default hereunder and completes the Project on or prior to the Completion Date, Lender

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agrees to extend the Maturity Date of the Construction Loan through **April 30, 2009**, as and for a stabilization period.

THAT, to secure the payment of the indebtedness evidenced by the Note, or otherwise due hereunder, and the performance of the covenants and agreements of the Borrower herein contained, the Borrower does by these presents GRANT, CONVEY and MORTGAGE unto Lender, its successors and assigns, the real estate legally described on **Exhibit "A"** attached hereto and incorporated herein by reference together with:

(A) All and singular the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, and the rents, issues and profits thereof; and also all the estate, right, title, interest, property claim and demand whatsoever of the Borrower, of, in and to the same and of, in and to every part and parcel thereof; and

(B) All building and improvements of every kind and description now or hereafter erected or placed thereon and all materials intended for construction, reconstruction, alteration and repairs of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the premises immediately upon the delivery thereof to the said real estate, and all fixtures now or hereafter owned by Borrower and attached to or contained in and used in connection with said real estate including but not limited to all machinery, motors, fittings, shades, screens, and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures and appurtenances thereto, and all items of furniture, furnishings, equipment and personal property used or useful in the operation of the said real estate; and all renewals, replacements or proceeds thereof of articles in substitution therefore, whether or not the same are or shall be attached to said building or buildings in any manner; it being mutually agreed, intended and declared that all the aforesaid property owned by said Borrower and placed by Borrower on the real estate shall, so far as permitted by law, be deemed to form a part and a parcel of the real estate, and covered by and conveyed under this Mortgage; and as to the balance of the property aforesaid, this Mortgage is hereby deemed to be as well a Security Agreement under the provisions of the Uniform Commercial Code for the purpose of creating hereby a security interest in said property, which is hereby granted to the Lender as secured party, securing said indebtedness and obligations. Borrower acknowledges and agrees that the within mortgage secures an obligation incurred for the construction of on-site and off-site improvements on the real estate mortgaged herein, including the acquisition cost of the real estate; and

(C) Any and all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the Premises as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, or (c) any other injury to or decrease in the value of the Premises, to the extent of all amounts which may be secured by this mortgage, at the date of receipt of any such award or payments to the Lender, and of the reasonable counsel fees, costs and disbursements incurred by the Lender in connection with the collection of such award or payment.

The real estate and all of the foregoing are collectively referred to herein as the "Premises".

TO HAVE AND TO HOLD the above granted and described Premises, with all and singular the rights and appurtenances thereto appertaining unto the Lender, its successors and assigns, forever,

PROVIDED ALWAYS, and these presents are upon this express condition, that if the Borrower shall well and truly pay unto the Lender, its successors or assigns, the sums of money due hereunder and in the Note with interest thereon, at the time and in the manner mentioned in the Note, and any and all other sums which may become due and payable hereunder, and shall well and truly abide by and comply with each and every covenant and condition set forth herein or in the Note, then these presents and the estate hereby granted shall cease, determine and be void, and Lender, its successor or assigns shall, upon request, prepare, execute

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and deliver a release of the lien created hereunder upon tender to Lender of Lender's then current release fee. No partial release of any of the Premises shall be permitted except upon the terms and conditions as required by Lender in its sole discretion.

AND, the Borrower covenants with the Lender that:

1. Borrower will pay, or cause to be paid, the said sums of money due under the Note with interest thereon, at the time and in the manner provided in the Note, and will keep, perform and observe every covenant, term and condition of this Mortgage and the Note. If remittance be made in payment of principal, interest or other charges due Lender either by check or draft, said payment shall be subject to the condition that such check or draft may be handled for collection in accordance with the practice of the collecting bank or banks, and that any receipt issued therefore shall be void unless the amount payable thereon is actually received by the Lender. Receipt thereof shall also be void if, by order of any court of competent jurisdiction, Lender is required to refund any sums paid to Lender by or on behalf of Borrower or Borrower's beneficiaries. Any such refund or other non-payment of a remittance occurring after release of the lien of this Mortgage and cancellation of the Note secured thereby shall be deemed a pro tanto reinstatement of said Mortgage and Note for such sum and shall bear interest at the Penalty Rate. Any partial payment received by Lender after acceleration or maturity of all sums due Lender under the Note or this Mortgage shall not impair Lender's rights hereunder or at law or equity to proceed with foreclosure of this Mortgage or collection of the Note in full.

2. No building or other property now or hereafter covered by this Mortgage shall be removed, demolished or materially altered, with the exception of the construction contemplated under the Loan Agreement, without the prior written consent of the Lender, except that the Borrower shall have the right, without such consent, to remove and dispose of, free from the lien of this Mortgage, such equipment as from time-to-time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, any such equipment shall be replaced with other equipment of equal or greater value and free from chattel Mortgage or such other encumbrance and from any reservation to title, and by such removal and replacement the Borrower shall be deemed to have subjected such equipment to the lien of this Mortgage, or (b) any net cash proceeds received from such disposition shall be paid over promptly to the Lender to be applied to the last installment due on the indebtedness secured, without any charge for prepayment, or applied otherwise at Lender's sole discretion.

3. Borrower will maintain the Premises in good condition and repair free from mechanics or other liens or claims for lien not expressly subordinated to the lien hereof, will not commit or suffer any waste of the Premises, and will comply with, or cause to be complied with, all statutes, ordinances, regulations and other legally enforceable requirements of any governmental authority relating to the Premises; a violation by Borrower or one of its tenants in the Premises of any statute, ordinance, regulation or other legally enforceable requirement of any governmental authority relating to the Premises shall be deemed waste; that the Borrower will promptly repair, restore, replace or rebuild any part of the Premises now or hereafter subject to this Mortgage which may be damaged or destroyed by any casualty whatsoever or which may be affected by any proceeding of the character referred to in **Paragraph 9** hereof. Any proceeds of insurance paid as a result of an insured casualty shall be delivered to Lender for deposit in an escrow account with Lender from which Borrower may withdraw such sums needed to restore, repair, replace or rebuild the Premises subject to the provisions of **Paragraph 5(d)** hereof.

4. Every provision herein requiring notice and demand or request shall be deemed fulfilled by written notice and demand or request mailed to the last known address of the Borrower or Lender by postage prepaid first class mail, delivered by personal delivery or delivered by document delivery services.

5. (a) Borrower shall keep all buildings and improvements on said real estate insured against loss, damage and liability under policies of insurance covering fire and extended coverage, vandalism, malicious mischief, rental or business interruption, if applicable, liability and property damage, and

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flood insurance, if the Premises are in a flood hazard area, for the full insurable value of the Premises but in no case less than the amount of the Mortgage or in such other amounts as reasonably required by the Lender; and Borrower shall also insure against casualty loss all furniture, fixtures, and equipment, used or useful in the operation of the Premises by Borrower. All such insurance is to be maintained during the life of the Mortgage. All insurance herein provided for shall be in the form, and by companies approved by the Lender. The original policies of insurance required hereunder shall be delivered to the Lender and shall name Lender as insured under a Lender clause. If Borrower defaults in so insuring the Premises, or in so delivering the policies, the Lender may, at the option of the Lender, obtain effect such insurance from year to year and pay the premium therefor, and Borrower will reimburse the Lender for any premiums so paid, with interest from time-to-time of payment at the Penalty Rate, on demand, and the same shall be secured by this Mortgage. All such policies of insurance shall require not less than **ten (10) days** notice to Lender in the event of cancellation;

(b) No less than **thirty (30) days** prior to the expiration dates of each policy required of the Borrower pursuant to this **Paragraph 5**, the Borrower will deliver to the Lender certified copies of the renewal policy or policies marked "premium paid" or accompanied by other evidence of payment satisfactory to the Lender;

(c) In the event of a foreclosure of this Mortgage, Lender shall succeed to all the rights of the Borrower, including any right to unearned premiums, in and to all policies of insurance delivered pursuant to the provisions of this Mortgage all such rights being hereby assigned to Lender by Borrower as additional security hereunder;

(d) If the Premises, or any part thereof, be destroyed or damaged by fire or by any other cause, Borrower will promptly restore, rebuild, repair and replace the same so that the value of the Premises shall be at least equal to the value thereof prior to such loss or destruction, and Borrower will promptly commence such restoration, rebuilding, repairing or replacement of the Premises and provide to Lender waivers of lien for work performed and material furnished. There shall be, at all times during the progress of the restoration work, in the escrow account with Lender as provided in Paragraph 3 hereof, sufficient monies to complete said restoration, and in the event of any deficit in the amount of insurance monies, the Borrower covenants and agrees forthwith to make up such deficit. In the event the Borrower shall neglect, fail or refuse to proceed diligently with the restoration, rebuilding or replacement of any Premises destroyed or damaged by fire or other casualty, then the Lender shall have the right to restore, rebuild or replace same and may use and apply any insurance monies for that purpose. If such insurance money shall be insufficient to pay the entire cost of such work, the Borrower shall pay the deficiency. If Borrower fails to pay said deficiency, Lender may, at its option, advance the funds required. All such advances shall bear interest at the Penalty Rate and shall be secured by the lien of this Mortgage and shall be payable upon demand.

(e) Borrower's compliance with the insurance requirements of this Mortgage shall not relieve Borrower of any liability to Lender hereunder or under the Note and related loan documents.

6. Borrower will pay or cause to be paid all real estate and other taxes, special assessments, association fees or assessments, water rates, sewer rents and other charges now or hereafter assessed or placed as a lien on or levied against the Premises or any part thereof, and in default thereof the Lender may, at the option of the Lender, pay the same, and the Borrower will repay the same on demand with interest at the Penalty Rate. All such payments by Lender shall be secured by this Mortgage; that upon request of the Lender, the Borrower will exhibit to the Lender receipts for the payment of all items specified in this Paragraph prior to the date when the same shall become delinquent; provided, however, that nothing in this Mortgage shall require the Borrower to pay, discharge or remove any tax, assessment, water rate, sewer rent or other charge now or hereafter assessed or placed as a lien on or levied against the Premises, or any part thereof (which tax, assessment, water rate, sewer rent, other charge or lien is hereafter sometimes referred

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to as "imposition") so long as the Borrower in good faith shall proceed to contest the same or the validity thereof by appropriate legal or other proceedings to be prosecuted with due diligence, and which contest shall operate to prevent the collection of the imposition so contested and the sale or loss of possession of the Premises or any part thereof to satisfy the same, and Borrower shall have deposited with the Lender or such person or corporation as Lender may in writing direct, as security for the satisfaction, in the sole judgment of the Lender, an amount to pay said imposition together with all interest and penalties in connection therewith, and all charges that may or might be assessed against or become a charge on the Premises, or any part thereof in said legal proceedings. The Borrower shall have the right to cause the funds so deposited, or any part thereof, to be deposited with or paid to the person or public authority claiming said imposition on account of any such imposition, or to be appropriated as security for any bond required in order to enable the Borrower to prosecute such contest. Upon the termination of such legal proceedings or at any time when the Lender shall deem the monies deposited with it to be insufficient security for the purpose for which they are deposited, the said monies so deposited shall be applied to the payment, removal and discharge of said imposition and the interest and penalties in connection therewith, and the charges accruing to such legal proceedings and the balances, if any, shall be paid to the Borrower, provided that the Borrower is not in default under this Mortgage. In the event that such monies shall be insufficient, the Borrower shall forthwith pay over to the Lender an amount of money sufficient, together with the monies so deposited pursuant to this Paragraph to pay the same. In the event of any default by the Borrower under this Mortgage, the Lender is authorized to use the money deposited under this Paragraph to apply on account of such default or to pay the said imposition. The Borrower shall not be entitled to interest on the monies deposited pursuant to this Paragraph.

7. In the event of the passage after the date of this Mortgage of any law of the **State of Illinois** or its political subdivisions deducting from the value of the Premises for the purpose of taxation any lien thereon or changing in any way the laws for the taxation of the mortgages or debts secured by Mortgage for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly (other than the imposition of any income tax liability on Lender), on this Mortgage or the Note, the holder of this Mortgage and the Note which it secures shall have the right to declare the amount thereof and the interest thereon due on a date to be specified by Lender not less than **thirty (30) days** after written notice is given to the Borrower by the Lender, provided, however, that such election shall be ineffective if the Borrower is permitted by law to pay the whole of such tax in addition to all other payments required hereunder and if, prior to such specified date, does pay such tax and agrees to pay any such tax when thereafter levied or assessed against the Premises or this Mortgage and the Note secured thereby, and such agreement shall constitute a modification of this Mortgage.

8. If at any time the United States of America or other governmental authority shall require internal revenue or comparable stamps to be affixed to the Note or this Mortgage, the Borrower will pay for the same with any interest or penalties imposed in connection therewith.

9. Notwithstanding any taking by eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the Borrower shall continue to pay the installment payments required by the Note and this Mortgage. Any reduction in the principal sum resulting from the application by the Lender of such award or payment as hereinafter set forth shall be deemed to take effect only on the date of such receipt, that said award or payment may be applied in such proportions and priority as the Lender in the Lender's sole discretion may elect to the payment of principal, whether or not then due and payable, or any sums secured by this Mortgage provided, however, that the Borrower shall be permitted to use the proceeds of any award received to restore the remaining portion of the Premises. If prior to the receipt by the Lender of any such award or payment the Premises shall have been sold on foreclosure of this Mortgage, the Lender shall have the right to receive said award or payment to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought, recovered or denied, and counsel fees, costs and disbursements incurred by the Lender in connection with the collection of such award or payment. The receipt of any such award by Lender shall not result in a change in the amount of the

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installment payments due under the Note and this Mortgage.

10. Borrower will transfer and assign to the Lender, at any time and from time-to-time, in form satisfactory to the Lender, the Borrower's interest in all leases of the Premises or portions thereof, whether now in existence or hereafter entered into, and that the Borrower will not assign the whole or any part of leases of the Premises or any portions thereof, whether now in existence or hereafter entered into, nor the whole or any part of the rents, issues and profits arising from the Premises, without the prior written consent of the Lender and any assignments made in violation hereof shall be null and void. Further, as additional consideration for the Note hereby secured and on a parity with this Mortgage, the Borrower has, concurrently herewith, executed and delivered to the Lender a separate Assignment of Rents (herein called the "Assignment") dated as of the date hereof, wherein and whereby, among other things, the Borrower has absolutely assigned to the Lender all of the rents, issues and profits and any and all leases and the rights of management of the Premises, all as therein more specifically set forth, which said Assignment is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length. The Borrower agrees that it will duly perform and observe all of the terms and provisions on its part to be performed and observed under the Assignment. The Borrower further agrees that it will duly perform and observe all of the terms and provisions on lessor's part to be performed and observed under any and all leases of the Premises to the end that no default on the part of lessor shall exist thereunder. Nothing herein contained shall be deemed to obligate the Lender to perform or discharge any obligation, duty or liability of lessor under any lease of the Premises, and the Borrower shall and does hereby agree to defend, indemnify and hold the Lender harmless from any and all liability, loss or damage which the Lender may or might incur under any lease of the Premises or by reason of the Assignment; and any and all such liability, loss or damage incurred by the Lender, together with the costs and expenses, including reasonable attorney's fees, incurred by the Lender in the defense of any claims or demands therefor (whether successful or not), shall be so much additional indebtedness hereby secured, and the Borrower shall reimburse the Lender therefor on demand, together with interest at the Penalty Rate from the date of disbursement to the date of payment.

11. Borrower will keep proper books of record and account in accordance with generally accepted principles of accounting. Lender shall have the right to review the affairs, finances and accounts of the Borrower and to be informed as to the same by Borrower or all at such reasonable times and intervals as the Lender may desire, provided Lender provides reasonable notice thereof. Borrower will furnish to the Lender within **one hundred twenty (120) days** after the end of each fiscal year of the Borrower, copies of statements of income and expense of the Borrower for such fiscal year showing separately and in adequate detail the income and expense of the Premises, all in reasonable detail and stating in comparative form the figures as of the end of and for the previous fiscal year and certified by Borrower.

12. Borrower, upon written request, shall certify within **twenty (20) days** after such request, by a writing duly acknowledged, to the Lender or to any proposed assignee of this Mortgage, the amount of principal, interest and other charges then owing on the Note and this Mortgage and whether any offsets or defenses exist against the mortgage debt. In the event Borrower fails to timely so certify, Borrower irrevocably appoints any agent or officer of Lender, its successors and assigns as Borrower's attorney in fact, to so certify and which certification shall be binding on Borrower, Borrower's successors and assigns.

13. This Mortgage shall operate as a security agreement under the provisions of the Uniform Commercial Code, as now or hereafter amended, with respect to the fixtures on the Premises, or any replacements thereof, or additions thereof, all proceeds of insurance on or sale thereof, and the Borrower will execute and deliver such financing statements as the Illinois Uniform Commercial Code requires with respect to such security; and that the Borrower will execute and deliver from time-to-time such further instruments including renewal Mortgages, security agreements, financing statements, certificates, extensions and renewals thereof, and such other documents as may be required by the Lender to preserve, confirm and maintain the lien of this Mortgage on the said fixtures whether now or hereafter acquired, and the Borrower shall pay to the Lender on demand any expenses incurred by the Lender in connection with the preparation and filing of such documents. Fixtures and equipment which the lessee of a portion of Premises has the right

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to remove, are specifically excluded from the provisions of this paragraph except to the extent that lessee's right to remove such fixtures and equipment shall be forfeited under terms of such lessee's lease.

14. In the event of any default by Borrower in the performance of any of the covenants or conditions herein, the Lender may, at the option of the Lender, perform the same and the cost thereof or any other costs, expenses or fees paid or incurred by Lender as a result of a default of Borrower with interest at the Penalty Rate from date of disbursement shall immediately be due from the Borrower to the Lender and secured by this Mortgage.

15. If any action or proceeding be threatened or commenced (except an action to foreclose this Mortgage or to collect the debt secured hereby), to which action or proceeding the Lender is or may become a party or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by the Lender for the expenses of any such threatened or commenced action or proceeding (including reasonable counsel fees) to prosecute or defend the right and lien created by this Mortgage shall on notice and demand be paid by the Borrower, together with the interest thereon at the Penalty Rate from date of disbursement, and shall be secured by this Mortgage; that in any action or proceeding to foreclose this Mortgage, or to recover or collect the debt secured hereby, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant. Additionally, in the event that Lender incurs any attorney fees or costs in dealing with any matter which directly or indirectly effects this Mortgage, Borrower agrees to pay upon demand all such costs and expenses, including reasonable attorney fees incurred by Lender, together with interest thereon at the Penalty Rate and which sums shall be deemed also secured by the lien of this Mortgage.

16. Lender and any persons authorized by the Lender shall have the right to enter and inspect the Premises at all reasonable times upon reasonable notice and, if Borrower is a land trust, to inspect and receive copies of said land trust file at any time.

17. Lender shall have the right from time-to-time to sue Borrower for any sums due Lender hereunder whether interest, damages for default in the payment of principal or any installment thereof, taxes, the costs of Lender's performance of the covenants or conditions provided herein, or any other sums required to be paid under the terms of this Mortgage or the Note, as the same becomes due, without regard to whether or not the principal sum secured by the Mortgage shall be due and without prejudice to the right of the Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Borrower existing at the time such earlier action was commenced.

18. No assignment, sale, lease for a term of more than **three (3) years** or a lease of any duration which includes an option to purchase, or conveyance or contract to sell all or part of the Premises ("Transfer") will be made without Lender's prior written consent, or, if the Borrower is a corporation, a limited partnership, a partnership or a limited liability company, no sale, issuance or assignment of shares of such corporation shares or an interest of a partner or member will be made without Lender's prior written consent. Without first obtaining Lender's written consent, the making of a Transfer or the sale issuance or assignment of shares or partnership or member's interests, if Borrower is a corporation, partnership or limited liability company will be an additional Event of Default and all principal and interest due under the Note shall be accelerated and immediately due and payable at the option of Lender.

19. Upon an Event of Default and notice from Lender, Borrower covenants and agrees to deposit at Lender's request at such place as the holder of the Note secured by this Mortgage may, from time-to-time, in writing appoint and, in the absence of such appointment then at the office of Lender commencing with the first monthly payment due following Lender's notice, and on the **first day** of each and every succeeding month thereafter until the indebtedness secured by this Mortgage is fully paid, a sum of money equal to 1/12th of the last total annual real estate taxes and assessments last assessed (general and special) on the Premises (unless said taxes are based upon assessments which exclude the improvements or any part thereof, now constructed or to be constructed, in which event the amount of such deposits shall be based upon the

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reasonable estimate of the holder of the Note as to the amount of taxes and assessments to be levied or assessed). Borrower, concurrently with the initial tax deposit, will also deposit with Lender an amount based upon such taxes and assessments so ascertainable, or so estimated by Lender as the case may be for such taxes and assessments on the Premises on an accrual basis for the period from January 1, succeeding the year for which all taxes and assessments have been paid to an including the date of the first deposit in this Paragraph hereinabove mentioned or any part thereof upon request of Lender but in no event in an amount greater than otherwise allowed by law. Such deposits are to be held in escrow without allowance of interest and are to be used for the payment of such taxes and assessments (general and special) on said Premises next due and payable when they become due. If the sums so deposited are insufficient to pay any such taxes or assessments (general or special) for any year when the same shall become due and payable, Borrower shall, within **ten (10) days** after notice and demand, thereafter deposit with Lender such additional funds as may be necessary to pay such taxes and assessments (general and special) for any year. Any excess deposit shall be retained in escrow. In the event sums on deposit are insufficient to make a required tax payment, Lender, at Lender's sole option, may advance the additional sums needed. Any such advance shall be deemed secured by the lien of this Mortgage and shall be due and payable on demand with interest at the Penalty Rate. The creation of a tax escrow and the holding of deposits therein shall not relieve Borrower of its responsibility pursuant to **Paragraph 6** hereof to obtain tax and assessment bills and to timely pay any such taxes or assessments on the Premises or to timely tender same to Lender for payment from the escrow. Notwithstanding any provision of law, in the event Lender forecloses the lien of this Mortgage, the balances of any such tax escrow account shall be set off against sums due Lender from Borrower hereunder.

20. Upon an Event of Default and notice from Lender, together with, and in addition to, the monthly payments of interest or principal payable under the terms of the Note secured hereby, and in addition to the deposits for general and special real estate taxes and assessments pursuant to the terms of **Paragraph 19** of this Mortgage, Borrower will deposit monthly with Lender, upon request, a sum of money equal to one-twelfth (1/12th) of the premiums that will next become due and payable on policies of fire, extended coverage and other hazard insurance, covering the Premises. Such sums are to be held in escrow without interest to pay said insurance premiums. In the event sums on deposit are insufficient to make a required insurance premium payment, Lender, at its sole option, may advance the additional funds needed. Any such advance shall be deemed secured by the lien of this Mortgage and shall be due and payable on demand with interest at the Penalty Rate. The creation of an insurance escrow and the holding of deposits therein shall not relieve Borrower of its responsibility pursuant to **Paragraph 5** hereof to obtain any required insurance insuring the Premises and to timely pay the premiums thereof or to timely tender to Lender the premium billings for payment from the escrow. Notwithstanding any provision of law, in the event Lender forecloses the lien of this Mortgage, the balances of any such insurance escrow account shall be set off against sums due Lender from Borrower hereunder.

21. If one or more of the following Events of Default occur:

- A. Default, and continuance thereof for fifteen (15) days in payment of any principal of, or any interest on, a Note or any other indebtedness due Lender from Borrower or Guarantor; or
- B. Any indebtedness of Borrower or Guarantor becomes or is declared to be due and payable prior to its expressed maturity by reason of any default by Borrower or Guarantor in the performance or observance of any obligation or condition; or
- C. Borrower or Guarantor become insolvent or admit in writing Borrower's or Guarantor's inability to pay debts as they mature or apply for, consents to or acquiesce in the appointment of a trustee or receiver for Borrower, Guarantor or any property of Borrower or Guarantor; or, in the absence of such application, consent or acquiescence, a trustee or receiver is appointed for Borrower or Guarantor for reorganization, debt arrangement, or other proceeding under any bankruptcy or insolvency law, or any dissolution of liquidation proceeding is instituted by or against Borrower or Guarantor and, if instituted by or against Borrower or Guarantor, are consented to or acquiesced in by Borrower or Guarantor or remains pending

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for **ninety (90) days**, or Borrower or Guarantor shall make an assignment for the benefit of creditors; or

D. Borrower or Guarantor fail within **sixty (60) days** after filing or entry to pay or bond or otherwise discharge any attachment or judgment not covered by insurance which is not stayed on appeal, or otherwise which involves money or property of a value in excess of **\$25,000.00**; or

E. There shall occur an abandonment of the construction of the improvements or buildings on the Premises or stoppage thereof for more than **thirty (30) consecutive days** and not caused by matters beyond Borrower's or Guarantor's control); or

F. A default occurs by Borrower, Guarantor or third parties in the performance of any of the agreements or covenants herein, or in any Security Instrument referred to herein (and not constituting an Event of Default under any of the preceding subsections of this paragraph) and the continuance of such default for **thirty (30) days** after notice in writing thereof to Borrower or Guarantor from Lender except, if such default cannot reasonably be cured within said **thirty (30) day** period, and Borrower, Guarantor or such third party commences to cure and diligently prosecutes the same to completion, such **thirty (30) day** period shall be extended for a reasonable time to cure such default; or

G. Any representation made herein or hereafter to Lender is untrue in any material respect, or any schedule, statement, report, notice, assignment or other writing heretofore or hereafter furnished to Lender is untrue in any material respect on the date as of which the facts set forth are stated or certified; or

H. Lender, or any applicable regulatory authority shall disapprove at any time any of the construction work on the Premises and Borrower shall fail to cause same to be corrected to the satisfaction of Lender and any applicable regulatory authority within **thirty (30) days** after notification thereof except, in the event the same cannot reasonably be cured within said **thirty (30) day** period, and Borrower commences to cure same and diligently prosecutes the same to completion, such **thirty (30) day** period shall be extended for a reasonable time to cure such default; or

I. The occurrence of the bankruptcy or insolvency of any contractor of Borrower that has not completed that contractor's work and failure of Borrower to procure a replacement contractor with a new contract satisfactory to Lender in Lender's sole discretion with **sixty (60) days** from the occurrence of such bankruptcy or insolvency; or

J. Failure of Borrower for a period of **sixty (60) days** after Lender's demand to procure to Lender's satisfaction dismissal or disposition of any proceedings seeking to enjoin or otherwise prevent or declare invalid or unlawful the construction, occupancy, maintenance or operation of the improvements on the Premises or any portion thereof, as called for by the terms of this Loan Agreement, or of any proceedings which could or might affect the validity of the title of Borrower to the Premises or of the lien of Lender's Security Instruments thereon, or which could or might materially affect Borrower's ability to perform this Loan Agreement; or

K. Such a change occurs in the financial condition or affairs of Borrower or Guarantor which, in the opinion of Lender in Lender's sole discretion, materially impairs Lender's security or increases Lender's risk; or

L. The failure of Borrower to establish and maintain Borrower's general operating accounts and: a) replacement reserve account with Lender for the replacement of furniture, fixtures and equipment; and b), if requested by Lender, operating accounts relating to the Premises and the Project, all in form and substance reasonably satisfactory to Lender while any sums remain due Lender under the Loan described herein;

then, if any such default shall be continuing, Lender may declare the Note to be due and payable, whereon all sums

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due to Lender from Borrower and Guarantor shall become immediately due and payable, all without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived. Lender shall promptly advise Borrower and of any such declaration, but failure to do so promptly shall not impair the effect of such declaration, time being the essence of the Note.

22. In addition to all other provisions contained herein, Borrower acknowledges that the proceeds of the Note are intended, in part, to finance the construction of improvements on the Premises and further covenants and agrees that:

A. The improvements to be erected on the Premises shall be completed in accordance with the provisions of the Loan Agreement.

B. Upon the occurrence of an Event of Default, the holder of the Note may (but need not):

i) Declare the entire principal indebtedness and interest secured hereby to be due and payable;

ii) Complete the construction of said improvements and enter into the necessary contracts therefor. All monies so expended shall be so much additional indebtedness, secured by this Mortgage, and any monies expended in excess of the Note, shall be payable on demand with interest at the penalty rate and shall be deemed a pro tanto amendment to the principal sums due pursuant to said Note and Mortgage.

The holder of said Note may exercise either or both of the aforesaid remedies in addition to any and all other remedies afforded herein or in the Loan Agreement.

23. When the indebtedness secured hereby shall become due whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereof, that in any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all reasonable expenditures and expenses which may be paid or incurred by or on behalf of the Lender for the preservation, protection, repair, management and sale of the Premises, and for attorney's fees, appraiser's fees, outlay for documentary and expert evidence, stenographer's charges, publication costs and other costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, guarantee policies, Torrens Certificates, and similar data and assurances with respect to title as Lender 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 the value of the Premises; that all such expenditures shall become so much additional indebtedness secured hereby and immediately due and payable with interest thereon at the Penalty Rate from payment thereof; and that the proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority; First, on account of all such costs and expenses incident to the foreclosure proceedings; Second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note with interest thereon as herein provided; Third, all interest and then principal remaining unpaid on the indebtedness secured hereby; and Fourth, any overplus to Borrower, its successors or assigns, as their rights may appear.

24. Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the Court in which such Complaint is filed may appoint Lender as Mortgagee in possession or appoint a receiver of the Premises; that such appointment may be made either before or after sale, without notice and without requiring bond (notice and bond being hereby waived) without regard to the solvency or insolvency of the Borrower at the time of application for such Mortgagee in possession order or receiver and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; that such Mortgagee in possession or receiver shall have power to collect and impose rents, and collect issues and profits of the Premises during the pendency of such foreclosure suit and in case of a sale and a deficiency, during the full

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statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when the Borrower, except for the intervention of such Mortgagee in possession order or receiver, would be entitled to collect such rents, issues and profits, and all other power which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period; and that the Mortgagee in possession or receiver, out of such rents, issues and profits may pay any costs incurred in the management and operation of the Premises, prior and coordinate liens, if any, taxes, assessments and insurance, and may pay all or any part of the indebtedness secured hereby or any deficiency judgement thereon.

25. Upon any sale by virtue of any judicial proceedings or otherwise for the enforcement of this Mortgage the Premises may be sold in one parcel as an entirety, at the option of Lender, Borrower hereby waiving any requirement of law to the contrary, and the Borrower, to the full extent that it may lawfully do so, for itself and for all who may claim through or under them hereby expressly waives and releases all right to have the Premises or any part thereof marshaled upon any foreclosure sale, or other enforcement hereof, and any court at the time foreclosure of this Mortgage is sought shall have the right and is hereby authorized and directed to sell the entire Premises as a whole in a single parcel. Borrower for itself and on behalf of its respective successors and assigns hereby expressly waives any right at law or at equity to bar Lender from being the purchaser at any foreclosure sale of the Premises.

26. Any failure by the Lender to insist upon the strict performance by the Borrower of any of the terms and provisions hereof shall not be deemed to be a waiver of any of the terms and provisions hereof, and the Lender, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by the Borrower of any and all of the terms and provisions of this Mortgage to be performed by the Borrower; that neither the Borrower nor any other person now or hereafter obligated for the payment of the whole or any part of the Note or any obligation secured by this Mortgage shall be released from liability for repayment of the Note or any obligations secured by this Mortgage (1) by reason of the failure of the Lender to comply with any request of the Borrower or of any other person, to take action to foreclose this Mortgage or of any obligations secured by this Mortgage, or (2) by reason of any agreement or stipulation between any subsequent owner or owners of the Premises and the Lender extending the time of payment or modifying the terms of the Note or Mortgage (whether or not first having obtained the prior written consent of the Borrower or the other person obligated to pay the Note or any obligation secured by this Mortgage); that the Lender may release, regardless of consideration, this Mortgage in whole or in part without, as to the remainder of the security, in any way impairing or affecting the lien of this Mortgage or the obligations of Borrower or any other person on the Note secured hereby or the priority of such lien over any subordinate lien; and that the Lender may resort for the payment of the indebtedness secured hereby to any other security therefor held by the Lender in such order and manner as the Lender may elect.

27. The rights of the Lender arising under the clauses and covenants contained in this Mortgage shall be separate, distinct and cumulative and none of them shall be in exclusion of the others; that no act of the Lender shall be construed as an election to proceed under any one provision thereof to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.

28. Borrower, upon request by Lender from time-to-time shall execute, acknowledge and deliver to Lender, a Security Agreement, Financing Statement or other similar security instruments, in form satisfactory to Lender, covering all property of any kind whatsoever owned by Borrower, which in the sole opinion of Lender is essential to the operation of the Premises and which there may be any doubt whether the title to same has been conveyed by or security interest perfected by this Mortgage under the laws of the State of Illinois and will further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement or certificate or other document as Lender may request in order to perfect, preserve, maintain, continue and extend the security interest under the priority of this Mortgage and such security instrument. Borrower further agrees to pay to Lender on demand all costs and expenses incurred by Lender in connection with the preparation, execution, recording, filing and re-filing of any such document, unless such costs or expenses result from the negligence of Lender.

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29. Any and all other documents conferring easement rights or other appurtenant rights upon the owner of the Premises in land lying within or beyond the perimeters of the Premises are herein collectively called the "Appurtenant Agreements" and such rights collectively shall be considered appurtenances.

Borrower hereby grants, conveys, assigns, transfers and mortgages to Lender, as additional security for the indebtedness secured hereby, all right and benefit of Borrower under the Appurtenant Agreements and all easement rights and other benefits arising thereunder, in favor of the Premises. With respect to the Appurtenant Agreements, Borrower further agrees with Lender as follows:

- A. Borrower will perform and comply with all obligations of Borrower or which are otherwise imposed upon the Borrower or which are otherwise imposed upon the Premises thereunder;
- B. Borrower will keep the same in good standing and in effect and enforce observance and compliance by other parties thereto with their respective obligations thereunder affecting the Premises;
- C. Borrower will not, without first having obtained the written approval and consent of Lender:
 - I. modify or agree to any termination of the Appurtenant Agreements or waive or relinquish any of Borrower's rights thereunder or any benefits thereunder which affect the Premises;
 - ii. exercise any right of approval or consent conferred upon Borrower under the Appurtenant Agreements; it being understood and agreed, however, that after the occurrence of any default hereunder, Lender may exercise all such powers of consent or approval on Borrower's behalf, full power and authority so to do being herein conferred upon Lender by Borrower;
- D. In the event Borrower shall receive notice from any other parties thereto of any claimed default thereunder by Borrower, or acquire any knowledge of the assertion or intended assertion of any claim thereunder, Borrower will promptly advise Lender thereof;
- E. In the event Borrower shall receive notice or acquire any knowledge of any action or proceedings taken or initiated, with respect to the Appurtenant Agreements or any laws or ordinances which could affect the Premises, Borrower will promptly advise Lender thereof;
- F. Appropriate licenses, approvals and permits for the use or operation of the Premises or the Appurtenant Agreements shall at all times be obtained and kept in full force and effect, including those of the U.S. and Illinois Environmental Protection Agency any other governmental regulatory body having jurisdiction.

30. Borrower agrees that: (a) the Premises will be operated in accordance with the highest standards of operation for its highest and best use as a **Homewood Suites Hilton** as contemplated in the Loan Agreement; (b) the Premises will at all times be property equipped for such purpose; (c) Borrower will procure, maintain and comply with all governmental permits and licenses required for such operation; and (d) Borrower will comply with all governmental laws, ordinances, rules and regulations relating to such operation.

31. Borrower is currently in compliance with, and will manage and operate and cause Borrower's agents and representatives to manage and operate the Premises and will cause any tenant to occupy such tenant's demised portion of the Premises in compliance with, all federal, state and local laws, rules, regulations, orders and ordinances regulating health, safety and environmental matters, including, without

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limitation, air pollution, soil and water pollution, and the use, generation, storage, handling or disposal of Hazardous Material (hereinafter defined) including, without limitation, raw materials, products, supplies, asbestos or polychlorinated biphenyl compounds ("PCBs").

A. Borrower shall send to the Lender no later than **five (5) days** after receipt by Borrower, any report, citation, notice or other writing alleging a violation by Borrower by to or from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities. If required pursuant to any of such laws, rules, regulations, orders or ordinances, Borrower shall diligently commence to rectify, dispose of or remove from the Premises any Hazardous Materials in a manner consistent with and in compliance with the same and shall pay immediately when due any costs incurred or sustained therefor. Borrower shall keep the Premises free of any lien imposed pursuant to said laws, rules, regulations, orders, or ordinances. In the event Borrower fails to comply with any of the foregoing within **fifteen (15) days** after written demand by the Lender to Borrower, the Lender may either (i) declare a default under this Mortgage or (ii) cause the removal of the Hazardous Material from the Premises, or both. The costs of the removal incurred by Lender shall constitute additional indebtedness hereunder secured by this Mortgage and which costs shall be due and payable without notice or demand with interest thereon at the Penalty Rate from date of disbursement.

B. Except for small quantities used in the ordinary course of business, Borrower further agrees not to generate, handle, use, store, treat, discharge, release or dispose of any Hazardous Material at the Premises without the express written approval of the Lender and compliance with all applicable statutes, ordinances and regulations. The Lender shall have the right at any time, upon reasonable basis and written notice to Borrower, to conduct an environmental audit of the Premises at Borrower's sole cost and Borrower shall cooperate in the conduct of such environmental audit. After the occurrence of a default hereunder, Borrower shall give Lender, its agents and employees access to the Premises to remove any Hazardous Material, provided nothing herein shall obligate the Lender to take any action to remove any Hazardous Waste or to correct any violation of law on the subject Premises.

C. Borrower shall indemnify, defend with counsel reasonably acceptable to the Lender, and hold the Lender free and harmless from and against all losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, attorneys' and experts' fees and disbursements) which may at any time be imposed upon, incurred by or asserted or awarded against the Lender in connection with or arising from or out of the breach of any warranty, covenant or agreement or the inaccuracy of any representation contained or referred to in this Paragraph, and any violation by Borrower of any of the foregoing laws, regulations, orders or ordinances described in this Paragraph. The foregoing indemnification shall survive repayment of all sums due Lender hereunder.

D. For the purpose of this Mortgage, "Hazardous Material" shall mean and shall include any hazardous, toxic or dangerous waste, substance or material defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, ordinance, code, rule, regulation, order, decree or other requirement of any governmental authority regulation, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material as is now or at any time hereafter may be in effect including the laws, ordinances and regulations of the State of Illinois, its agencies and political subdivisions.

32. Wherever used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the word "Borrower" shall mean and include "the undersigned and/or any subsequent owner or owners of the Premises"; the word "Lender" shall mean "Lender or any subsequent

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holder or holders of this Mortgage"; that the word "person" shall mean "a Trust, individual, corporation, partnership, unincorporated association or a limited liability company"; pronouns of any gender shall include the other gender, and either the singular or plural shall include the other.

33. TO THE FULLEST EXTENT PERMITTED BY LAW BORROWER HEREBY WAIVES ANY AND ALL RIGHTS OF (A) REINSTATEMENT OF THIS MORTGAGE AND (B) REDEMPTION FROM ANY ORDER OR JUDGMENT OF FORECLOSURE OF THIS MORTGAGE ON BEHALF OF BORROWER AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE.

34. This Mortgage cannot be changed except by an agreement in writing, signed by the party against whom enforcement of the change is sought.

35. No action for the enforcement of the lien or of any provision of this Mortgage shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Note.

36. Any part of the security herein described may be released by the Lender without affecting the lien hereof on the remainder. The liability of the Borrower and any maker, guarantor, co-signer, surety or endorser of the Note shall continue in full force and effect until all sums due Lender hereunder are paid in full and any contingent or other unliquidated liabilities are liquidated and paid. Lender may, by written and signed agreement with the then record owner of the Premises, or with the heirs, executors, administrators, devisees, successors or assigns of such record owner, or with any one or more persons liable, whether primarily or secondarily, for the payment of any indebtedness secured hereby, without notice to any other person, extend the time of payment of said indebtedness, or any part hereof, without thereby modifying or affecting the lien of this Mortgage or releasing any such person from any liability for such indebtedness, and this Mortgage shall be security for all additional interest under any such extension agreement; and the granting of any extension or extensions of time payment of the Note or interest thereof either to the maker or to any other person, or the releasing of a portion of the security hereof, or taking other or additional security for payment of said indebtedness, or waiver of or failure to exercise any right to mature or to enforce the whole debt under any covenant or stipulation herein contained, or extending the time of payment of any other indebtedness or liability secured hereby, shall not in any way affect this Mortgage or the rights of the Lender hereunder, or operate as a release from any liability upon said Note or said indebtedness under any covenant or stipulation herein contained or under a guaranty of said Note.

37. Borrower and Lender agree: (a) that this Mortgage shall constitute a Security Agreement and financing statement within the meaning of Uniform Commercial Code, (the "Code") of the State of Illinois with respect to all sums on deposit with the Lender pursuant hereto ("Deposits") and with respect to any property included in the definition herein of the word "Premises" which property may not be deemed to form a part of the real estate described in Exhibit A attached hereto or may not constitute a "fixture" and all replacements of such property, substitutions for such property, additions to such property, books and records relating to the Premises and operations thereof and the proceeds thereof (said property, replacements, substitutions, additions and the proceeds thereof being sometimes herein collectively referred to as the "Collateral"); and (b) that a security interest in and to the Collateral and the Deposits is hereby granted to the Lender; and (c) that the Deposits and all of Borrower's right, title and interest therein are hereby assigned to Lender; all to secure payment of the Note and any other sums due Lender under the Note or this Mortgage and to secure performance by the Borrower of the terms, covenants and provisions hereof.

In the event of a default hereunder, Lender, pursuant to the appropriate provisions of the Code, shall have an option to proceed with respect to both the real property and the Collateral in accordance with its rights, powers and remedies with respect to the real property, in which event the default provisions of the Code shall not apply. Lender and Borrower agree that if Lender shall elect to proceed with respect to the Collateral separately from the real property, ten (10) days notice of the sale of the Collateral shall be

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reasonable notice. The expenses of retaking holding, preparing for sale, selling and the like incurred by the Lender, shall include, but not be limited to, attorneys' fees and legal expenses incurred by Lender including the expenses of in-house staff. Borrower agrees that, without the written consent of the Lender, Borrower will not remove or permit to be removed from the Premises any of the Collateral except that so long as Borrower is not in default hereunder, Borrower shall be permitted to sell or otherwise dispose of the Collateral when obsolete, worn out, inadequate, unserviceable or unnecessary for use in the operation of the Premises, but only upon replacing the same or substituting for the same other Collateral at least equal in value and utility to the initial value and utility of that disposed of in such a manner that said replacement or substituted Collateral shall be subject to the security interest created hereby. The security interest of Lender shall be perfected and first in priority, it being expressly understood and agreed that all replacements, substitutions and additions to the Collateral shall be and become immediately subject to the security interest of this Mortgage and covered hereby.

Borrower shall, from time to time, upon written notice of Lender and at Borrower's sole cost, deliver to Lender: (I) such further financing statements and security documents and assurances as Lender may require, to the end that the liens and security interest created hereby shall be and remain perfected and protected in accordance with the requirements of any present or future law; and (ii) an inventory of the Collateral in reasonable detail. Borrower represents and covenants that all Collateral now is, and that all replacements thereof, substitutions therefor or additions thereof, unless the Lender otherwise consents, will be free and clear of liens, encumbrances, title retention devices and security interests of others. Borrower and Lender agree, to the extent permitted by law, that this Mortgage, upon recording in the real estate records of the proper office, shall constitute a "fixture filing".

Subject to Lender's release of its security interest therein upon full payment of all sums due Lender as set forth in Paragraph 38, if the Collateral is sold in connection with a sale of the Premises, Borrower shall notify the Lender prior to such sale and shall require as a condition of such sale that the purchaser specifically agree to assume Borrower's obligations as to the security interests herein granted and to execute whatever agreements and filings are deemed necessary by the Lender to maintain Lender's first perfected security interest in the Collateral and the Deposits.

38. Upon payment in full of all sums due Lender under this Mortgage and the Note secured thereby and upon written request of Borrower, the Lender shall cause a release of this Mortgage and any related security filings to be prepared and issued to Borrower upon the payment to Lender of its then reasonable charges and costs for preparation and issuance. In the event that this Mortgage is released and contingent or other unliquidated liabilities hereunder of Borrower to Lender shall become liquidated, then this Mortgage and the Note secured hereby along with related security agreements shall be deemed reinstated.

39. In the event any provisions of this Mortgage is ruled invalid or unenforceable in whole or in part, by a court of competent jurisdiction, such invalid or unenforceable provision shall be deleted or modified to the extent required to make such provision valid and enforceable as if such invalid or unenforceable provisions had never been included herein or were included herein only to the extent that said provisions are valid and enforceable. This Mortgage shall remain fully effective according to its terms after such deletions or modifications.

40. If there shall there exist, at any time, an inconsistency or conflict with the terms and conditions set forth in the Loan Agreement and the terms and conditions set forth herein, then the Loan Agreement terms and conditions shall control in all instances of such conflict or inconsistency.

41. The Note secured by this Mortgage evidences an indebtedness created by multiple disbursements made by Lender for the financing of the cost of construction of certain improvements, and the equipping thereof, on the real estate described on Exhibit "A", all in accordance with the terms and provisions of the Loan Agreement.

In case of default hereunder, including default in the payment of the Note or of any installment thereof,

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the remedy of the holder hereof against the Borrower shall be by foreclosure of this Mortgage or other security interest given to secure the Note, in accordance with the terms and provisions in this Mortgage or other such security agreement, the enforcement of any Assignment of Rents made by the Borrower or by action to enforce the personal liability of the maker of the Note or the guarantor, co-signor, surety or endorser, if any, of the payments due under the Note, concurrently or consecutively.

IN WITNESS WHEREOF, Trustee has caused this Mortgage to be signed and attested by its duly authorized Officers as of the 7th day of June, 2007.

Standard Bank and Trust Company
not personally but a/t/u/t/a
dated April 23, 2007 a/k/a
Trust No. 19902

By: *Patricia Ralphson*
Patricia Ralphson, AVP

Attest: *Donna Diviero*
Donna Diviero, ATO

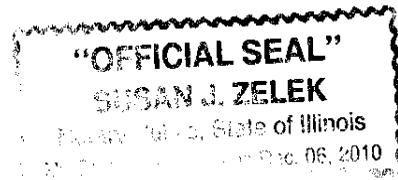
STATE OF ILLINOIS)
COUNTY OF COOK) SS

This instrument is signed, sealed and delivered by STANDARD BANK AND TRUST COMPANY, solely in its capacity as Trustee as aforesaid. Any and all duties, obligations and liabilities of the Trustee hereunder are to be performed by said STANDARD BANK AND TRUST COMPANY only as such Trustee. Any claims, demands and liabilities which may at any time be asserted against the Trustee hereunder shall be paid, collected or satisfied against only the property or assets in the possession of said STANDARD BANK AND TRUST COMPANY as Trustee as aforesaid, and the said STANDARD BANK AND TRUST COMPANY does not undertake, nor shall it have any personal or individual liability or obligation of any nature whatsoever by virtue of the execution and delivery hereof, nor shall STANDARD BANK AND TRUST COMPANY, either individually or as Trustees, be under any duty or obligation to sequester the rents, issues, and profits arising from the property described or any other property which it may hold under the terms and conditions of said Trust Agreement.

The undersigned, a notary public in and for said County and State, **DOES HEREBY CERTIFY** that Patricia Ralphson, AVP and Donna Diviero, ATO, personally known to me to be Officers of **STANDARD BANK AND TRUST COMPANY**, an Illinois Banking Corporation and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Officers of said Corporation, they signed and delivered the said instrument and caused the corporate seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said Corporation, as their free and voluntary act, and as the free and voluntary act and deed of said Corporation, as Trustee aforesaid in connection with the financing of the Premises.

GIVEN under my hand and official seal this 7th day of June, 2007.

Susan J. Zelek
NOTARY PUBLIC



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JOINDER BY BENEFICIARY

The undersigned Company, as sole beneficiary of Trust No. 19902 created pursuant to the terms and provisions of a Trust Agreement with Standard Bank and Trust Company, as Trustee dated April 23, 2007 hereby executes this Mortgage for the purpose of joining herein, making the assignments, grants of security interests, transfers and conveyances hereunder, and making, undertaking and agreeing to the covenants, agreements, obligations and representations herein, all in accordance with and subject to the following:

A. The Company hereby grants to Lender, as security for the indebtedness, a security interest in all of the property and improvements and other property mortgaged hereunder which constitute fixtures under the Uniform Commercial Code and also all of said property which constitutes personal property not constituting a part and parcel of the real estate, as more fully described in Paragraph 36 of the Mortgage.

B. The Company hereby assigns to Lender, as security for the indebtedness, all of the rents, issues, and profits and all of the leases, letting, and other agreements for the use and occupancy of the Premises, now or hereafter made, as more fully described in Paragraph 10 of the Mortgage.

C. The Company hereby covenants and agrees to be bound by, and to be deemed to have entered into and made, all of the Borrower's covenants, agreements, obligations and representations (which shall constitute representations and warranties of the Company) under the Mortgage with the same force and effect as if they were fully set forth herein verbatim.

IN WITNESS WHEREOF, the Company has caused this Joinder to be completed and executed by its duly authorized Manager as of the 27 day of June, 2007.

Orbitz Group, LLC,
an Illinois Limited Liability Company

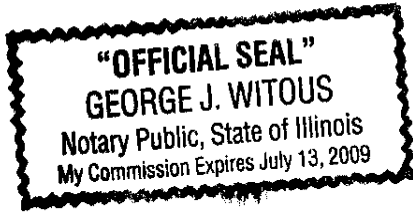
By: [Signature]
Reginaldo Sult, Manager

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid do hereby certify that Reginaldo Sult, who is personally known to me to be the Manager of Orbitz Group, LLC, an Illinois Limited Liability Company (the "Company") is the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered this Affidavit as his free and voluntary act and as the free and voluntary act of the Company in connection with the financing of the Premises.

GIVEN under my hand and official seal as of the 27 day of June, 2007.

[Signature]
Notary Public



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EXHIBIT "A"

LEGAL DESCRIPTION

LOT 1 IN ORBITZ GROUP LLC SUBDIVISION, OF PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 20, 2003 AS DOCUMENT NO. 0317103059, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NO. 27-22-102-013-0000

COMMONLY KNOWN AS: 16325 S. LaGrange Road, Orland Park, IL 60462