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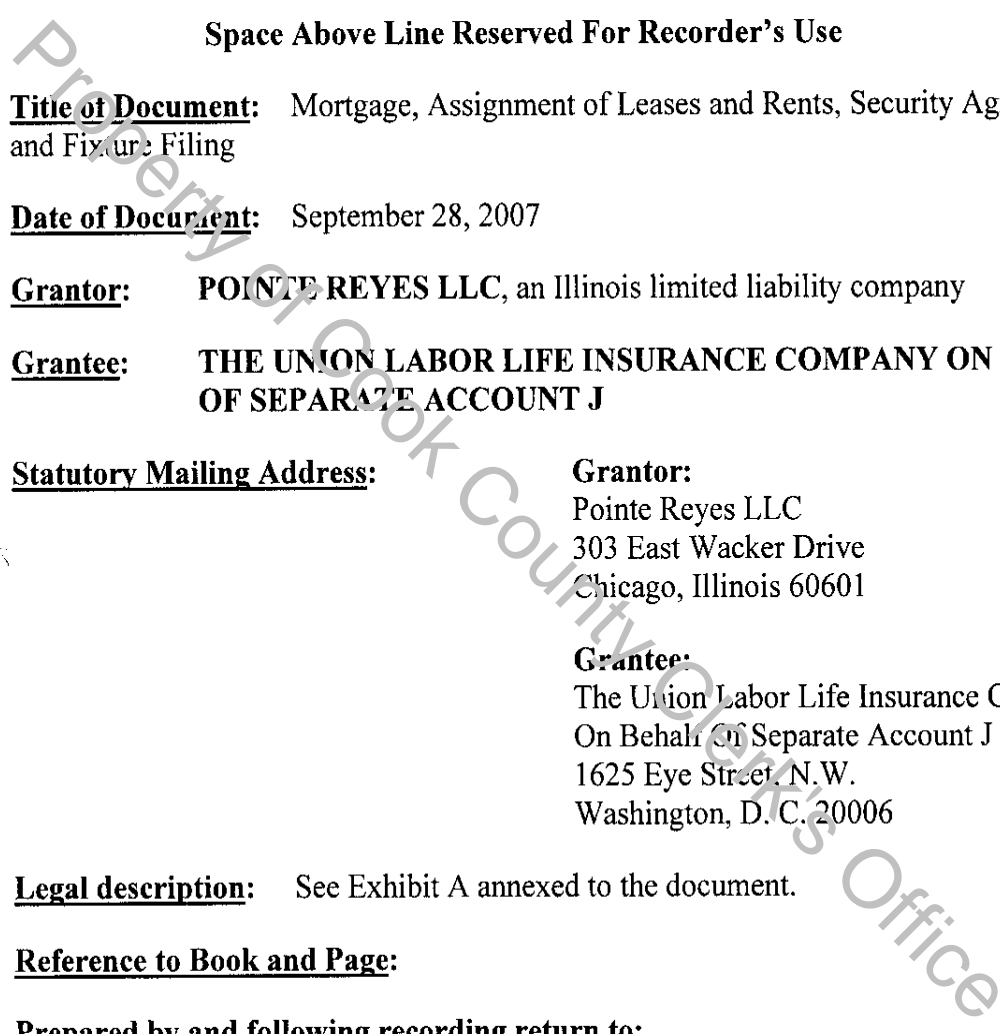
1. **Title of Document:** Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing
2. **Date of Document:** September 28, 2007
3. **Grantor:** POINTE REYES LLC, an Illinois limited liability company
4. **Grantee:** THE UNION LABOR LIFE INSURANCE COMPANY ON BEHALF OF SEPARATE ACCOUNT J
5. **Statutory Mailing Address:**

<u>Grantor:</u>	Pointe Reyes LLC 303 East Wacker Drive Chicago, Illinois 60601
<u>Grantee:</u>	The Union Labor Life Insurance Company On Behalf Of Separate Account J 1625 Eye Street, N.W. Washington, D. C. 20006
6. **Legal description:** See Exhibit A annexed to the document.
7. **Reference to Book and Page:**
8. **Prepared by and following recording return to:**

Steven R. Davidson, Esq.
Sonnenschein Nath & Rosenthal LLP
7800 Sears Tower
Chicago, IL 60606-6404

Permanent Index # 17-09-233-023-0000

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Loan No. 90464

POINTE REYES LLC, AS GRANTOR AND MORTGAGOR

(Borrower)

To

**THE UNION LABOR LIFE INSURANCE COMPANY ON BEHALF OF SEPARATE
ACCOUNT J, AS GRANTEE AND MORTGAGEE**

(Lender)

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

Dated: September 28, 2007

Location: 600 North Dearborn
Chicago, Illinois

PREPARED BY AND UPON
RECORDATION RETURN TO:

Steven R. Davidson, Esq.
Sonnenschein Nath & Rosenthal LLP
7800 Sears Tower
Chicago, IL 60606-6404

Permanent Index # 17-09-233-023-0000

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THIS MORTGAGE, Assignment of Leases and Rents, SECURITY AGREEMENT AND FIXTURE FILING (this "**Security Instrument**") is made as of the 28th day of September, 2007, by POINTE REYES LLC, an Illinois limited liability company, having its principal place of business at 303 East Wacker Drive, Suite 2750, Chicago, Illinois 60601, as grantor ("**Borrower**") to THE UNION LABOR LIFE INSURANCE COMPANY ON BEHALF OF SEPARATE ACCOUNT J, having an address at 1625 Eye Street, N.W., Washington, D. C. 20006 as grantee ("**Lender**").

RECITALS:

Borrower by its promissory note of even date herewith given to Lender is indebted to Lender in the principal sum of Three Million Two Hundred Fifty Thousand and no/100ths Dollars (\$3,250,000.00) (the "**Loan Amount**") in lawful money of the United States of America (the note together with all extensions, renewals, modifications, substitutions and amendments thereof shall collectively be referred to as the "**Note**"), with interest from the date thereof at the rates set forth in the Note, principal and interest to be payable in accordance with the terms and conditions provided in the Note and with a maturity date of September 1, 2014.

Borrower desires to secure the payment of the Debt (as defined in Article 2) and the performance of all of its obligations under the Note and the Other Obligations (as defined in Article 2).

ARTICLE I

GRANTS OF SECURITY

1.1 Property Mortgaged. Borrower as grantor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Lender, its successors and assigns, as grantee, and does hereby grant to Lender a security interest in, the following property, rights, interests and estates, and all right, title and interest of Borrower therein, all whether now owned or hereafter acquired (collectively, the "**Property**"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "**Land**");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land and owned by the Borrower (the "**Improvements**");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the

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reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Fixtures and Personal Property. All goods, machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), building equipment, materials, supplies and other personal property of every kind and nature whatsoever owned by the Borrower or in which Borrower has an interest now or hereafter located upon the Land and the Improvements, or appurtenant thereto or usable in connection with the present or future operation and occupancy of the Land and the Improvements, and all other Personal Property (defined below) in which a security interest can be created under the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "Uniform Commercial Code"), including all timber and as-extracted collateral with respect to the Land, and all proceeds and products of the foregoing;

(f) Leases and Rents. All leases, subleases and other agreements affecting the use, enjoyment or occupancy of the Land and/or the Improvements heretofore or hereafter entered into and all extensions, amendments and modifications thereto (collectively, the "Leases"), whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "Bankruptcy Code") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, any guarantees of the lessees' obligations thereunder, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, early termination fees and payments and other termination fees and payments (any such early termination fees, payments and other termination fees and payments, the "Lease Termination Fees"), revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements, whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (collectively, the "Rents") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(g) Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(h) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

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(i) Tax Certiorari. All refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(k) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(l) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land or any part thereof or any Improvements or respecting any business or activity conducted on the Land or any part thereof, including, without limitation, the right, upon the occurrence and during the continuance of an Event of Default (defined below), to receive and collect any sums payable to Borrower thereunder;

(m) Intellectual Property. All trade names, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(n) Accounts, Etc. All accounts, accounts receivable, escrows, documents, instruments, chattel paper, commercial tort claims, deposit accounts, investment property and general intangibles (as any of the foregoing terms may be defined in the Uniform Commercial Code), and all contract rights, representations, warranties, franchises, books, records, plans, specifications, permits, licenses (to the extent assignable), approvals, claims, reserves (including deposits), actions, choses, commercial tort claims, suits, proofs of claim in bankruptcy and causes of action which now or hereafter relate to, are derived from or are used in connection with the Property in which Borrower owns or has an interest, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon (hereinafter collectively called the "**Intangibles**"); and

(o) Proceeds. All proceeds, products and supporting obligations of, for or with respect to any of the foregoing.

1.2 Assignment of Leases and Rents. Borrower hereby absolutely and unconditionally assigns to Lender, Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of this Section 1.2 and Section 3.8, Lender grants to Borrower a revocable license to collect and receive the Rents. Borrower shall hold a portion of the Rents sufficient to discharge all current sums due on the Debt for use in the payment of such sums.

1.3 Security Agreement; Fixture Filing. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests,

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whether tangible or intangible in nature, of Borrower in the Property. Borrower hereby grants to Lender, as security for the Obligations (defined in Section 2.3), a security interest in all of Borrower's personal property, including the Personal Property (as defined below), to the full extent that the Personal Property may be subject to the Uniform Commercial Code. This Security Instrument covers goods that may now or hereafter be attached to the Land or Improvements as fixtures that are owned by Borrower or in which Borrower has an interest, and constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code. The name and address of the Borrower (debtor) and Lender (secured party) are stated in the first paragraph of this Security Instrument.

1.4 Definition of Personal Property. For purposes of this Security Instrument, all of the Property that constitutes personal property under applicable law, including the Property identified in Subsections 1.1(e) through 1.1(o), shall be collectively referred to as the "**Personal Property.**"

1.5 Pledge of Monies Held. Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender, including, all insurance proceeds described in Section 3.3 and condemnation awards or payments described in Section 3.6, as additional security for the Obligations until expended or applied as provided in this Security Instrument.

1.6 Conditions to Grant. TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender, and for its successors and assigns, forever; WITH POWER OF SALE, to secure payment to Lender of the Debt at the time and in the manner provided for its payment in the Note and in this Security Instrument; PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note and this Security Instrument, shall well and truly perform the Other Obligations as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, these presents and the estate hereby granted shall cease, terminate and be void.

ARTICLE II

DEBT AND OBLIGATIONS SECURED

2.1 Debt. This Security Instrument and the grants, assignments and transfers made in Article I are given for the purpose of securing the payment of the following, in such order of priority as Lender may determine in its sole discretion (the "**Debt**"):

- (a) The indebtedness evidenced by the Note in lawful money of the United States of America;
- (b) interest, default interest, late charges and other sums, as provided in the Note, this Security Instrument or the Other Loan Documents (defined below);
- (c) the Default Consideration (as defined in the Note), if any;
- (d) all other moneys agreed or provided to be paid by Borrower in the Note, this Security Instrument or the Other Loan Documents;

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(e) all sums advanced pursuant to this Security Instrument to protect and preserve the Property and the lien and the security interest created hereby; and

(f) all sums advanced and costs and expenses incurred by Lender in connection with the Debt or any part thereof, any renewal, extension, or change of or substitution for the Debt or any part thereof, or the acquisition or perfection of the security therefor, whether made or incurred at the request of Borrower or Lender.

2.2 Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article I are also given for the purpose of securing the performance of the following (the "Other Obligations"):

(a) all other obligations of Borrower contained herein;

(b) each obligation of Borrower contained in the Note and in the Other Loan Documents; and

(c) each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, this Security Instrument or the Other Loan Documents.

2.3 Debt and Other Obligations. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively below as the "Obligations".

2.4 Payments. Unless payments are made in the required amount in immediately available funds at the place where and at the times that the Note is payable, remittances in payment of all or any part of the Debt shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Lender in funds immediately available at the place where the Note is payable (or any other place as Lender, in Lender's sole discretion, may have established by delivery of written notice thereof to Borrower) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Lender of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and the failure to pay the entire amount then due shall be and continue to be an Event of Default.

ARTICLE III

BORROWER COVENANTS

Borrower covenants and agrees that:

3.1 Payment of Debt. Borrower will pay the Debt at the time and in the manner provided in the Note and in this Security Instrument.

3.2 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Note or (b) any of the documents other than the Note or this Security Instrument now or hereafter executed by Borrower and/or others and by or in favor of Lender in

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connection with the creation of the Obligations, the payment of any other sums owed by Borrower to Lender or the performance of any Obligations (collectively the "Other Loan Documents"), are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein. The term "Loan Documents" as used herein shall individually and collectively refer to the Note, this Security Instrument and the Other Loan Documents; provided, however, that notwithstanding any provision of this Security Instrument to the contrary, the Obligations of the Borrower under the Environmental Indemnity (defined below) shall not be deemed or construed to be secured by this Security Instrument or otherwise restricted or affected by the foreclosure of the lien hereof or any other exercise by Lender of its remedies hereunder or under any other Loan Document, such Environmental Indemnity being intended by the signatories thereto to be its (or their) unsecured obligation.

3.3 Insurance.

(a) Borrower shall obtain and maintain, and shall pay all premiums in accordance with Subsection 3.3(b) below for, insurance for Borrower and the Property providing at least the following coverages:

(i) Subject to terms and provisions of 3.3(a)(ix), comprehensive all risk insurance providing "special" form coverage (including, without limitation, riot and civil commotion, vandalism, malicious mischief, water, fire, burglary and theft, sinkhole collapse, windstorm, hail, smoke, aircraft or vehicles, sprinkler leakage, and damage from weight of ice or snow, and without any exclusion for terrorism) on the Improvements and the Personal Property and in each case (A) in an amount equal to 100% of the "Full Replacement Cost," which for purposes of this Security Instrument shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; (B) containing an agreed amount endorsement and replacement cost endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (C) providing that the deductible shall not exceed \$10,000.00; and (D) containing Demolition Costs, Increased Cost of Construction and "Ordinance or Law Coverage" or "Enforcement" endorsements in amounts satisfactory to Lender if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses or the ability to rebuild the Improvements is restricted or prohibited. The Full Replacement Cost may be redetermined from time to time by an appraiser or contractor designated and paid by Lender or by an engineer or appraiser in the regular employ of the insurer. No omission on the part of Lender to request any such appraisals shall relieve Borrower of any of its obligations under this Subsection;

(ii) comprehensive commercial general liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, such insurance (A) to be on the so-called "occurrence" form with a combined single limit of not less than \$1,000,000.00 per occurrence and not less than \$7,000,000 in the aggregate, inclusive of umbrella liability insurance, as well as liquor liability insurance in a minimum amount of \$2,000,000.00 if any part of the Property is covered by a liquor license and an aggregate coverage limit acceptable to Lender; (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate; (C) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations on an "if any" basis; (3) independent contractors; (4) blanket contractual liability for all written and oral contracts; (5)

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contractual liability covering the indemnities contained in Article XIII hereof to the extent the same is available; and (D) to be without deductible;

(iii) business income insurance (A) with loss payable to Lender; (B) covering losses of income and Rents derived from the Property and any non-insured property on or adjacent to the Property resulting from any risk or casualty whatsoever; (C) containing an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of six (6) months from the date that the Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period; and (D) in an amount equal to 100% of the projected gross income from the Property for a period of twelve (12) months. The amount of such business income insurance shall be determined by Lender prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross income from the Property for the succeeding twelve (12) month period. All insurance proceeds payable to Lender pursuant to this Subsection 3.3(a) shall be held by Lender and shall be applied to the obligations secured hereunder from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured hereunder on the respective dates of payment provided for in the Note except to the extent such amounts are actually paid out of the proceeds of such business income insurance;

(iv) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements: (A) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance provided for in Subsection 3.3(a)(i) written in a so-called builder's risk completed value form (1) on a non-reporting basis, (2) against all risks insured against pursuant to Subsection 3.3(a)(i), (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions;

(v) at such time, if any, that the Borrower has one or more employees, workers' compensation, subject to the statutory limits of the state in which the Property is located, and employer's liability insurance with a limit of at least \$1,000,000.00 per accident and per disease per employee, and \$1,000,000.00 for disease aggregate in respect of any work or operations on or about the Property, or in connection with the Property or its operation (if applicable);

(vi) if any portion of the Improvements is currently or at any time in the future located in a "special flood hazard area" as designated by the Federal Emergency Management Agency or such other applicable federal agency, flood hazard insurance in an amount equal to the maximum amount available under the National Flood Insurance Program and in addition to the maximum available under the National Flood Insurance Program, any excess limits as determined by Lender in its sole and absolute discretion;

(vii) if the Property is in an area identified by any governmental, engineering or any hazard underwriting agencies as being subject to the peril of earthquake or

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located in an area with a high degree of seismic activity, with a probable maximum loss ("PML") exceeding twenty percent (20%), earthquake insurance equal to twenty percent (20%) of the Full Replacement Cost with a waiver of depreciation of the Property; and

(viii) The Property and Improvements are subject to a certain Agreement of Declaration of Easements, Reservations, Covenants and Restrictions by and between the Borrower and Farrallon Development Group, LLC, an Illinois limited liability company, dated August 27, 2001 and recorded August 29, 2001 as document number 0010802894 in the Cook County, Illinois Recorder's Office as modified by First Amendment dated September 24, 2001 and recorded on December 31, 2001 as document number 0011241862 in the Cook County, Illinois Recorder's Office (collectively the "ECR"). The ECR requires that the "Owners" under such ECR procure and maintain certain insurance coverages. Such insurance coverage includes (i) comprehensive all risk insurance providing special form coverage (as required under Subsection 3.3(a)(1) above); and (ii) comprehensive boiler and machinery insurance. The Borrower is an "Owner" under the ECR. The Lender is a "Parcel Mortgagee" under the ECR and is entitled to rely on the coverage provided in the ECR. Borrower shall not consent to the modification of the provisions regarding insurance or any other provision of the ECR without the prior written consent of the Lender which consent shall not be unreasonably withheld. Borrower shall cause the insurance required under such ECR and currently in force to be continuously maintained. Borrower represents that the ECR is in full force and effect and no event of default by the any Owner has occurred. To the best knowledge of the Borrower, no event of default by any other "Owner" or other party to the ECR has occurred. To the best knowledge of the Borrower there are also no existing conditions which upon the giving of notice or lapse of time, or both, would constitute an event of default under the ECR. **If at any time the insurance coverage required herein is not maintained under the ECR, Borrower shall immediately procure the required coverage at its sole expense.**

(ix) such other insurance and in such amounts as Lender from time to time may reasonably request against such other insurable hazards which at the time are commonly insured against for property similar to the Property located in or around the region in which the Property is located, including, without limitation, mine subsidence insurance and environmental insurance.

(b) All insurance provided for in Subsection 3.3(a) hereof shall be obtained under valid and enforceable policies (the "Policies" or in the singular, the "Policy"), in such forms and, from time to time after the date hereof, in such amounts as may from time to time be satisfactory to Lender, for a minimum policy term not less than one year, issued by financially sound and responsible insurance companies authorized to do business in the state in which the Property is located as admitted or unadmitted carriers which, in either case, have been approved by Lender and which have a claims paying ability rating of at least [A or better issued by Standard & Poor's Ratings Services, a division of the Mc-Graw Hill Companies, Inc., or A:X by A.M. Best][A or better issued by Standard & Poor's Ratings Services, a division of the Mc-Graw Hill Companies, Inc.] or with a claims paying ability rating otherwise acceptable to Lender (each such insurer shall be referred to below as a "Qualified Insurer"). Such Policies shall not be subject to invalidation due to the use or occupancy of the Property for purposes more hazardous than the use of the Property at the time such Policies were issued. No Policy required under Sections 3.3(a)(i) and (iii) hereof shall contain an exclusion from coverage under such Policy for loss or damage incurred as a result of an act of terrorism or similar acts of sabotage. Not less

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than thirty (30) days prior to the expiration dates of the Policies theretofore furnished to Lender pursuant to Subsection 3.3(a), certified copies of the Policies marked "premium paid" or accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "Insurance Premiums"), shall be delivered by Borrower to Lender; provided, however, that in the case of renewal Policies, Borrower may furnish Lender with binders therefor to be followed by the original Policies when issued.

(c) Borrower shall not obtain (i) separate insurance concurrent in form or contributing in the event of loss with that required in Subsection 3.3(a) to be furnished by, or which may be reasonably required to be furnished by, Borrower, or (ii) any umbrella or blanket liability or casualty Policy unless, in each case, Lender's interest is included therein as provided in this Security Instrument and such Policy is issued by a Qualified Insurer. If Borrower obtains separate insurance or an umbrella or a blanket Policy, Borrower shall notify Lender of the same and shall cause certified copies of each Policy to be delivered as required in Subsection 3.3(a). Any blanket insurance Policy shall specifically allocate to the Property the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions of Subsection 3.3(a).

(d) All Policies of insurance provided for or contemplated by Subsection 3.3(a) shall name Lender, its successors and assigns, including any servicers, trustees or other designees of Lender, and Borrower as the insured or additional insured, as their respective interests may appear, and in the case of property damage, boiler and machinery, and flood insurance, shall contain a so-called New York standard non-contributing Lender clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(e) All Policies of insurance provided for in Subsection 3.3(a) shall contain clauses or endorsements to the effect that:

(i) no act or negligence of Borrower, or anyone acting for Borrower, or of any tenant under any Lease or other occupant, or failure to comply with the provisions of any Policy which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Lender is concerned;

(ii) the Policy shall not be materially changed (other than to increase the coverage provided on the Property thereby) or canceled without at least thirty (30) days' prior written notice to Lender and any other party named therein as an insured;

(iii) each Policy shall provide that the issuers thereof shall give written notice to Lender if the Policy has not been renewed thirty (30) days prior to its expiration; and

(iv) Lender shall not be liable for any Insurance Premiums thereon or subject to any assessments thereunder.

(f) Borrower shall furnish to Lender within ten (10) calendar days after Lender's request therefor, a statement certified by Borrower or a duly authorized officer of Borrower of the amounts of insurance maintained in compliance herewith, of the risks covered by such insurance and of the insurance company or companies which carry such insurance and, if

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requested by Lender, verification of the adequacy of such insurance by an independent insurance broker or appraiser acceptable to Lender.

(g) If at any time Lender is not in receipt of written evidence that all insurance required hereunder as set forth hereinabove is in full force and effect, Lender shall have the right but not the obligation, with simultaneous notice to Borrower, to take such action as Lender deems necessary to protect its interest in the Property, including, without limitation, the obtaining of such insurance coverage as set forth above and all expenses incurred by Lender in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Borrower to Lender upon demand and until paid shall be secured by this Security Instrument and shall bear interest at the Default Rate (as hereinafter defined).

(h) If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, Borrower shall give prompt notice thereof to Lender.

(i) In case of loss covered by Policies, Lender may either (1) settle and adjust any claim without the consent of Borrower, or (2) allow Borrower to agree with the insurance company or companies on the amount to be paid upon the loss; provided, that Borrower shall be permitted to adjust losses aggregating not in excess of \$100,000.00 if such adjustment is carried out in a competent and timely manner, and provided that in any case Lender shall and is hereby authorized to collect and receive any such insurance proceeds; and the reasonable expenses incurred by Lender in the adjustment and collection of insurance proceeds shall become part of the Debt and be secured hereby and shall be reimbursed by Borrower to Lender upon demand (unless deducted by and reimbursed to Lender from such proceeds).

(ii) In the event of any insured damage to or destruction of the Property or any part thereof (herein called an "Insured Casualty"), if (A) in the reasonable judgment of Lender, the Property can be restored within six (6) months after insurance proceeds are made available and at least six (6) months prior to the Maturity Date (as defined in the Note) to an economic unit not less valuable (including an assessment by Lender of the impact of the termination of any Leases due to such Insured Casualty) and not less useful than the same was prior to the Insured Casualty, and after such restoration will adequately secure the outstanding balance of the Debt, and (B) no Event of Default (hereinafter defined) shall have occurred and be then continuing, then the proceeds of insurance shall be applied to reimburse Borrower for the cost of restoring, repairing, replacing or rebuilding the Property or part thereof subject to Insured Casualty, as provided below; and Borrower hereby covenants and agrees forthwith to commence and diligently to prosecute such restoring, repairing, replacing or rebuilding; provided, however, in any event Borrower shall pay all costs (and if required by Lender, Borrower shall deposit the total thereof with Lender in advance) of such restoring, repairing, replacing or rebuilding in excess of the net proceeds of insurance made available pursuant to the terms hereof.

(iii) Except as provided above, the proceeds of insurance collected upon any Insured Casualty shall, at the option of Lender in its sole discretion, be applied to the payment of the Debt or applied to reimburse Borrower for the cost of restoring, repairing, replacing or rebuilding the Property or part thereof subject to the Insured Casualty, in the manner set forth below. Any such application to the Debt shall not be considered a voluntary prepayment requiring payment of the prepayment consideration provided in the Note, and,

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except as provided in the Note, shall not reduce or postpone any payments otherwise required pursuant to the Note, other than the final payment on the Note.

(iv) If proceeds of insurance, if any, are made available to Borrower for the restoring, repairing, replacing or rebuilding of the Property, Borrower hereby covenants to restore, repair, replace or rebuild the same to be of at least equal value and of substantially the same character as prior to such damage or destruction, all to be effected in accordance with applicable law and plans and specifications approved in advance by Lender.

(v) If Borrower is entitled to reimbursement out of insurance proceeds held by Lender, such proceeds shall be disbursed from time to time upon Lender being furnished with (1) evidence reasonably satisfactory to it (which evidence may include inspection[s] of the work performed) that the restoration, repair, replacement and rebuilding covered by the disbursement has been completed in accordance with plans and specifications approved by Lender, (2) evidence reasonably satisfactory to it of the estimated cost of completion of the restoration, repair, replacement and rebuilding, (3) funds, or, at Lender's option, assurances reasonably satisfactory to Lender that such funds are available, sufficient in addition to the proceeds of insurance to complete the proposed restoration, repair, replacement and rebuilding, and (4) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, bonds, plats of survey and such other evidences of cost, payment and performance as Lender may reasonably require and approve; and Lender may, in any event, require that all plans and specifications for such restoration, repair, replacement and rebuilding be submitted to and approved by Lender prior to commencement of work. With respect to disbursements to be made by Lender: (A) no payment made prior to the final completion of the restoration, repair, replacement and rebuilding shall exceed ninety percent (90%) of the value of the work performed from time to time; (B) funds other than proceeds of insurance shall be disbursed prior to disbursement of such proceeds; and (C) at all times, the undisbursed balance of such proceeds remaining in the hands of Lender, together with funds deposited for that purpose or irrevocably committed to the reasonable satisfaction of Lender by or on behalf of Borrower for that purpose, shall be at least sufficient in the reasonable judgment of Lender to pay for the cost of completion of the restoration, repair, replacement or rebuilding, free and clear of all liens or claims for lien and the costs described in Subsection 3.3(h)(vi) below. Any surplus which may remain out of insurance proceeds held by Lender after payment of such costs of restoration, repair, replacement or rebuilding shall be paid to any party entitled thereto. In no event shall Lender assume any duty or obligation for the adequacy, form or content of any such plans and specifications, nor for the performance, quality or workmanship of any restoration, repair, replacement and rebuilding.

(vi) Notwithstanding anything to the contrary contained herein, the proceeds of insurance reimbursed to Borrower in accordance with the terms and provisions of this Security Instrument shall be reduced by the reasonable costs (if any) incurred by Lender in the adjustment and collection thereof and in the reasonable costs incurred by Lender of paying out such proceeds (including, without limitation, reasonable attorneys' fees and costs paid to third parties for inspecting the restoration, repair, replacement and rebuilding and reviewing the plans and specifications therefor).

3.4 Payment of Taxes, etc.

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(a) Borrower shall promptly pay all taxes, assessments, water rates, sewer rents, governmental impositions, and other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Land, now or hereafter levied or assessed or imposed against the Property or any part thereof (the "**Taxes**"), all ground rents, maintenance charges and similar charges, now or hereafter levied or assessed or imposed against the Property or any part thereof (the "**Other Charges**"), and all charges for utility services provided to the Property as same become due and payable. Borrower will deliver to Lender, promptly upon Lender's request, evidence reasonably satisfactory to Lender that the Taxes, Other Charges and utility service charges have been so paid or are not then delinquent. Borrower shall not suffer and shall promptly cause to be paid and discharged any lien or charge whatsoever which may be or become a lien or charge against the Property. Except to the extent sums sufficient to pay all Taxes and Other Charges have been deposited with Lender in accordance with the terms of this Security Instrument, Borrower shall furnish to Lender paid receipts for the payment of the Taxes and Other Charges prior to the date the same shall become delinquent.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Taxes, provided that (i) no Event of Default has occurred and is continuing under the Note, this Security Instrument or any of the Other Loan Documents, (ii) Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property, (iii) such proceeding shall suspend the collection of the Taxes from Borrower and from the Property or Borrower shall have paid all of the Taxes under protest, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder, (v) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost, and (vi) Borrower shall have deposited with Lender adequate reserves for the payment of the Taxes, together with all interest and penalties thereon, unless Borrower has paid all of the Taxes under protest, or Borrower shall have furnished the security as may be required in the proceeding, or as may be reasonably requested by Lender to insure the payment of any contested Taxes, together with all interest and penalties thereon, taking into consideration the amount in the Escrow Fund available for payment of Taxes.

3.5 **Escrow Fund.** In addition to the initial deposits with respect to Taxes and Insurance Premiums made by Borrower to Lender on the date hereof (the "Closing Date") to be held by Lender in escrow, Borrower shall pay to Lender on the first day of each calendar month (a) one-twelfth of an amount which would be sufficient to pay the Taxes payable, or estimated by Lender to be payable, during the next ensuing twelve (12) months and (b) one-twelfth of an amount which would be sufficient to pay the Insurance Premiums due for the renewal of the coverage afforded by the Policies upon the expiration thereof (the amounts in (a) and (b) above shall be called the "**Escrow Fund**"). Borrower agrees to notify Lender immediately of any changes to the amounts, schedules and instructions for payment of any Taxes and Insurance Premiums of which it has or obtains knowledge and authorizes Lender or its agent to obtain the bills for Taxes directly from the appropriate taxing authority. The Escrow Fund and the payments of interest or principal or both, payable pursuant to the Note shall be added together and shall be paid as an aggregate sum by Borrower to Lender. Provided there are sufficient amounts in the Escrow Fund and no Event of Default exists, Lender shall be obligated to pay the

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Taxes and Insurance Premiums as they become due on their respective due dates on behalf of Borrower by applying the Escrow Fund to the payments of such Taxes and Insurance Premiums required to be made by Borrower pursuant to Sections 3.3 and 3.4 hereof. If the amount of the Escrow Fund shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Sections 3.3 and 3.4 hereof, Lender shall, in its discretion, return any excess to Borrower or credit such excess against future payments to be made to the Escrow Fund. If the Escrow Fund is not sufficient to pay the items set forth in (a) and (b) above, Borrower shall pay to Lender, upon demand, within five (5) days after demand an amount which Lender shall reasonably estimate as sufficient to make up the deficiency. The Escrow Fund shall not constitute a trust fund and may be commingled with other monies held by Lender. Unless otherwise required by Applicable Laws (defined in Section 3.11), no earnings or interest on the Escrow Fund shall be payable to Borrower.

3.6 Condemnation. Borrower shall promptly give Lender notice of the actual or threatened commencement of any condemnation or eminent domain proceeding and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Lender is hereby irrevocably appointed as Borrower's attorney-in-fact, coupled with an interest, with exclusive power to collect, receive and retain any award or payment for said condemnation or eminent domain and to make any compromise or settlement in connection with such proceeding, subject to the provisions of this Security Instrument. Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Security Instrument and the Debt shall not be reduced until any award or payment therefor shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the award by the condemning authority but shall be entitled to receive out of the award interest at the rate or rates provided herein or in the Note. Borrower shall cause the award or payment made in any condemnation or eminent domain proceeding, which is payable to Borrower, to be paid directly to Lender. Lender may apply any award or payment to the reduction or discharge of the Debt whether or not then due and payable (such application to be free from any prepayment consideration provided in the Note, except that if an Event of Default, or an event which with notice and/or the passage of time, or both, would constitute an Event of Default, has occurred, then such application shall be subject to the full prepayment consideration computed in accordance with the Note). If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the award or payment, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the award or payment, or a portion thereof sufficient to pay the Debt.

3.7 Reserved.

3.8 Leases and Rents.

(a) Lender acknowledges that it has approved the lease between JPMorgan Chase Bank, a National Association and Borrower dated March 1, 2007 ("Chase Lease").

(b) Borrower (i) shall observe and perform all the obligations imposed upon the lessor under the Leases and shall not do or permit to be done anything to impair the value of

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any of the Leases as security for the Debt; (ii) shall promptly send copies to Lender of all notices of default which Borrower shall send or receive thereunder; (iii) shall enforce all of the material terms, covenants and conditions contained in the Leases upon the part of the tenant thereunder to be observed or performed, (iv) shall not collect any of the Rents more than one (1) month in advance (except security deposits shall not be deemed Rents collected in advance); (v) shall not execute any other assignment of the lessor's interest in any of the Leases or the Rents; and (vi) shall not consent to any assignment of or subletting under any Leases not in accordance with their terms, without the prior written consent of Lender.

(c) Borrower shall not, without the prior written consent of Lender, enter into, renew, extend, amend, modify, waive any provisions of, terminate, reduce rents under, accept a surrender of space under, or shorten the term of, any Lease, except for the renewal or extension of the Chase Lease, in accordance with its terms. In addition, Borrower shall not consent to any assignment of the Chase Lease by the tenant thereunder unless Lender has given its prior written approval to such assignment, or unless JPMorgan Chase Bank, N.A. remains liable for the performance of the tenant's obligations under the Chase Lease following such assignment.

(d) Lender may at any time and from time to time by specific written instrument intended for the purpose unilaterally subordinate the lien of this Mortgage to any Lease, without joinder or consent of, or notice to, Borrower, any tenant or any other person. Notice is hereby given to each tenant under a Lease of such right to subordinate. No subordination referred to in this section shall constitute a subordination to any lien or to other encumbrance, whenever arising, or improve the right of any junior lienholder. Nothing herein shall be construed as subordinating this Mortgage to any Lease.

3.9 Maintenance and Use of Property. Borrower shall cause the Property to be maintained in a good and safe condition and repair. The improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Personal Property) without the consent of Lender not to be unreasonably withheld, or conditional. Subject to terms of this Security Instrument, Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any casualty, or become damaged, worn or dilapidated or which may be affected by any proceeding of the character referred to in Section 3.6 hereof and shall complete and pay for any structure at any time in the process of construction or repair on the Land. Borrower shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property or any part thereof. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

3.10 Waste. Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way impair the value of the Property or the security of this Security Instrument. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration

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for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

3.11 Compliance With Laws.

(a) Borrower shall promptly comply with all existing and future federal, state and local laws, orders, ordinances, governmental rules and regulations or court orders affecting Borrower, the Property, or the use thereof, including, without limitation, Prescribed Laws (collectively, "**Applicable Laws**"). The term "**Prescribed Laws**" shall mean, collectively, (a) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (The USA PATRIOT Act), (b) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, (c) the International Emergency Economic Power Act, 50 U.S.C. § 1701 et. seq. and (d) all other legal requirements relating to money laundering or terrorism.

(b) Borrower shall from time to time, upon Lender's request, provide Lender with evidence reasonably satisfactory to Lender that each of Borrower and the Property complies with all Applicable Laws or is exempt from compliance with Applicable Laws.

(c) Notwithstanding any provisions set forth herein or in any document regarding Lender's approval of alterations of the Property, Borrower shall not alter the Property in any manner which would materially increase Borrower's responsibilities for compliance with Applicable Laws without the prior written approval of Lender. Lender's approval of the plans, specifications, or working drawings for alterations of the Property shall create no responsibility or liability on behalf of Lender for their completeness, design, sufficiency or their compliance with Applicable Laws. The foregoing shall apply to tenant improvements constructed by Borrower or by any of its tenants. Lender may condition any such approval upon receipt of a certificate of compliance with Applicable Laws from an independent architect, engineer, or other person reasonably acceptable to Lender.

(d) Borrower shall give prompt notice to Lender of the receipt by Borrower of any notice related to a violation of any Applicable Laws and of the commencement of any proceedings or investigations which relate to compliance with Applicable Laws.

(e) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the Applicable Laws affecting the Property, provided that (i) no Event of Default has occurred and is continuing under the Note, this Security Instrument or any of the Other Loan Documents; (ii) Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property; (iii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower or the Property is subject and shall not constitute a default thereunder; (iv) neither the Property, any part thereof or interest therein, any of the tenants or occupants thereof, nor Borrower shall be affected in any material adverse way as a result of such proceeding; (v) non-compliance with the Applicable Laws shall not impose civil or criminal liability on Borrower or Lender; and (vi) Borrower shall have furnished to Lender all other items reasonably requested by Lender.

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3.12 Books and Records.

(a) Borrower shall keep adequate books and records of account in accordance with generally accepted accounting principles ("GAAP"), or in accordance with other methods acceptable to Lender in its sole discretion, consistently applied. Borrower shall furnish to Lender:

(i) quarterly and annual certified rent rolls signed and dated by Borrower, detailing the names of all tenants of the Improvements, the portion of Improvements occupied by each tenant, the base rent and any other charges payable under each Lease and the term of each Lease, including the expiration date, the extent to which any tenant is in default under any Lease, and any other information as is reasonably required by Lender, within twenty (20) days after the end of each calendar month, thirty (30) days after the end of each fiscal quarter or sixty (60) days after the close of each fiscal year of Borrower, as applicable;

(ii) quarterly and annual operating statements of the Property, all of which shall be prepared and certified by Borrower in the form reasonably required by Lender, detailing the revenues received, the expenses incurred and the net operating income before and after debt service (principal and interest) and major capital improvements for each month and containing appropriate year to date information, thirty (30) days after the end of each fiscal quarter or sixty (60) days after the close of each fiscal year of Borrower, as applicable;

(iii) an annual operating statement of the Property detailing the total revenues received, total expenses incurred, total cost of all capital improvements, total debt service and total cash flow, to be prepared and certified by Borrower in the form reasonably required by Lender, or if required by Lender following an Event of Default, an audited annual operating statement prepared and certified by an independent certified public accountant acceptable to Lender, within sixty (60) days after the close of each fiscal year of Borrower;

(iv) quarterly and annual balance sheet and profit and loss statements of Borrower in the form required by Lender, prepared and certified by Borrower, or if required by Lender, audited financial statements prepared by an independent certified public accountant acceptable to Lender, within thirty (30) days after the end of each fiscal quarter or sixty (60) days after the close of each fiscal year of Borrower, as applicable, and an annual financial statement in the form reasonably required by Lender, from each Guarantor, prepared and certified by such Guarantor within sixty (60) days after the close of each fiscal year for each such Guarantor; and;

(v) an annual operating budget presented on a monthly basis consistent with the annual operating statement described above for the Property, including cash flow projections for the upcoming year, and all proposed capital replacements and improvements at least fifteen (15) days prior to the start of each fiscal year.

(b) Upon request from Lender, Borrower and any Guarantor shall furnish in a timely manner to Lender:

(i) a property management report for the Property showing the number of inquiries made and/or rental applications received from tenants or prospective tenants and deposits received from tenants and any other information requested by Lender, in reasonable detail and certified by Borrower (or an officer, general partner, member or principal of Borrower

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if Borrower is not an individual) under penalty of perjury to be true and complete, but no more frequently than quarterly; and

(ii) an accounting of all security deposits held in connection with any Lease of any part of the Property, including the name and identification number of the accounts in which such security deposits are held, the name and address of the financial institutions in which such security deposits are held and the name of the person to contact at such financial institution, along with any authority or release necessary for Lender to obtain information regarding such accounts directly from such financial institutions.

(c) Borrower and any Guarantor shall furnish Lender with such other additional financial or management information (including State and Federal tax returns) as may, from time to time, be reasonably required by Lender in form and substance reasonably satisfactory to Lender including, without limitation, monthly rent rolls and operating statements. All information and data to be prepared shall be in a manner as to truly and accurately reflect the financial condition of such Guarantor.

(d) Borrower and any Guarantor shall furnish to Lender and its agents reasonably convenient facilities for the examination and audit of any such books and records.

(e) Borrower acknowledges the importance to Lender of the timely delivery of each of the items required by this Section 3.12 (each, a “**Required Financial Item**” and collectively, the “**Required Financial Items**”). In the event that Borrower fails to deliver to Lender any of the Required Financial Items within the time frame specified herein, each such event shall constitute a “**Reporting Failure**”. A \$2,000 charge will be added to the principal balance of the Loan for each Reporting Failure, which charge shall become due and payable upon maturity of the Loan. Borrower expressly acknowledges that said charge is a reasonable determination of the damage to Lender for failure to furnish such information. In the event that four (4) Reporting Failures occur during any twelve (12) month period during the term of the Loan, Borrower agrees to establish a lockbox and lockbox account pursuant to Lender’s requirements, each in the name of Lender, and to execute Lender’s standard form Cash Management Agreement, together with any documentation ancillary thereto as required by Lender, including, without limitation, a lockbox agreement with a bank acceptable to Lender, signature cards and letters to tenants, credit card companies and other account receivable counterparties directing them to pay all rents, receivables and other sums directly to the lockbox account.

3.13 Payment For Labor and Materials.

(a) With respect to any work performed by or at Borrowers direction, Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property and never permit to exist in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof, except for the Permitted Exceptions (defined below).

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(b) Notwithstanding the provisions of Section 3.13(a), Borrower, at its own expense, may contest by appropriate legal proceedings, promptly initiated and conducted in good faith and with due diligence, any liens affecting the Property which are not permitted to be created, to remain, or to exist by the terms of Section 3.15(a), provided that, and for so long as, (i) Borrower notifies Lender of the existence of any such lien within ten (10) days of obtaining knowledge thereof; (ii) no Event of Default has occurred and is continuing under the Note, this Security Instrument or any of the Other Security Documents; (iii) Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property which is included within the Permitted Exceptions; (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of (A) any other instrument to which Borrower or the Property is subject and shall not constitute a default thereunder and (B) Applicable Law; (v) neither the Property, any part thereof or interest therein, any of the tenants or occupants thereof, nor Borrower shall be affected in any material adverse way as a result of such proceeding; (vi) nonpayment of such liens shall not impose civil or criminal liability on Borrower or Lender; (vii) such proceedings shall operate to prevent the sale, forfeiture, or foreclosure of the Property or any part thereof to satisfy such liens; and (viii) Borrower shall have furnished to Lender a cash deposit or an indemnity bond satisfactory to Lender issued by a surety satisfactory to Lender in the amount claimed by such liens, together with a reasonable additional sum to pay all costs, interest, and penalties which may be payable in connection therewith. Notwithstanding the preceding provisions of this Section 3.13(b), Borrower immediately upon request of Lender shall pay (and if Borrower shall fail to do so, Lender may, but shall not be required to, pay or cause to be discharged or bonded against) any such liens notwithstanding such contest if, in the opinion of Lender, the Property or any part thereof or interest therein is susceptible of being sold, forfeited, foreclosed, terminated, canceled, or lost. Lender may pay over any such cash deposit or part thereof to the claimant entitled thereto at any time when, in the judgment of Lender, the entitlement of such claimant is established.

3.14 Performance of Other Agreements. Borrower shall observe and perform each and every term to be observed or performed by Borrower pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Property, or given by Borrower to Lender for the purpose of further securing an Obligation secured hereby and any amendments, modifications or changes thereto.

3.15 Change of Name, Identity or Structure. Except as may be permitted under Article 8 hereof, Borrower will not change its name (including its trade name or names), identity, jurisdiction of organization, the location of its chief executive offices, or its corporate, partnership or other structure, without first (a) notifying the Lender of such change in writing at least thirty (30) days prior to the effective date of such change, (b) taking all action required by Lender for the purpose of perfecting or protecting the lien and security interest of Lender and (c) in the case of a change in Borrower's structure, without first obtaining the prior written consent of the Lender, except as expressly permitted under Article 8 hereof. Borrower shall promptly notify Lender in writing of any change in its organizational identification number. If Borrower does not now have an organizational identification number and later obtains one, Borrower shall promptly notify Lender in writing of such organizational identification number.

3.16 Existence. Borrower will continuously maintain (a) its existence and shall not dissolve or permit its dissolution, (b) its rights to do business in the state where the Property is located and (c) its franchises and trade names, if any.

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3.17 Management. The management of the Property shall be by either: (a) Borrower or an entity affiliated with Borrower approved by Lender for so long as Borrower or said affiliated entity is managing the Property in a first class manner; or (b) a professional property management company approved by Lender, in Lender's reasonable discretion, and as a condition to Lender's approval such property manager shall execute and deliver a lien waiver and subordination agreement satisfactory to Lender in its reasonable discretion. Such management by an affiliated entity or a professional property management company shall be pursuant to a written agreement approved by Lender. In no event shall any manager be appointed, removed or replaced or the terms of any management agreement modified or amended without the prior written consent of Lender. In the event of default hereunder or under any management contract then in effect, which default is not cured within any applicable grace or cure period, Lender shall have the right to immediately terminate, or to direct Borrower to immediately terminate, such management contract and to retain, or to direct Borrower to retain, a new management agent approved by Lender, or to assume Borrower obligations thereunder. All Rents generated by or derived from the Property shall first be utilized solely for current expenses directly attributable to the ownership and operation of the Property, including, without limitation, current expenses relating to Borrower's liabilities and obligations with respect to the Note, this Security Instrument and the Other Loan Documents, and none of the Rents generated by or derived from the Property shall be diverted by Borrower and utilized for any other purpose unless all such current expenses attributable to the ownership and operation of the Property have been fully paid and satisfied.

3.18 ERISA. Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, this Security Instrument or the Other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Borrower shall deliver to Lender such certifications or other evidence from time to time throughout the term of the loan, as requested by Lender in its sole discretion, that (A) Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (B) Borrower is not subject to any state statute regulating investments of, or fiduciary obligations with respect to, governmental plans; and (C) one or more of the following circumstances is true:

(i) Equity interests in Borrower are publicly offered securities, within the meaning of 29 C.F.R. §2510.3-101 (b)(2);

(ii) Less than twenty-five percent (25%) of each outstanding class of equity interests in Borrower is held by "benefit plan investors" within the meaning of 29 C.F.R. §2510.3-101(f)(2); or

(iii) Borrower qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. §2510.3-101(c) or (e).

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ARTICLE IV

SPECIAL COVENANTS

Borrower represents, covenants and agrees that:

4.1 Property Use. The Property shall be used only as a retail branch bank and for no other use, without the prior written consent of Lender.

4.2 Single Purpose Entity. Borrower has not since the date of its formation and shall not:

(a) engage in any business or activity other than the acquisition, ownership, operation and maintenance of the Property, and activities incidental thereto;

(b) acquire or own any material asset other than (i) the Property, and (ii) such incidental Personal Property as may be necessary for the operation of the Property;

(c) merge into or consolidate with any person or entity or dissolve, terminate or liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure, without in each case Lender's consent;

(d) fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation, or without the prior written consent of Lender, amend, modify, terminate or fail to comply with the provisions of Borrower's Partnership Agreement, Articles or Certificate of Incorporation, Articles of Organization, Operating Agreement or similar organizational documents, as the case may be;

(e) own any subsidiary or make any investment in or acquire the obligations or securities of any other person or entity without the consent of Lender;

(f) commingle its assets with the assets of any of its partner(s), members, shareholders, affiliates, or of any other person or entity or transfer any assets to any such person or entity other than distributions on account of equity interests in the Borrower permitted hereunder and properly accounted for;

(g) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Debt, except unsecured trade and operational debt incurred with trade creditors in the ordinary course of its business of owning and operating the Property in such amounts as are normal and reasonable under the circumstances, provided that such debt is not evidenced by a note and is paid when due and provided in any event the outstanding principal balance of such debt shall not exceed at any one time one percent (1%) of the outstanding Debt;

(h) allow any person or entity to pay its debts and liabilities (except a Guarantor) or fail to pay its debts and liabilities solely from its own assets;

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(i) fail to maintain its records, books of account and bank accounts separate and apart from those of the shareholders, partners, members, principals and affiliates of Borrower, the affiliates of a shareholder, partner or member of Borrower, and any other person or entity or fail to prepare and maintain its own financial statements in accordance with generally accepted accounting principles and susceptible to audit, or if such financial statements are consolidated fail to cause such financial statements to contain footnotes disclosing that the Property is actually owned by the Borrower;

(j) enter into any contract or agreement with any shareholder, partner, member, principal or affiliate of Borrower, any Guarantor, or any shareholder, partner, member, principal or affiliate thereof, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any shareholder, partner, member, principal or affiliate of Borrower or Guarantor, or any shareholder, partner, member, principal or affiliate thereof;

(k) seek dissolution or winding up, in whole or in part;

(l) fail to correct any known misunderstandings regarding the separate identity of Borrower;

(m) hold itself out to be responsible or pledge its assets or creditworthiness for the debts of another person or entity or allow any person or entity to hold itself out to be responsible or pledge its assets or credit worthiness for the debts of the Borrower (except for a Guarantor);

(n) make any loans or advances to any third party, including any shareholder, partner, member, principal or affiliate of Borrower, or any shareholder, partner, member, principal or affiliate thereof;

(o) fail to file its own tax returns or to use separate contracts, purchase orders, stationery, invoices and checks;

(p) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or person or to conduct its business solely in its own name in order not (i) to mislead others as to the entity with which such other party is transacting business, or (ii) to suggest that Borrower is responsible for the debts of any third party (including any shareholder, partner, member, principal or affiliate of Borrower, or any shareholder, partner, member, principal or affiliate thereof);

(q) fail to allocate fairly and reasonably among Borrower and any third party (including, without limitation, any Guarantor) any overhead for common employees, shared office space or other overhead and administrative expenses;

(r) allow any person or entity to pay the salaries of its own employees or fail to maintain a sufficient number of employees for its contemplated business operations;

(s) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

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(t) file a voluntary petition or otherwise initiate proceedings to have the Borrower adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Borrower, or file a petition seeking or consenting to reorganization or relief of the Borrower as debtor under any applicable federal or state law relating to bankruptcy, insolvency, or other relief for debtors with respect to the Borrower; or seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator (or other similar official) of the Borrower or of all or any substantial part of the properties and assets of the Borrower, or make any general assignment for the benefit of creditors of the Borrower, or admit in any legal proceeding the inability of the Borrower to pay its debts generally as they become due or declare or effect a moratorium on the Borrower debt or take any action in furtherance of any such action;

(u) share any common logo with or hold itself out as or be considered as a department or division of (i) any shareholder, partner, principal, member or affiliate of Borrower, (ii) any affiliate of a shareholder, partner, principal, member or affiliate of Borrower, or (iii) any other person or entity or allow any person or entity to identify the Borrower as a department or division of that person or entity; or

(v) conceal assets from any creditor, or enter into any transaction with the intent to hinder, delay or defraud creditors of the Borrower or the creditors of any other person or entity.

4.3 **OFAC.** Borrower hereby represents and warrants that Borrower and Guarantor and each and every Person that to Borrower's knowledge has an economic interest in Borrower, (i) in full compliance with all applicable orders, rules, regulations and recommendations of The Office of Foreign Assets Control of the U.S. Department of the Treasury; (ii) is not a Prohibited Person (as defined below); (iii) in full compliance with the requirements of the Patriot Act and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (as used in this Section only, "**OFAC**"); (iv) operated under policies, procedures and practices, if any, that are in compliance with the Patriot Act and available to Lender for Lender's review and inspection during normal business hours and upon reasonable prior notice; (v) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Act; (vi) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Act; and (vii) not owned or controlled by or now acting and or will in the future act for or on behalf of any person who has been determined to be subject to the prohibitions contained in the Patriot Act. Borrower covenants and agrees that in the event Borrower receives any notice that Borrower or Guarantor (or any of their respective beneficial owners, affiliates or participants) become listed on the Annex or any other list promulgated under the Patriot Act or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Borrower shall immediately notify Lender. It shall be an Event of Default hereunder if Borrower, Guarantor or any other party to any Loan Document becomes listed on any list promulgated under the Patriot Act or is indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.

"Prohibited Person" shall mean any person or entity:

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(a) that is a “blocked” person listed in the Annex, or otherwise subject to the provisions of, the Executive Order Nos. 12947, 13099 and 13224 on Terrorist Financing, effective September 24, 2001, and all modifications thereto or thereof, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (as used in this Section only, the “**Annex**”);

(b) that is owned or controlled by, or acting for or on behalf of, any person or entity that is listed to the Annex, or is otherwise subject to the provisions of, the Annex;

(c) with whom Lender is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering law, including the Annex;

(d) who commits, threatens or conspires to commit or supports “terrorism” as defined in the Annex;

(e) that is named as a “specially designated national and blocked person” on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website <http://www.treas.gov/ofac/t11sdn.pdf> or at any replacement website or other replacement official publication of such list or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Act or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Act; or

(f) who is an Affiliate of or affiliated with a person or entity listed above.

“**Patriot Act**” shall mean the USA PATRIOT Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including Executive Order 13224 effective September 24, 2001.

4.4 Union Labor. During the term of the Loan, Borrower agrees to use only subcontractors having collective bargaining agreements with unions affiliated with the Building and Construction Trades Department of the AFL-CIO as of January 1, 2001 to perform the following work on the Property (see list of unions attached as Exhibit B):

- Expansion, including tenant improvements related to such expansion.
- Replacement of the roof.
- Major repair or replacement of the HVAC system.
- Elevator repair and maintenance.
- Repair, replace or installation of electric panel board(s) and entry service cables.

A breach during the term of the Loan will entitle Lender to increase the annual interest rate by 1/8 of 1% per breach for the remaining term of the loan.

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ARTICLE V

REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender that:

5.1 Warranty of Title. Borrower has good title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Borrower possesses an unencumbered fee simple absolute estate in the Land and the Improvements and that it owns the Property free and clear of all liens, encumbrances and charges whatsoever except for those exceptions shown in the title insurance policy insuring the lien of this Security Instrument (the "**Permitted Exceptions**"). Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all persons whomsoever.

5.2 Legal Status and Authority.

(a) Borrower (i) is duly organized, validly existing and in good standing under the laws of its state of organization or incorporation; (ii) is duly qualified to transact business and is in good standing in the state where the Property is located; (iii) has all necessary approvals, governmental and otherwise, and full power and authority to own, operate and lease the Property; and (iv) is in compliance with all Prescribed Laws. Borrower (and the undersigned representative of Borrower, if any) has full power, authority and legal right to execute this Security Instrument, and to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to the terms hereof and to keep and observe all of the terms of this Security Instrument on Borrower's part to be performed.

(b) Borrower's exact legal name is correctly set forth in the first paragraph of this Security Instrument. Borrower is an organization of the type specified in the first paragraph of this Security Instrument. Borrower is incorporated in or organized under the laws of the state specified in the first paragraph of this Security Instrument. Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium or recording, including software, writings, plans, specifications and schematics, has been for the preceding four (4) months (or, if less than four (4) months, the entire period of the existence of Borrower) and will continue to be the address of Borrower set forth in the first paragraph of this Security Instrument (unless Borrower notifies Lender in writing at least thirty (30) days prior to the date of such change). Borrower's organizational identification number, if any, assigned by the state of incorporation or organization is 00592056.

5.3 Validity of Documents. (a) The execution, delivery and performance of the Note, this Security Instrument and the Other Loan Documents and the borrowing evidenced by the Note (i) are within the power and authority of Borrower; (ii) have been authorized by all requisite organizational action; (iii) have received all necessary approvals and consents, corporate, governmental or otherwise; (iv) will not violate, conflict with, result in a breach of or constitute (with notice or lapse of time, or both) a material default under any provision of law, any order or judgment of any court or governmental authority, the articles of incorporation, by-laws, partnership or trust agreement, articles of organization, operating agreement, or other

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governing instrument of Borrower, or any indenture, agreement or other instrument to which Borrower is a party or by which it or any of its assets or the Property is or may be bound or affected; (v) will not result in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of its assets, except the lien and security interest created hereby; and (vi) will not require any authorization or license from, or any filing with, any governmental or other body (except for the recordation of this Security Instrument in appropriate land records in the State where the Property is located and except for Uniform Commercial Code filings relating to the security interest created hereby); and (b) to the best knowledge of Borrower, the Note, this Security Instrument and the Other Loan Documents constitute the legal, valid and binding obligations of Borrower.

5.4 Litigation. There is no action, suit or proceeding, judicial, administrative or otherwise (including any condemnation or similar proceeding), pending or, to the best of Borrower's knowledge, threatened or contemplated against Borrower, a Guarantor, if any, or against or affecting the Property that (a) has not been disclosed to Lender by Borrower in writing, and has a material adverse affect on the Property or Borrower's or any Guarantor's ability to perform its obligations under the Note, this Security Instrument or the Other Loan Documents, or (b) is not adequately covered by insurance, each as determined by Lender in its sole discretion.

5.5 Status of Property.

(a) Borrower or its tenant has obtained a certificate of occupancy for the Property or otherwise complied with requirements for the use and occupancy of the Property, and to Borrower's knowledge, Borrower has obtained all necessary certificates, licenses and other approvals, governmental and otherwise, necessary for the operation of the Property and the conduct of its business and all required zoning, building code, land use, environmental and other similar permits or approvals, all of which are in full force and effect as of the date hereof and not subject to revocation, suspension, forfeiture or modification.

(b) The Property and the present and contemplated use and occupancy thereof are in full compliance with all applicable zoning ordinances, building codes, land use laws, Environmental Laws, Prescribed Laws and other similar laws.

(c) The Property is served by all utilities required for the current or contemplated use thereof. All utility service is provided by public utilities and the Property has accepted or is equipped to accept such utility service.

(d) All public roads and streets necessary for service of and access to the Property for the current or contemplated use thereof have been completed, are serviceable and all-weather and are physically and legally open for use by the public.

(e) The Property is served by public water and sewer systems.

(f) The Property is free from damage caused by fire or other casualty.

(g) To Borrower's knowledge, all costs and expenses of any and all labor, materials, supplies and equipment used in the construction of the Improvements have been paid in full.

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(h) Borrower has paid in full for, and is the owner of, all furnishings, fixtures and equipment (other than tenants' property) used in connection with the operation of the Property, free and clear of any and all security interests, liens or encumbrances, except the lien and security interest created hereby.

(i) All liquid and solid waste disposal, septic and sewer systems located on the Property are in a good and safe condition and repair and in compliance with all Applicable Laws.

(j) No portion of the Improvements is located in an area identified by the Secretary of Housing and Urban Development or any successor thereto as an area having special flood hazards pursuant to the Flood Insurance Acts or, if any portion of the Improvements is located within such area, Borrower has obtained and will maintain the insurance prescribed in Section 3.3 hereof.

(k) All the Improvements lie within the boundaries of the Land.

5.6 No Foreign Person. Borrower is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended and the related Treasury Department regulations.

5.7 Separate Tax Lot. The Property is assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements is assessed and taxed together with the Property or any portion thereof.

5.8 Leases.

(a) Except as disclosed in the rent roll for the Property delivered to and approved by Lender in writing prior to the date hereof, (i) Borrower is the sole owner of the entire lessor's interest in the Leases; (ii) the Leases are valid and enforceable and in full force and effect; (iii) all of the Leases are arms-length agreements with bona fide, independent third parties; (iv) no party under any Lease is in default; (v) all Rents due have been paid in full; (vi) the provisions with respect to all alterations, modifications and amendments to the Leases are reflected in the Chase Lease approved by Lender; (vii) none of the Rents reserved in the Leases have been assigned or otherwise pledged or hypothecated; (viii) none of the Rents have been collected for more than one (1) month in advance (except a security deposit shall not be deemed rent collected in advance); (ix) the premises demised under the Leases have been completed and the tenants under the Leases have accepted the same and have taken possession of the same on a rent-paying basis; (x) there exist no offsets or defenses to the payment of any portion of the Rents and Borrower has no monetary obligation to any tenant under any Lease; (xi) Borrower has received no notice from any tenant challenging the validity or enforceability of any Lease; (xii) there are no agreements with the tenants under the Leases other than expressly set forth in each Lease; (xiii) the Leases are valid and enforceable against Borrower and the tenants set forth therein; (xiv) no Lease contains an option to purchase, right of first refusal to purchase, or any other similar provision; (xv) no person or entity has any possessory interest in, or right to occupy, the Property except under and pursuant to a Lease; (xvi) each Lease is subordinate to this Security Instrument, either pursuant to its terms or a recordable subordination agreement;

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(xvii) no Lease has the benefit of a non-disturbance agreement that would be considered unacceptable to prudent institutional lenders, (xviii) all security deposits relating to the Leases reflected on the certified rent roll delivered to Lender have been collected by Borrower; and (xix) no brokerage commissions or finders fees are due and payable regarding any Lease.

(b) Notwithstanding anything contained herein to the contrary, Borrower shall not willfully withhold from Lender any information regarding renewal, extension, amendment, modification, waiver of provisions of, termination, rental reduction of, surrender of space of, or shortening of the term of, any Lease during the term of the Loan. Borrower further covenants and agrees that all tenants at the Property as of the date hereof are in physical occupancy of the premises demised under their Leases, are paying full rent under their Leases, and have not exercised any right to "go dark" that they may have under the provisions of their Leases. Borrower further agrees to provide Lender with written notice of a tenant "going dark" under such tenant's lease within five (5) business days after such tenant "goes dark" and Borrower's failure to provide such notice shall constitute an Event of Default under this Security Instrument.

5.9 Financial Condition.

(a) Borrower is solvent, and no bankruptcy, reorganization, insolvency or similar proceeding under any state or federal law with respect to Borrower has been initiated, and (ii) Borrower has received reasonably equivalent value for the granting of this Security Instrument.

(b) No petition in bankruptcy has ever been filed by or against Borrower, any Guarantor or any related entity, or any principal, general partner or member thereof, in the last seven (7) years, and neither Borrower, any Guarantor nor any related entity, or any principal, general partner or member thereof, in the last seven (7) years has ever made any assignment for the benefit of creditors or taken advantage of any insolvency act or any act for the benefit of debtors.

5.10 Business Purposes. The loan evidenced by the Note secured by the Security Instrument and the Other Loan Documents (the "Loan") is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

5.11 Taxes. Borrower and any Guarantor have filed all federal, state, county, municipal, and city income and other tax returns required to have been filed by them and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by them. Neither Borrower nor any Guarantor knows of any basis for any additional assessment in respect of any such taxes and related liabilities for prior years. Borrower confirms that its federal tax identification number is: 36-4463405.

5.12 Mailing Address. Borrower's mailing address, as set forth in the opening paragraph hereof or as changed in accordance with the provisions hereof, is true and correct.

5.13 No Change in Facts or Circumstances. All information in the application for the Loan submitted to Lender (the "Loan Application") and in all financing statements, rent rolls, reports, certificates and other documents submitted in connection with the Loan Application or in satisfaction of the terms thereof, are accurate, complete and correct in all respects. There has

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been no adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading.

5.14 Disclosure. Borrower, to the best of its knowledge, has disclosed to Lender all material facts.

5.15 Third Party Representations. Each of the representations and the warranties made by each Guarantor herein or in any Other Loan Document(s) is true and correct in all material respects.

5.16 Illegal Activity. No portion of the Property has been or will be purchased, improved, equipped or furnished with proceeds of any illegal activity and to the best of Borrower's knowledge, there are no illegal activities or activities relating to controlled substance at the Property.

5.17 Regulations T, U and X. Borrower does not own any "margin stock" as such term is defined in Regulation U of the Board of Governors of the Federal Reserve System (12 C.F.R. Part 221), as amended. Borrower will not use any part of the proceeds from the loan to be made under this Security Instrument (a) directly or indirectly, to purchase or carry any such stock or to reduce or retire any Obligations originally incurred to purchase any such stock within the meaning of such Regulation, (b) so as to involve Borrower in a violation of Regulation T, U or X of such Board (12 C.F.R. Parts 220, 221 and 224), as amended, or (c) for any other purpose not permitted by Section 7 of the Securities Exchange Act of 1934, as amended, or any of the rules and regulations respecting the extension of credit promulgated thereunder.

5.18 No Plan Assets. As of the date hereof and throughout the term of the loan (a) Borrower is not and will not be an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, (b) none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 25.103-101, (c) Borrower is not and will not be a "governmental plan" within the meaning of Section 3(32) of ERISA, and (d) transactions by or with Borrower are not and will not be subject to any state statute regulating investments of, or fiduciary obligations with respect to, governmental plans.

5.19 No Breach of Fiduciary Duty. To Borrower's knowledge, no person or entity currently owning a direct or indirect membership or partnership interest in Borrower (nor any past or current affiliate of such person or entity), has breached any fiduciary duty owed by such person or entity to any other person or entity now or previously owning a direct or indirect membership or partnership interest in Borrower or any prior owner of the Property.

ARTICLE VI

OBLIGATIONS AND RELIANCE

6.1 Relationship of Borrower and Lender. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Note, this Security Instrument and the Other Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

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6.2 No Reliance on Lender. The members, general partners, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

6.3 No Lender Obligations. Notwithstanding the provisions of Subsections 1.1(f) and (1) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents. By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Note or the Other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

6.4 Reliance. Borrower recognizes and acknowledges that in accepting the Note, this Security Instrument and the Other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article 5 and Article 12 without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in accepting the Note, this Security Instrument and the Other Loan Documents; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Article 5 and Article 12.

ARTICLE VII

FURTHER ASSURANCES

7.1 Recording of Security Instrument, etc. Borrower, forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the Other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all reasonable expenses incident to the preparation, execution, acknowledgment and/or recording of any financing statements, the Note, this Security Instrument, the Other Loan Documents, any financing statement, note or deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any financing statement, deed of trust or mortgage supplemental hereto, any security instrument with

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respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

7.2 Further Acts, etc. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the Property and rights hereby deeded, mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Applicable Laws. Borrower authorizes Lender to file (at Borrower's expense) such financing statements and amendments with respect to the Property as Lender may deem necessary or advisable to perfect or protect its security interests in the Personal Property, including, without limitation, financing statements describing the collateral as all Borrower's personal property or the like. Borrower agrees to take such action (at Borrower's expense) as Lender may direct with respect to the filing of correction statements or, if applicable, termination statements with respect to financing statements naming secured parties other than Lender. Borrower also ratifies its authorization of the filing of any financing statements and amendments filed by Lender before the date of this Security Instrument. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender pursuant to this Section 7.2. To the extent not prohibited by applicable law, Borrower hereby ratifies all acts Lender has lawfully done in the past or shall lawfully do or cause to be done in the future by virtue of such power of attorney.

7.3 Changes in Tax, Debt Credit and Documentary Stamp Laws.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by Lender that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Lender shall have the option, exercisable by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, exercisable by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this

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Security Instrument, any financing statements or any of the Other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

7.4 Estoppel Certificates.

(a) After written request by Lender, Borrower, within ten (10) days, shall furnish Lender or any proposed assignee with a statement, duly acknowledged and certified, setting forth (i) the original principal amount of the Note, (ii) the unpaid principal amount of the Note, (iii) the rate of interest of the Note, (iv) the terms of payment and maturity date of the Note, (v) the date installments of interest and/or principal were last paid, (vi) that, except as provided in such statement, there are no defaults or events which with the passage of time or the giving of notice or both, would constitute an event of default under the Note or the Security Instrument, (vii) that the Note and this Security Instrument are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification, (viii) whether any offsets or defenses exist against the obligations secured hereby and, if any are alleged to exist, a detailed description thereof, (ix) that all Leases are in full force and effect and have not been modified (or if modified, setting forth all modifications), (x) the date to which the Rents thereunder have been paid pursuant to the Leases, (xi) whether or not, to the best knowledge of Borrower, any of the lessees under the Leases are in default under the Leases, and, if any of the lessees are in default, setting forth the specific nature of all such defaults, (xii) the amount of security deposits held by Borrower under each Lease and that such amounts are consistent with the amounts required under each Lease, and (xiii) as to any other matters reasonably requested by Lender and reasonably related to the Leases, the obligations secured hereby, the Property or this Security Instrument.

(b) Borrower shall use its best efforts to deliver to Lender, promptly upon request, duly executed estoppel certificates from each commercial lessee at the Property as required by Lender attesting to such facts regarding the Lease as Lender may reasonably require, or as may be required under the lease including but not limited to attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, and that the lessee claims no defense or offset against the full and timely performance of its obligations under the Lease.

(c) Upon any transfer or proposed transfer contemplated by Section 18.1 hereof, at Lender's request, Borrower and any Guarantors shall provide an estoppel certificate to the Investor (defined in Section 18.1) or any prospective Investor in such form, substance and detail as Lender, such Investor or prospective Investor may require.

7.5 Flood Insurance. After Lender's request, Borrower shall deliver evidence satisfactory to Lender that no portion of the Improvements is situated in a federally designated "special flood hazard area" or if it is, that Borrower has obtained insurance meeting the requirements of Section 3.3(a)(vii).

7.6 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any Other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such

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Note or Other Loan Document, Borrower will issue, in lieu thereof, a replacement Note or Other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or Other Loan Document in the same principal amount thereof and otherwise of like tenor.

ARTICLE VIII

DUE ON SALE/ENCUMBRANCE

8.1 Lender Reliance. Borrower acknowledges that Lender has examined and relied on the creditworthiness of Borrower and experience of Borrower and its partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

8.2 No Sale/Encumbrance.

(a) Borrower agrees that Borrower shall not, without the prior written consent of Lender, Transfer the Property or any part thereof or permit the Property or any part thereof to be Transferred. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon Borrower's Transfer of the Property without Lender's consent.

(b) As used in Section 8.2(a), "Transfer" shall mean any voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment or transfer of all or any part of the Property or any interest therein including, but not limited to: (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder; (iii) a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; (iv) if Borrower or Guarantor is a corporation, any Transfer of such corporation's stock (or the stock of any corporation directly or indirectly controlling such Borrower or Guarantor by operation of law or otherwise) or the creation or issuance of new stock in one or a series of transactions by which an aggregate of forty-nine percent (49%) or more of such corporation's stock shall directly or indirectly be vested in or pledged to a party or parties who are not now stockholders (provided, however, in no event shall this subpart [iv] apply to any Guarantor whose stock or shares are traded on a nationally recognized stock exchange); (v) if Borrower, or Guarantor, is a limited liability company or partnership, the Transfer by which an aggregate of forty-nine percent (49%) or more of the ownership interest in such limited liability company or forty-nine percent (49%) or more of the partnership interests in such partnership shall directly or indirectly be vested in or pledged to parties not having an ownership interest as of the date of this Security Instrument; (vi) if Borrower or Guarantor is a partnership, limited liability company or joint venture, the change, removal or resignation of a manager, unless following such occurrence control over the management and operation of the property is retained by one or more of the Original Principles

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(as defined in Section 8.3), or the Transfer directly or indirectly of all or any portion of the partnership or ownership interest of any general partner, manager, or joint venturer; and (vii) except as expressly permitted by Section 8.3, any Transfer by an Original Principal, directly or indirectly, of its ownership interest in the Borrower.

8.3 Excluded And Permitted Transfers.

(a) A Transfer within the meaning of this Article 8 shall not include (i) transfers of ownership interests in the Borrower, any manager or managing member or any Guarantor made by devise or descent or by operation of law upon the death of a joint tenant or member, subject, however, to all the following requirements: (A) written notice of any transfer under this Section 8.3, whether by will, trust or other written instrument, operation of law or otherwise, is provided to Lender or its servicer, together with copies of such documents relating to the transfer as Lender or its servicer may reasonably request, (B) control over the management and operation of the Property is retained by one or more of Joel M. Carlins, William A. Marovitz and Constantine A. Catalano (the "**Original Principals**", whether one or more) at all times prior to the death or legal incapacity of all the Original Principals and is thereafter assumed by persons who are acceptable in all respects to Lender in its sole and absolute discretion, and (C) no such transfer, death or other event has any adverse effect either on the bankruptcy-remote status of Borrower under the requirements of any national rating agency for the Securities (hereinafter defined) or on the status of Borrower as a continuing legal entity liable for the payment of the Debt and the performance of all other obligations secured hereby, (ii) transfers otherwise by operation of law in the event of a bankruptcy, or (iii) a Lease of a portion of the Property to a space tenant.

(b) Notwithstanding any provision of this Security Instrument to the contrary, the prohibitions in Subsection 8.2(a) shall not apply to an inter vivos or testamentary transfer of all or any portion of ownership interests in the Borrower, any general partner manager, or managing member or any Guarantor to one or more family members of Original Principals or a trust in which all of the beneficial interest is held by one or more family members of Original Principals or a partnership or limited liability company in which a majority of the capital and profits interests are held by one or more family members of Original Principals, provided, that any inter vivos transfer of all or any portion of the ownership interests in the Borrower, is made in connection with Original Principals' bona fide, good faith estate planning and that the person(s) with voting control of Borrower or the management of the Property are (i) the same person(s) who had such voting control and management rights immediately prior to the transfer in question, or (ii) reasonably acceptable to Lender and provided further that no such transfer shall have any adverse effect on the bankruptcy remote status of Borrower under the requirements of any national rating agency for the Securities. Lender acknowledges that Original Principals and/or an Original Principal's spouse are acceptable to exercise voting control of Borrower and the management of the Property. As used herein, "family members" shall include the spouse, children and grandchildren and any lineal descendants.

8.4 No Implied Future Consent. Lender's consent to one sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Property shall not be deemed to be a waiver of Lender's right to require such consent to any future occurrence of same. Any sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Property made in contravention of this Article 8 shall be null and void and of no force and effect.

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8.5 Costs of Consent. Borrower agrees to bear and shall pay or reimburse Lender on demand for all reasonable expenses (including, without limitation, all recording costs, reasonable in-house and reasonable outside attorneys' fees and disbursements and title search costs) incurred by Lender, and a reasonable processing fee to Lender, in connection with the review, approval and documentation of any such sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer.

8.6 Continuing Separateness Requirements. In no event shall any of the terms and provisions of this Article 8 amend or modify the terms and provisions contained in Section 4.2 herein.

ARTICLE IX

PREPAYMENT

9.1 Prepayment. The Debt may not be prepaid in whole or in part except in strict accordance with the express terms and conditions of the Note.

ARTICLE X

DEFAULT

10.1 Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default":

(a) if any portion of the Debt (other than the payment due on the Maturity Date (as defined in the Note)) is not paid prior to the seventh (7th) day after the same is due or if the entire Debt is not paid on or before the Maturity Date;

(b) if any of the Taxes or Other Charges is not paid when the same is due and payable except to the extent sums sufficient to pay such Taxes and Other Charges have been deposited with Lender in accordance with the terms of this Security Instrument;

(c) if the Policies are not kept in full force and effect, or if the Policies are not delivered to Lender upon request;

(d) if Borrower violates or does not comply with any of the provisions of Section 3.12, Section 4.2, Article 8 or the Undelivered Items Letter;

(e) if any representation or warranty of Borrower or any person guaranteeing payment of the Debt or any portion thereof or performance by Borrower of any of the terms of this Security Instrument (a "Guarantor"), or any member, general partner, principal or beneficial owner of any of the foregoing, made herein or in the Environmental Indemnity (defined below) or in any guaranty, or in any certificate, report, financial statement or other instrument or document furnished to Lender shall have been false or misleading in any material respect when made;

(f) if (i) Borrower or any Guarantor shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating

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to bankruptcy, insolvency, reorganization, conservatorship or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Borrower or any Guarantor shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against Borrower or any Guarantor any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced against the Borrower or any Guarantor any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of any order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof, or (iv) the Borrower or any Guarantor shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) the Borrower or any Guarantor shall generally not, or shall be unable to, or shall admit in any legal proceeding its inability to, pay its debts as they become due;

(g) if Borrower shall be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or other security agreement covering any part of the Property whether it be superior or junior in lien to this Security Instrument;

(h) if the Property becomes subject to any mechanic's, materialman's or other lien other than a lien for local real estate taxes and assessments not then due and payable and the lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of thirty (30) days subject to Borrower's right to contest as set forth in Section 3.15(b);

(i) if any federal tax lien is filed against Borrower or any Guarantor or the Property and same is not discharged of record within thirty (30) days after same is filed;

(j) if any default occurs under any guaranty or indemnity executed in connection herewith (including the Environmental Indemnity, defined in Section 13.4) and such default continues after the expiration of applicable grace periods, if any;

(k) if Borrower shall fail to comply with the covenants as to Prescribed Laws set forth in Section 3.11 hereof,

(l) if Borrower shall fail to deliver to Lender, within ten (10) days after request by Lender, the estoppel certificates required pursuant to Section 7.4;

(m) intentionally deleted;

(n) if a managing agent exists as of the date hereof or is appointed for the Property in compliance with Section 3.17, and subsequently, without Lender's prior consent, (i) the managing agent for the Property resigns or is removed, (ii) the ownership, management or control of such managing agent is transferred to a person or entity other than the general partner, managing partner or managing member or Original Principal of the Borrower, or (iii) there is any material change in the property management agreement of the Property;

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(o) this Security Instrument shall cease to constitute a first-priority lien on the Property (other than in accordance with its terms);

(p) seizure or forfeiture of the Property, or any portion thereof, or Borrower's interest therein, resulting from criminal wrongdoing or other unlawful action of Borrower, or any tenant in the Property under any federal, state or local law;

(q) if Borrower consummates a transaction which would cause this Security Instrument or Lender's exercise of its rights under this Security Instrument, the Note or the Other Loan Documents to constitute a nonexempt prohibited transaction under ERISA or result in a violation of a state statute regulating governmental plans, subjecting Lender to liability for a violation of ERISA or a state statute; or

(r) if any default occurs under any other term, covenant or condition of the Note, this Security Instrument or the Other Loan Documents and such default continues (i) in the case of any default which can be cured by the payment of a sum of money, for more than ten (10) days after notice from Lender or (ii) in the case of any other such default, for thirty (30) days after notice from Lender, provided that if such default cannot reasonably be cured within such thirty (30) day period and Borrower shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Borrower in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of sixty (60) days.

ARTICLE XI

RIGHTS AND REMEDIES

11.1 Remedies. Upon the occurrence of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

(a) declare the entire unpaid Debt to be immediately due and payable;

(b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;

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(d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, in one or more parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(e) subject to the provisions of Article 11 of the Note, institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or in the Other Loan Documents;

(f) subject to the provisions of Article 11 of the Note, recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the Other Loan Documents;

(g) apply for the appointment of a receiver, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any Guarantor or of any person, firm or other entity liable for the payment of the Debt;

(h) subject to any applicable law, the license granted to Borrower under Section 1.2 shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Personal Property or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Personal Property, and (ii) request Borrower at its expense to assemble the Personal Property

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and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Personal Property sent to Borrower in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) apply any sums then deposited in the Escrow Fund and any other sums held in escrow or otherwise by Lender in accordance with the terms of this Security Instrument or any Other Loan Document to the payment of the following items in any order in its sole discretion: (i) Taxes and Other Charges; (ii) Insurance Premiums; (iii) interest on the unpaid principal balance of the Note; (iv) amortization of the unpaid principal balance of the Note; (v) all other sums payable pursuant to the Note, this Security Instrument and the Other Loan Documents, including, without limitation, advances made by Lender pursuant to the terms of this Security Instrument;

(k) surrender the Policies maintained pursuant to Article 3 hereof, collect the unearned Insurance Premiums and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Borrower to collect such Insurance Premiums;

(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion; or

(m) pursue such other remedies as Lender may have under applicable law.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority. Notwithstanding the provisions of this Section 11.1 to the contrary, if any Event of Default as described in clause (i) or (ii) of Subsection 10.1(f) shall occur, the entire unpaid Debt shall be automatically due and payable, without any further notice, demand or other action by Lender.

11.2 Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the Other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

11.3 Right to Cure Defaults. Upon the occurrence of any Event of Default or if Borrower fails to make any payment or to do any act as herein provided, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt. The cost and expense of any cure hereunder (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 11.3, shall constitute a

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portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate (as defined in the Note), for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the Other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

11.4 Actions and Proceedings. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and, after the occurrence and during the continuance of an Event of Default, to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

11.5 Recovery of Sums Required To Be Paid. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

11.6 Examination of Books and Records. Lender, its agents, accountants and attorneys shall have the right, upon prior written notice to Borrower if no Event of Default exists, to examine and audit, during reasonable business hours, the records, books, management and other papers of Borrower and its affiliates or of any Guarantor which pertain to their financial condition or the income, expenses and operation of the Property, at the Property or at any office regularly maintained by Borrower, its affiliates or any Guarantor where the books and records are located. Lender and its agents shall have the right to make copies and extracts from the foregoing records and other papers. In the event an error in excess of 3% of the Net Operating Income is discovered, the cost of the audit shall be borne by Borrower.

11.7 Other Rights, etc.

(a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or any Guarantor to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the Other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the Other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief,

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if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Neither Lender shall be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

11.8 Right to Release Any Portion of the Property. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

11.9 Violation of Laws. If the Property is not in compliance with Applicable Laws, Lender may impose additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

11.10 Right of Entry. Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

11.11 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Borrower's obligations hereunder, under the Note and the Other Loan Documents and the performance and discharge of the Other Obligations.

ARTICLE XII

ENVIRONMENTAL MATTERS

12.1 Environmental Representations and Warranties. Except as otherwise disclosed to the Lender in the environmental report delivered in connection with the application for the Loan, Borrower represents and warrants, based upon an environmental site assessment of the Property and information that Borrower knows that: (a) there are no Hazardous Materials (defined below)

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or underground storage tanks in, on, or under the Property, except those that are both (i) in compliance with Environmental Laws (defined below) and with permits issued pursuant thereto (if such permits are required), if any, and (ii) either (A) in amounts not in excess of that necessary to operate the Property or (B) fully disclosed to and approved by Lender in writing pursuant to the written reports resulting from the environmental site assessments of the Property delivered to Lender (the “**Environmental Report**”); (b) there are no past, present or threatened Releases (defined below) of Hazardous Materials in violation of any Environmental Law and which would require remediation by a governmental authority in, on, under or from the Property except as described in the Environmental Report; (c) there is no threat of any Release of Hazardous Materials migrating to the Property except as described in the Environmental Report; (d) there is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection with the Property except as described in the Environmental Report; (e) Borrower does not know of, and has not received, any written or oral notice or other communication from any person or entity (including but not limited to a governmental entity) relating to Hazardous Materials in, on, under or from the Property; (f) Borrower has truthfully and fully provided to Lender, in writing, any and all information relating to environmental conditions in, on, under or from the Property known to Borrower or contained in Borrower’s files and records, including but not limited to any reports relating to Hazardous Materials in, on, under or migrating to or from the Property and/or to the environmental condition of the Property; (g) the Property currently displays no evidence of water infiltration or water damage; (h) there are no prior or current complaints by tenants at the Property regarding water infiltration or water damage or leaks or odors related thereto, and (i) the Property currently displays no conspicuous evidence of the growth of Microbial Matter. “**Environmental Law**” means any present and future federal, state and local laws, statutes, ordinances, rules, regulations, standards, policies and other government directives or requirements, as well as common law, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, that apply to Borrower or the Property and relate to Hazardous Materials and/or Microbial Matter. “**Hazardous Materials**” shall mean petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a “hazardous substance,” “hazardous material,” hazardous waste”, toxic substance”, “toxic pollutant”, “contaminant”, or pollutant” within the meaning of any Environmental Law. “**Release**” of any Hazardous Materials includes but is not limited to any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials. “**Microbial Matter**” shall mean fungi or bacterial matter which reproduces through the release of spores or the splitting of cells, including, but not limited to, mold, mildew and viruses, whether or not such Microbial Matter is living.

12.2 **Environmental Covenants.** Borrower covenants and agrees that so long as Borrower owns the property: (a) all uses and operations on or of the Property, whether by Borrower or any other person or entity, shall be in compliance with all Environmental Laws and permits issued pursuant thereto; (b) there shall be no Releases of Hazardous Materials in, on,

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under or from the Property; (c) there shall be no Hazardous Materials in, on, or under the Property, except those that are both (i) in compliance with all Environmental Laws and with permits issued pursuant thereto, if and to the extent required, and (ii) (A) in amounts not in excess of that necessary to operate the Property or (B) fully disclosed to and approved by Lender in writing; (d) Borrower shall keep the Property free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or any other person or entity (the “Environmental Liens”); (e) Borrower shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Section 12.3 below, including but not limited to providing all relevant information and making knowledgeable persons available for interviews; (f) Borrower shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Property, pursuant to any written request of Lender, upon Lender’s belief that the Property is not in full compliance with all Environmental Laws, and share with Lender the reports and other results thereof, and Lender and other Indemnified Parties shall be entitled to rely on such reports and other results thereof, (g) Borrower shall, at its sole cost and expense, comply with all written requests of Lender to (i) reasonably effectuate remediation of any Hazardous Materials in, on, under or from the Property as required by Environmental Law; and (ii) comply with any Environmental Law; (h) Borrower shall not allow any tenant or other user of the Property to violate any Environmental Law; (i) Borrower shall immediately notify Lender in writing after it has become aware of (A) any presence or Release or threatened Releases of Hazardous Materials in, on, under, from, or migrating towards the Property; (B) any non-compliance with any Environmental Laws related in any way to the Property; (C) any actual or potential Environmental Lien; (D) any required or proposed remediation of environmental conditions relating to the Property; and (E) any written or oral notice or other communication of which Borrower becomes aware from any source whatsoever (including but not limited to a governmental entity) relating in any way to Hazardous Materials; (j) Borrower shall undertake any course of action recommended by the Environmental Protection Agency to prevent the growth of Microbial Matter; (k) Borrower shall comply with any and all local, state or federal laws, legislation, guidelines or statutes at any time in effect with respect to Microbial Matter (l) upon Lender’s request (not more frequently than once per calendar year), Borrower shall engage an engineering consultant reasonably acceptable to Lender to conduct (and such consultant shall conduct) an inspection for water damage at the Property; (m) upon Lender’s request (not more frequently than once per calendar year), Borrower shall engage an environmental consultant reasonably acceptable to Lender to conduct (and such consultant shall conduct) an inspection for evidence of the growth of Microbial Matter at the Property; and (n) Borrower shall immediately adopt a remediation plan reasonably acceptable to Lender with respect to any water damage or Microbial Matter identified as a result of such environmental and/or engineering inspections. Any failure of Borrower to perform its obligations pursuant to this Section 12.2 shall constitute bad faith waste with respect to the Property.

12.3 Lender’s Rights. Lender and any other person or entity designated by Lender, including but not limited to any representative of a governmental entity, and any environmental consultant, and any receiver appointed by any court of competent jurisdiction, shall have the right, but not the obligation, to enter upon the Property at all reasonable times to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined by Lender in its sole discretion) and taking samples of soil, groundwater or other water, air, or

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building materials, and conducting other invasive testing. Borrower shall cooperate with and provide access to Lender and any such person or entity designated by Lender.

12.4 Operations and Maintenance Programs. Where recommended by the Environmental Report or as a result of any other environmental assessment or audit of the Property, Borrower shall establish and comply with an operations and maintenance program with respect to the Property, in form and substance reasonably acceptable to Lender, prepared by an environmental consultant reasonably acceptable to Lender, which program shall address any asbestos containing material or lead based paint that may now or in the future be detected at or on the Property. Without limiting the generality of the preceding sentence, Lender may require (a) periodic notices or reports to Lender in form, substance and at such intervals as Lender may specify, (b) an amendment to such operations and maintenance program to address changing circumstances, laws or other matters, (c) at Borrower's sole expense, supplemental examination of the Property by consultants specified by Lender, (d) access to the Property by Lender, its agents or servicer, to review and assess the environmental condition of the Property and Borrower's compliance with any operations and maintenance program, and (e) variation of the operations and maintenance program in response to the reports provided by any such consultants.

ARTICLE XIII

INDEMNIFICATION

13.1 General Indemnification. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties (defined below) from and against any and all Losses (defined below) imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof, (d) any failure of the Property to be in compliance with any Applicable Laws; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; or (f) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the Loan evidenced by the Note and secured by this Security Instrument. Any amounts payable to Lender by reason of the application of this Section 13.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid. Anything to the contrary contained herein notwithstanding no party shall be required to indemnify or be responsible to another party for losses arising out of the gross negligence or intentional misconduct of the party seeking indemnification or damages.

The term "Losses" shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to attorneys' fees and other costs

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of defense). The term “**Indemnified Parties**” shall mean (a) Lender, (b) any prior owner or holder of the Note, (c) any servicer or prior servicer of the Loan, (d) the officers, directors, shareholders, partners, members, employees of any of the foregoing, and (e) the heirs, legal representatives, successors and assigns of each of the foregoing.

13.2 Mortgage and/or Intangible Tax. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the Other Loan Documents.

13.5 Duty to Defend; Attorneys’ Fees and Other Fees and Expenses. Upon written request by any Indemnified Party, Borrower shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, any Indemnified Parties may, in their sole discretion, engage their own attorneys and other professionals to defend or assist them, and, at the option of Indemnified Parties, their attorneys shall control the resolution of any claim or proceeding. Upon demand, Borrower shall pay or, in the sole discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

13.4 Environmental Indemnity. Simultaneously with this Security Instrument, Borrower has executed and delivered that certain environmental indemnity agreement dated the date hereof to Lender (the “**Environmental Indemnity**”).

ARTICLE XIV

WAIVERS

14.1 Waiver of Counterclaim. Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Note, any of the Other Loan Documents, or the Obligations. The foregoing shall not be deemed a waiver of Borrower’s right to assert any claim which would constitute a defense, setoff, counterclaim or crossclaim of any nature whatsoever against Lender in any separate action or proceeding or a waiver of any defense related to (i) payment in full or (ii) a waiver of any claim against Lender based on Lender’s gross negligence or intentional misconduct.

14.2 Marshalling and Other Matters. Borrower hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by Applicable Laws.

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14.3 Waiver of Notice. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except (a) with respect to matters for which this Security Instrument specifically and expressly provides for the giving of notice by Lender to Borrower and (b) with respect to matters for which Lender is required by Applicable Laws to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

14.4 Waiver of Statute of Limitations. Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

14.5 Sole Discretion of Lender. Wherever pursuant to this Security Instrument (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the sole discretion of Lender, except as may be otherwise expressly and specifically provided herein.

14.6 WAIVER OF TRIAL BY JURY. BORROWER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN EVIDENCED BY THE NOTE, THE APPLICATION FOR THE LOAN EVIDENCED BY THE NOTE, THE NOTE, THIS SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS OR ANY ACTS OR OMISSIONS OF LENDER, ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THERE WITH.

ARTICLE XV

EXCULPATION

15.1 Exculpation. The provisions of Article 11 of the Note are hereby incorporated by reference to the fullest extent as if the text of such Article were set forth in its entirety herein.

ARTICLE XVI

NOTICES

16.1 Notices. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof and confirmed by telephone by sender, (ii) one (1) Business Day (defined below) after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to Borrower or Lender, as the case may be, at the addresses set forth on the first page of this

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Security Instrument or addressed as such party may from time to time designate by written notice to the other parties.

Notices to Borrower shall be addressed to the attention of Joel M. Carlins. Borrower's telephone number is (312) 642-8869 and facsimile number is (312) 652-2773 with a copy of any notice of an Event of Default to Kim Sharon at Joel M. Carlins and Associates, 303 East Wacker Drive, Suite 2750, Chicago, Illinois 60601.

Notices to Lender shall be addressed to the attention of Herbert Kolben with a copy to the General Counsel at the same address. Lender's telephone number is (202) 682-7923 and facsimile number is (202) 682-6940.

Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

For purposes of this Subsection, "**Business Day**" shall mean a day on which commercial banks are not authorized or required by law to close in New York, New York or Washington, D.C.

ARTICLE XVII

APPLICABLE LAW

17.1 Choice of Law. This Security Instrument shall be governed, construed, applied and enforced in accordance with the laws of the state in which the Property is located.

17.2 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any Applicable Laws.

ARTICLE XVIII

SECONDARY MARKET

18.1 Transfer of Loan. Lender may, at any time but at no cost to Borrower, sell, transfer or assign the Note, this Security Instrument and the Other Loan Documents, and any or all servicing rights with respect thereto, or grant participations therein or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement (the "**Securities**"). Lender may forward to each purchaser, transferee, assignee, servicer, participant, investor in such Securities or any Rating Agency (as hereinafter defined) rating such Securities (collectively, the "**Investor**") and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Debt and to Borrower, any Guarantor, and the Property, whether furnished by Borrower, any Guarantor, or otherwise, as Lender determines necessary or desirable. The term "**Rating Agency**" shall mean each statistical rating agency that has assigned a rating to the Securities.

18.2 Reserved.

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18.3 Component Notes Option. Lender, without in any way limiting Lender's other rights hereunder, in its sole and absolute discretion, shall have the right at any time to require Borrower to execute and deliver "component" notes (including any combination of *pari passu* or senior and junior notes), which notes may be paid in such order of priority as may be designated by Lender, provided that (i) the aggregate principal amount of such "component" notes shall equal the outstanding principal balance of the Loan immediately prior to the creation of such "component" notes, (ii) the weighted average interest rate of all such "component" notes shall on the date created equal the interest rate which was applicable to the Loan immediately prior to the creation of such "component" notes, (iii) the debt service payments on all such "component" notes shall on the date created equal the debt service payment which was due under the Loan immediately prior to the creation of such component notes and (iv) the other terms and provisions of each of the "component" notes shall be identical in substance and substantially similar in form to the Note. At Lender's sole cost and expense, Borrower shall cooperate with all reasonable requests of Lender in order to establish the "component" notes and shall execute and deliver such documents as shall reasonably be required by Lender and any Rating Agency in connection therewith, all in form and substance reasonably satisfactory to Lender and any Rating Agency, including, without limitation, the severance of security documents if requested. In the event Borrower fails to execute and deliver such documents to Lender within five Business Days following such request by Lender, Borrower hereby absolutely and irrevocably appoints Lender as its true and lawful attorney, coupled with an interest, in its name and stead to make and execute all documents necessary or desirable to effect such transactions, Borrower ratifying all that such attorney shall do by virtue thereof.

18.4 Mezzanine Loan Option. At no cost to Borrower, Lender shall have the right at any time to divide the Loan into two parts (the "Mezzanine Option"): a mortgage loan (the "Mortgage Loan") and a mezzanine loan (the "Mezzanine Loan"). The principal amount of the Mortgage Loan plus the principal amount of the Mezzanine Loan shall equal the outstanding principal balance of the Loan prior to the creation of the Mortgage Loan and the Mezzanine Loan. In effectuating the foregoing, Lender or its designee (in its capacity as Lender under the Mezzanine Loan, "Mezzanine Lender") will make a loan to the equity owner(s) of Borrower ("Mezzanine Borrower"); Mezzanine Borrower will contribute the amount of the Mezzanine Loan to Borrower (in its capacity as Borrower under the Mortgage Loan, "Mortgage Borrower") and Mortgage Borrower will apply the contribution to pay down the Loan to its Mortgage Loan amount. The Mortgage Loan and the Mezzanine Loan will be on the same terms and subject to the same conditions set forth in the Note, this Agreement, the Security Instrument and the other Loan Documents except as follows:

(a) Lender (in its capacity as Lender under the Mortgage Loan, "Mortgage Lender") shall have the right to establish different interest rates and debt service payments for the Mortgage Loan and the Mezzanine Loan and to require the payment of the Mortgage Loan and the Mezzanine Loan in such order of priority as may be designated by Lender; provided, that (i) the total loan amounts for the Mortgage Loan and the Mezzanine Loan shall equal the amount of the Loan immediately prior to the creation of the Mortgage Loan and the Mezzanine Loan, (ii) the weighted average interest rate of the Mortgage Loan and the Mezzanine Loan shall on the date created equal the interest rate which was applicable to the Loan immediately prior to creation of a Mortgage Loan and a Mezzanine Loan and (iii) the debt service payments on the Mortgage Loan note and the Mezzanine Loan note shall on the date created equal the debt

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service payment which was due under the Loan immediately prior to creation of a Mortgage Loan and a Mezzanine Loan;

(b) Mezzanine Borrower shall be a special purpose, bankruptcy remote entity pursuant to applicable Rating Agency criteria and shall own directly or indirectly one hundred percent (100%) of Mortgage Borrower. The security for the Mezzanine Loan shall be a pledge of one hundred percent (100%) of the direct and indirect ownership interests in Mortgage Borrower.

(c) Mezzanine Borrower and Mortgage Borrower, at Lender's sole cost and expense, shall cooperate with all reasonable requests of Lender in order to convert the Loan into a Mortgage Loan and a Mezzanine Loan and shall execute and deliver such documents as shall reasonably be required by lender and any Rating Agency in connection therewith, including, without limitation, the delivery of non-consolidation opinions and the modification of organizational documents and loan documents. In the event Mortgage Borrower and/or Mezzanine Borrower fail to execute and deliver such documents to Lender within five Business Days following such request by Lender, Mortgage Borrower and/or Mezzanine Borrower, as applicable, hereby absolutely and irrevocably appoint Lender as their true and lawful attorney, coupled with an interest, in their name and stead to make and execute all documents necessary or desirable to effect such transactions, Mortgage Borrower and/or Mezzanine Borrower, as applicable, ratifying all that such attorney shall do by virtue thereof. Mezzanine Borrower and Mortgage Borrower shall pay all costs and expenses in connection with the creation of the Mortgage Loan and the Mezzanine Loan and all requirements relating thereto.

ARTICLE XIX

COSTS

19.1 Performance at Borrower's Expense. Borrower acknowledges and confirms that Lender shall impose certain administrative processing and/or commitment fees in connection with (a) the extension, renewal, modification, amendment and termination of the Loan, (b) the release or substitution of collateral therefor, (c) obtaining certain consents, waivers and approvals with respect to the Property, or (d) the review of any Lease or proposed Lease or the preparation or review of any subordination, non-disturbance agreement (the occurrence of any of the above shall be called an "**Event**"). Borrower further acknowledges and confirms that it shall be responsible for the payment of all costs of reappraisal of the Property or any part thereof, whether required by law, regulation, Lender or any governmental or quasi-governmental authority. Borrower hereby acknowledges and agrees to pay, immediately, with or without demand, all such fees (as the same may be increased or decreased from time to time), and any additional fees of a similar type or nature which may be imposed by Lender from time to time, upon the occurrence of any Event or otherwise. Wherever it is provided for herein that Borrower pay any costs and expenses, such costs and expenses shall include, but not be limited to, all reasonable legal fees and disbursements of Lender, whether with respect to retained firms, the reimbursement for the expenses of in-house staff or otherwise.

19.2 Legal Fees for Enforcement. (a) Borrower shall pay all reasonable legal fees incurred by Lender in connection with (i) the preparation of the Note, this Security Instrument and the Other Loan Documents and (ii) the items set forth in Section 19.1 above, and (b)

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Borrower shall pay to Lender on demand any and all expenses, including legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Property or in collecting any amount payable hereunder or in enforcing its rights hereunder with respect to the Property, whether or not any legal proceeding is commenced hereunder or thereunder, together with interest thereon at the Default Rate from the date paid or incurred by Lender until such expenses are paid by Borrower, including, without limitation, all costs and expenses in connection with any "special servicing" of the Loan.

ARTICLE XX

DEFINITIONS

20.1 General Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof," the word "Lender" shall mean "Lender and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "person" shall include an individual, corporation, partnership, limited liability company, trust, unincorporated association, government, governmental authority, and any other entity, the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

20.2 Headings, etc. The headings and captions of various Articles and Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

ARTICLE XXI

MISCELLANEOUS PROVISIONS

21.1 No Oral Change. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

21.2 Liability. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

21.3 Inapplicable Provisions. If any term, covenant or condition of the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Note and this Security Instrument shall be construed without such provision.

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21.4 Duplicate Originals; Counterparts. This Security Instrument may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Security Instrument may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Security Instrument. The failure of any party hereto to execute this Security Instrument, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

21.5 Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

ARTICLE XXII

SPECIAL STATE PROVISIONS

22.1 Principals Of Construction. In the event of any inconsistencies between the terms and provisions of this Security Instrument and Article XXII of this Security Instrument, the terms and provisions of Article XXII shall govern and control.

22.2 Compliance with Illinois Mortgage Foreclosure Law.

(a) Maximum Indebtedness. Notwithstanding anything in this Mortgage to the contrary, in no event shall the indebtedness exceed \$6,500,000.00. However, in no event shall Lender be required to advance funds in excess of the face amount of the Note.

(b) Illinois Mortgage Foreclosure Law Controls. In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (Chapter 735, Sections 5/15-1101 *et seq.* Illinois Compiled Statutes) (the "Act"), including the waiver of redemption rights under 735 ILCS 5/15-1601, 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.

(c) Receiver. If any provision of this Mortgage shall grant to Lender (including Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in that receiver under the Act in the absence of that provision, Lender and that receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(d) Expenses Added to Indebtedness. Without limiting the generality of the foregoing, all expenses incurred by Lender which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage and/or by the judgment of foreclosure.

22.3 Disclaimers. The relationship of Borrower and Lender under this Mortgage and the other Loan Documents is, and shall at all times remain, solely that of borrower and lender;

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and Lender neither undertakes nor assumes any responsibility or duty to Borrower or to any third party with respect to the Property. Notwithstanding any other provisions of this Mortgage and the other Loan Documents: (i) Lender is not, and shall not be construed to be, a partner, joint venturer, member, alter ego, manager, controlling person or other business associate or participant of any kind of Borrower and Lender, and Lender does not intend to ever assume such status; (ii) Lender does not intend to ever assume any responsibility to any person for the quality, suitability, safety or condition of the Property; and (iii) Lender shall not be deemed responsible for or a participant in any acts, omissions or decisions of Borrower.

Lender shall not be directly or indirectly liable or responsible for any loss, claim, cause of action, liability, indebtedness, damage or injury of any kind or character to any person or property arising from any construction on, or occupancy or use of, the Property, whether caused by or arising from: (i) any defect in any building, structure, grading, fill, landscaping, or other improvements thereon or in any on-site or off-site improvement or other facility therein or thereon; (ii) any act or omission of Borrower or any of Borrower's agents, employees, independent contractors, licensees or invitees; (iii) any accident in or on the Property or any fire, flood, or other casualty or hazard thereon; (iv) the failure of Borrower or any of Borrower's licensees, employees, invitees, agents, independent contractors, or other representatives to maintain the Property in a safe condition; or (v) any nuisance made or suffered on any part of the Property.

[no further text this page – signature page follows]

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IN WITNESS WHEREOF, THIS SECURITY INSTRUMENT has been executed by Borrower the day and year first above written.

POINTE REYES LLC, an Illinois limited liability company

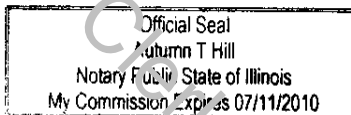
By: David Carlin, its Authorized Signatory

STATE OF ILLINOIS)
)
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County and State, certify that David Carlin, the authorized signatory of Pointe Reyes LLC personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, this 30th day of August, 2007.

Autumn T. Hill
Notary Public



Signature Page
Mortgage, Assignment of Leases and Rents
Security Agreement and Fixture Filing Statement

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EXHIBIT A

Legal Description

PARCEL 1:

THAT PART OF THE FOLLOWING DESCRIBED PROPERTY (ALL TAKEN AS ONE TRACT) LYING EAST OF THE WEST 140.00 FEET THEREOF: LOTS 1 THROUGH 6, BOTH INCLUSIVE, IN OGDEN'S SUBDIVISION OF BLOCK 18 IN WOLCOTT'S ADDITION TO CHICAGO AND LOTS 1 THROUGH 5, BOTH INCLUSIVE, IN JOHN SEBA'S SUBDIVISION OF LOTS 7 AND 8 IN OGDEN'S SUBDIVISION OF BLOCK 18 IN WOLCOTT'S ADDITION TO CHICAGO IN THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 9 TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: THAT PART LYING ABOVE A HORIZONTAL PLANE AT THE VERTICAL ELEVATION (CHICAGO CITY DATUM) OF 13.00 FEET AND BELOW THE HORIZONTAL PLANES FORMED BY CONNECTING THE VERTICES FORMED BY CONNECTING THE VERTICAL ELEVATION POINTS ATTACHED TO THE FOLLOWING CALLS OF THE PROPERTY BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID TRACT, HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 00°03'47" EAST ALONG THE WEST LINE OF SAID TRACT 80.30 FEET TO THE WESTERLY EXTENSION OF THE CENTERLINE OF AN INTERIOR WALL, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET (THE FOLLOWING TWENTY-FIVE (25) CALLS BEING ALONG THE CENTERLINE OF INTERIOR WALLS); THENCE NORTH 89°58'16" EAST, 28.43 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 28.78 FEET; THENCE SOUTH 00°01'44" EAST, 10.34 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.01 FEET; THENCE NORTH 89°58'16" EAST, 6.22 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 28.70 FEET, THENCE CONTINUING NORTH 89°58'16" EAST, ALONG A LINE COMMENCING AT A POINT PLUMB TO THE LAST DESCRIBED POINT, HAVING AN ELEVATION OF 30.20 FEET, A DISTANCE OF 17.36 FEET AND HAVING A VERTICAL ELEVATION OF 30.20 FEET; THENCE SOUTH 00°01'44" EAST, 23.27 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 30.20 FEET; THENCE SOUTH 89°58'16" WEST, 16.09 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 30.20 FEET; THENCE NORTH 00°01'44" WEST, 13.55 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 30.20 FEET; THENCE SOUTH 89°58'16" WEST, 8.00 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 30.20 FEET; THENCE SOUTH 00°01'44" EAST ALONG A LINE COMMENCING AT A POINT PLUMB TO THE LAST DESCRIBED POINT HAVING AN ELEVATION OF 29.22 FEET, A DISTANCE OF 18.64 FEET AND HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 89°58'16" EAST, 23.75 FEET; TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE SOUTH 00°01'44" EAST, 1.67 FEET; TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 89°58'16" EAST, 29.74 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 00°01'44" WEST, 0.98 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 89°58'16" EAST, 17.50 FEET, TO A POINT HAVING A VERTICAL

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ELEVATION OF 29.85 FEET; THENCE NORTH 00°01'44" WEST, 5.83 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 89°58'16" EAST, 4.70 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 00°01'44" WEST, 0.55 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 89°58'16" EAST, 11.85 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 00°01'44" WEST, 12.49 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 89°58'16" EAST, 18.90 FEET TO A POINT, HAVING A VERTICAL ELEVATION OF 29.85; THENCE SOUTH 00°01'44" EAST, 5.26 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 89°58'16" EAST, 17.34 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE SOUTH 00°01'44" EAST, 8.26 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; THENCE NORTH 89°58'16" EAST, 28.95 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET; TO THE EAST LINE OF SAID TRACT; THENCE SOUTH 00°02'06" EAST ALONG THE EAST LINE OF SAID TRACT, 45.87 FEET, TO A POINT HAVING A VERTICAL ELEVATION OF 29.85 FEET, TO THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89°57'37" WEST ALONG THE SOUTH LINE OF SAID TRACT, 181.30 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENTS FOR SUPPORT, COMMON WALLS, CEILING AND FLOORS, EQUIPMENT AND UTILITIES, CONSTRUCTION EASEMENT, UPPER ROOF, LOADING AREA AND EMERGENCY ACCESS, PARTICULARLY DESCRIBED AND DEFINED IN THE AGREEMENT AND DECLARATION OF EASEMENTS, RESERVATIONS, COVENANTS AND RESTRICTIONS MADE BY AND AMONG POINTE REYES L.L.C. AND FARALLON DEVELOPMENT GROUP, L.L.C. RECORDED AUGUST 29, 2001 AS DOCUMENT NO. 0010802894 AS AMENDED BY DOCUMENT NO. 0011241862, WHICH ARE APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AFORESAID.

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EXHIBIT B

List of Unions

Contractors Affiliated with the Building and Construction Trades Department
of the AFL-CIO as of January 1, 2001

International Association of Heat and Frost Insulators and Asbestos Workers

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and
Helpers.

International Union of Bricklayers and Allied Craftworkers

United Brotherhood of Carpenters and Joiners of America

International Brotherhood of Electrical Workers

International Union of Elevator Constructors

International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers

Laborers' International Union of North America

International Union of Operating Engineers

Operative Plasterers' and Cement Masons' National Association of the United States and Canada

International Brotherhood of Painters and Allied Trades

United Union of Roofers, Waterproofers and Allied Workers

International Brotherhood of Teamsters

Sheet Metal Workers' International Association

United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of
the United States and Canada