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Doc#: 0730239084 Fee: \$182.50
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/29/2007 11:00 AM Pg: 1 of 80

After recording please return to:
Jessica Sierras, Account Executive
Parasec Incorporated
2804 Gateway Oaks Dr #200
Sacramento, CA 95833-3509
800-533-7272

**AMENDED AND RESTATED
FEE AND LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
(ILLINOIS)**

**ESA P PORTFOLIO L.L.C. and ESH/ESA PROPERTIES, L.L.C., as mortgagor
(collectively, Borrower)**

and

**ESA P PORTFOLIO OPERATING LESSEE INC. and ESA OPERATING LESSEE INC.,
as Operating Lessee
(collectively, Operating Lessee)**

to

**WACHOVIA BANK, NATIONAL ASSOCIATION,
BEAR STEARNS COMMERCIAL MORTGAGE, INC., and
BANK OF AMERICA, N.A. as mortgagee (collectively, Lender)**

Dated as of: June 11, 2007

Location: 1177 S. Northpoint Blvd., Waukegan
County: Lake
PIN: 07-36-203-025

Location: 1181 Rohlwing Rd., Itasca
County: Du Page
PIN: 03-06-101-012

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Location: 1200 American Lane, Schaumburg
County: Lake
PIN: 07-13-100-025-0000

Location: 1201 E. Touhy Ave., Des Plaines
County: Cook
PIN: 09-32-200-083-0000

Location: 1207 E. Touhy Ave., Des Plaines
County: Cook
PIN: 09-32-200-086-0000

Location: 1225 Lakeview Dr., Romeoville
County: Will
PIN: 12-02-29-302-013-0000

Location: 15 W. 122nd S. Frontage Rd., Burr Ridge
County: Du Page
PIN: 09-25-211-033

Location: 1525 Busch Parkway, Buffalo Grove
County: Lake
PIN: 15-26-307-011

Location: 154 Regency Park, O'Fallon
County: St. Clair
PIN: 03-250-327-020

Location: 215 N. Milwaukee Ave. Vernon Hills
County: Lake
PIN: 15-03-301-040

Location: 2345 Sokol Ct., Darien
County: Du Page
PIN: 10-05-404-023

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Location: 2400 Golf Road, Rolling Meadows
County: Cook
PIN: 08-08-301-043-0000

Location: 2520 173rd St., Lansing
County: Cook
PIN: 30-30-110-032-0000

Location: 3150 Finley Rd., Downers Grove
County: Du Page
PIN: 06-31-101-013

Location: 4575 Frontage Rd., Hillside
County: Cook
PIN: 15-17-101-025-0000

Location: 5724 Northridge Dr., Gurnee
County: Lake
PIN: 07-16-404-049

Location: 653 Clark Drive, Rockfold
County: Winnebago
PIN: 12-23-402-005

Location: 747 N. Bell School Road, Rockfold
County: Winnebago
PIN: 12-23-401-013

Location: 7524 State Road, Bedford Park
County: Cook
PIN: 19-28-202-019-0000

Location: 1075 Lake St., Hanover Park
County: Du Page
PIN: 02-06-401-019

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Location: 1575 Bond St., Naperville
County: Du Page
PIN: 07-10-105-010

Location: 1805 S. Veterans Pkwy Bloomington
County: McLean
PIN: 21-10-378-001

Location: 2000 N Roselle Rd, Schaumburg
County: Cook
PIN: 07-10-101-025-0000

Location: 260 E. 22nd St., Lombard
County: Du Page
PIN: 06-20-307-024

Location: 4306 North Brandywine Dr., Peoria
County: Peoria
PIN: 14-19-477-022

Location: 445 Warrenville Road, Lisle
County: Du Page
PIN: 08-02-402-005

Location: 5211 Old Orchard Road, Skokie
County: Cook
PIN: 10-09-305-057-0000

Location: 550 West Grand Ave., Elmhurst
County: Du Page
PIN: 03-26-300-008

Location: 610 W. Marketview Dr., Champaign
County: Champaign
PIN: 41-20-01-126-020

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PREPARED BY ~~AND UPON RECORDATION RETURN TO:~~
James P. Carroll, Esq.
c/o Cadwalader, Wickersham & Taft LLP
227 West Trade Street, Suite 2400
Charlotte, North Carolina 28202

Property of Cook County Clerk's Office

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AMENDED AND RESTATED
FEE AND LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING

THIS AMENDED AND RESTATED FEE AND LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Security Instrument") is dated as of this 11th day of June, 2007, by ESA P PORTFOLIO L.L.C., a Delaware limited liability company, f/k/a BRE/ESA P PORTFOLIO L.L.C., a Delaware limited liability company, having its principal place of business at 100 Dunbar Street, Spartanburg, South Carolina 29306, and ESH/ESA PROPERTIES, L.L.C., which is the name under which ESA PROPERTIES L.L.C., a Delaware limited liability company, f/k/a BRE/ESA PROPERTIES L.L.C., a Delaware limited liability company, is doing business in the State of Illinois, having its principal place of business at 100 Dunbar Street, Spartanburg, South Carolina 29306, collectively as mortgagor ("Borrower") and ESA P PORTFOLIO OPERATING LESSEE INC., a Delaware corporation, having its principal place of business at 100 Dunbar Street, Spartanburg, South Carolina 29306, and ESA OPERATING LESSEE INC., a Delaware corporation, having its principal place of business at 100 Dunbar Street, Spartanburg, South Carolina 29306, collectively as mortgagor ("Operating Lessee"; Borrower and Operating Lessee sometimes hereinafter, collectively, "Mortgagor") to WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association, having an address at 8739 Research Drive URP - 4, NC 1075, Charlotte, North Carolina 28262, BEAR STEARNS COMMERCIAL MORTGAGE, INC., a New York corporation, having an address at 383 Madison Avenue, New York, New York 10179, and BANK OF AMERICA, N.A., a national banking association, having an address at Hearst Tower, 214 North Tryon Street, Charlotte, North Carolina 28255, collectively as mortgagee (together with their successors and/or assigns, "Lender").

WITNESSETH:

WHEREAS, this Security Instrument is given to secure a loan (the "Loan") in the maximum principal sum of FOUR BILLION ONE HUNDRED MILLION and No/100 Dollars (\$4,100,000,000.00) advanced by Lender pursuant to that certain Loan Agreement, dated as of the date hereof, among Borrower and those entities set forth on Schedule 1 attached hereto (collectively, "Other Borrowers") and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement") and evidenced by that certain Amended, Restated and Consolidated Promissory Note, dated the date hereof, made by Borrower and Other Borrowers in favor of Lender (such Amended, Restated and Consolidated Promissory Note, together with all extensions, renewals, replacements, restatements or modifications thereof being hereinafter referred to as the "Note");

WHEREAS, Operating Lessee and Borrower have entered into the Portfolio Operating Lease and the ESA Operating Lease, as applicable to the relevant Property (as herein defined), pursuant to which Operating Lessee has agreed to lease and operate the Property;

WHEREAS, Borrower desires to secure the payment of the Debt (as defined in the Loan Agreement, which includes interest and Additional Interest) and the performance of all

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of its obligations under the Note, the Loan Agreement and the other Loan Documents (as herein defined);

WHEREAS, this Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument (the Loan Agreement, the Note, this Security Instrument and all other documents evidencing or securing the Debt (including all additional mortgages, deeds to secure debt and assignments of leases and rents (if any)) or executed or delivered in connection therewith, are hereinafter referred to collectively as the "Loan Documents"); and

WHEREAS, Operating Lessee will directly benefit from Lender's making the Loan to Borrower;

WHEREAS, on June 11, 2007, ESA P PORTFOLIO L.L.C. and ESA PROPERTIES L.L.C. in conjunction with the Operating Lessee made for the benefit of Lender that certain Fee and Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Original Security Instrument"); and

WHEREAS, Lender, Borrower and Operating Lessee desire and have agreed to amend and restate the Original Security Instrument to reflect that ESH/ESA PROPERTIES L.L.C., is the name under which ESA PROPERTIES L.L.C., a Delaware limited liability company, f/k/a BRE/ESA PROPERTIES L.L.C., a Delaware limited liability company, is doing business in the State of Illinois, and to that end Borrower and Operating Lessee have agreed to make for the benefit of Lender this Security Instrument, which shall replace and supersede the Original Security Instrument.

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Security Instrument:

ARTICLE 1 - GRANTS OF SECURITY

Section 1.1 Property Mortgaged. Mortgagor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Lender and its successors and assigns, the following property, rights, interests and estates now owned, or hereafter acquired by Mortgagor (collectively, the "Property"):

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

(b) Operating Lease. All of Operating Lessee's estate, right, title and interest in, and under the Operating Lease and the leasehold estate created thereby in the real property leased thereby (the "Leasehold Land"), together with all buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs and replacements now or hereafter

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erected on the Leasehold Land and together with all appurtenances including, but not limited to (i) extension, renewal, modification and option rights, and all of the estate and right of Operating Lessee of, in, and to the Leasehold Land under and by virtue of the Operating Lease, (ii) all credits to and deposits of Operating Lessee under the Operating Lease and all other options, privileges and rights granted and demised to Operating Lessee under the Operating Lease and (iii) all the right or privilege of Operating Lessee to terminate, cancel, surrender or merge the Operating Lease;

(c) Additional Land. All additional lands, estates and development rights hereafter acquired by Mortgagor for use in connection with the Fee Land and the Leasehold Land (the Fee Land and the Leasehold Land being hereinafter collectively referred to as 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;

(d) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "Improvements");

(e) Easements. To the extent permitted by applicable law, 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 reversions 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, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(f) Equipment. To the extent permitted by applicable law, all "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Mortgagor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Mortgagor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "Equipment"). Notwithstanding the foregoing, Equipment shall not include any property belonging to tenants under Leases or guests or invitees at the Property except to the extent that Mortgagor shall have any right or interest therein;

(g) Fixtures. To the extent permitted by applicable law, all Equipment now owned, or the ownership of which is hereafter acquired, by Mortgagor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without

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limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Mortgagor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "Fixtures"). Notwithstanding the foregoing, "Fixtures" shall not include any property which tenants are entitled to remove pursuant to leases except to the extent that Mortgagor shall have any right or interest therein;

(h) Personal Property. To the extent permitted by applicable law, all furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, (including, but not limited to, beds, bureaus, chiffoniers, chests, chairs, desks, lamps, mirrors, bookcases, tables, rugs, carpeting, drapes, draperies, curtains, shades, venetian blinds, screens, paintings, hangings, pictures, divans, couches, luggage carts, luggage racks, stools, sofas, chinaware, linens, pillows, blankets, glassware, foodcarts, cookware, dry cleaning facilities, dining room wagons, keys or other entry systems, icemakers, radios, television sets, intercom and paging equipment, electric and electronic equipment, dictating equipment, private telephone systems, medical equipment, potted plants, heating, lighting and plumbing fixtures, fire prevention and extinguishing apparatus, cooling and air-conditioning systems, elevators, escalators, fittings, plants, apparatus, stoves, ranges, refrigerators, laundry machines, tools, machinery, engines, dynamos, motors, boilers, incinerators, switchboards, conduits, compressors, vacuum cleaning systems, floor cleaning, waxing and polishing equipment, call systems, brackets, electrical signs, bulbs, bells, ash and fuel, conveyors, cabinets, lockers, shelving, spotlighting equipment, dishwashers, garbage disposals, washers and dryers), general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other customary hotel equipment and personal property of any kind or character whatsoever as defined in and subject to the provisions of the Uniform Commercial Code, whether tangible or intangible, other than Fixtures, which are now or hereafter owned by Mortgagor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "Personal Property"), and the right, title and interest of Mortgagor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "Uniform Commercial Code"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above. Notwithstanding the foregoing, personal property shall not include any property belonging to tenants under Leases or guests or invitees at the Property except to the extent that Mortgagor shall have any right or interest therein;

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(i) Leases and Rents. To the extent permitted by applicable law, all leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral and whether now or hereafter in effect), including, without limitation, the Operating Lease, pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into (collectively, the "Leases"), whether before or after the filing by or against Mortgagor 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 Mortgagor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits arising from the Leases and any extension, renewal or replacement thereof together with all rents, rent equivalents, income, fees, receivables, receipts, accounts, deposits, profits (including, but not limited to, all oil and gas or other mineral royalties and bonuses), charges for services rendered and any and all payment and consideration of whatever form or nature received by Mortgagor or its agents or employees from any and all sources relating to the use, enjoyment and occupancy of the Property, including, without limitation, all revenues and credit card receipts collected from guest rooms, restaurants, room service, bars, meeting rooms, banquet rooms and recreational facilities, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property or rendering of services by Mortgagor or any operator or manager of the hotel or the commercial space located in the Improvements or acquired from others (including, without limitation, from the rental of any office space, retail space, guest rooms or other space, halls, stores, and offices, and deposits securing reservations of such space), license, lease, sublease and concession fees and rentals, health club membership fees, food and beverage wholesale and retail sales, service charges, vending machine sales and proceeds, movie rentals, telephone service, if any, from business interruption or other loss of income insurance from the Land and the Improvements whether paid or accrued before or after the filing by or against Mortgagor 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. This assignment of other present and future Leases shall be effective without further or supplemental assignment;

(j) Bankruptcy Claims. All of Mortgagor's claims and rights (the "Bankruptcy Claims") to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code;

(k) Lease Guaranties. All of Mortgagor's right, title and interest in and claims under any and all lease guaranties, letters of credit and any other credit support (individually, a "Lease Guaranty," and collectively, the "Lease Guaranties") given by any guarantor in connection with any of the Leases or leasing commissions (individually, a "Lease Guarantor," and collectively, the "Lease Guarantors") to Mortgagor;

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(l) Proceeds. All proceeds from the sale or other disposition of the Leases, the Rents, the Lease Guaranties and the Bankruptcy Claims;

(m) Lessor's Rights. All rights, powers, privileges, options and other benefits of Mortgagor, as lessor under the Leases and beneficiary under any and all Lease Guaranties, including without limitation the immediate and continuing right to make claim for, receive and collect all Rents payable or receivable under the Leases and all sums payable under any and all Lease Guaranties or pursuant thereto (and to apply the same to the payment of the Debt or the Other Obligations), and to do all other things which Mortgagor or any lessor is or may become entitled to do under the Leases or any and all Lease Guaranties;

(n) Entry. The right, at Lender's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents;

(o) Power of Attorney. Upon or at any time after the occurrence and during the continuance of an Event of Default, Mortgagor's irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth in Section 7.1(h) of this Security Instrument and any or all other actions designated by Lender for the proper management and preservation of the Property and authorized by the terms of this Security Instrument;

(p) 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;

(q) Insurance Proceeds. All proceeds in respect of the Property under 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;

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

(s) 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;

(t) Rights. The right, in the name and on behalf of Mortgagor, 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;

(u) Agreements. To the extent permitted by applicable law, all agreements, contracts, certificates, instruments, franchises, permits, licenses (including, without limitation, liquor licenses, if any, to the extent assignable under applicable law), plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or

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pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof and all right, title and interest of Mortgagor therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Mortgagor thereunder;

(v) Trademarks. All tradenames, 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;

(w) Accounts. To the extent permitted by applicable law, all reserves, escrows and deposit accounts maintained by Mortgagor with respect to the Property, including, without limitation, all accounts established pursuant to the Cash Management Agreement, including, without limitation, the Cash Management Account and the Clearing Accounts, together with all deposits or wire transfers made to the Cash Management Account and the Clearing Accounts and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof; and

(x) Other Rights. To the extent permitted by applicable law, any and all other rights of Mortgagor in and to the items set forth in Subsections (a) through (w) above, and all amendments, modifications, replacements, renewals and substitutions thereof.

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Mortgagor expressly grants to Lender, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "Real Property") appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and subject to this Security Instrument.

Section 1.2 Assignment of Rents. To the extent permitted by applicable law, Mortgagor hereby absolutely and unconditionally assigns to Lender all of Mortgagor's right, title and interest in and to all current and future Leases and Rents; it is intended by Mortgagor that this assignment constitute a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Cash Management Agreement, the other Loan Documents and Section 7.1(h) of this Security Instrument, Lender grants to Mortgagor a revocable license to (and Mortgagor shall have the express right to) (a) collect, receive, use and enjoy the Rents and Mortgagor shall hold such Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, in trust for the benefit of Lender for use in the payment of such sums in accordance with the terms of the other Loan Documents and (b) otherwise deal with and enjoy the rights of lessor under the Leases.

Section 1.3 Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial

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Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Property. By executing and delivering this Security Instrument, Mortgagor hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in all Property, including without limitation the Fixtures, the Equipment, the Personal Property and Rents to the full extent that such Property, including without limitation the Fixtures, the Equipment, the Personal Property and Rents may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "Collateral"). If an Event of Default shall occur and be continuing, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, 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, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Mortgagor shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Mortgagor shall pay to Lender on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Mortgagor in accordance with Section 10.6 of the Loan Agreement at least ten (10) Business Days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper. Mortgagor's (debtor's) principal place of business is as set forth on page one hereof and the address of Lender (secured party) is as set forth on page one hereof.

Section 1.4 Fixture Filing. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

Section 1.5 Pledges of Monies Held. Mortgagor hereby pledges to Lender any and all monies now or hereafter held by Lender or on behalf of Lender, including, without limitation, any sums deposited in the Cash Management Account, the Reserve Funds and Net Proceeds, as additional security for the Obligations until expended or applied as provided in this Security Instrument and the other Loan Documents.

Section 1.6 Notice To Lessees. Mortgagor hereby authorizes and directs the lessees named in the Leases or any other future lessees or occupants of the Property to pay over to Lender or to such other party as Lender directs all Rents and all sums due under any Lease Guaranties upon receipt from Lender of written notice to the effect that Lender is then the holder

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of this Security Instrument and that an Event of Default exists, and to continue so to do until otherwise notified by Lender.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender for its successors and assigns, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall pay to Lender the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, shall perform the Other Obligations as set forth in this Security Instrument, and shall abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that Borrower's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof shall survive any such payment or release except as set forth in the last sentence of Section 10.6.

ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 Debt. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt.

Section 2.2 Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the "**Other Obligations**"):

- (a) the performance of all other obligations of Mortgagor contained herein;
- (b) the performance of each obligation of Mortgagor contained in the Loan Agreement and any other Loan Document; and
- (c) the performance of each obligation of Mortgagor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

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

ARTICLE 3 - MORTGAGOR AND BORROWER COVENANTS

Mortgagor covenants and agrees that:

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

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Section 3.2 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of 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.

Section 3.3 Insurance. Mortgagor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Mortgagor and the Property as required pursuant to the Loan Agreement.

Section 3.4 Maintenance of Property. Mortgagor shall cause the Property to be maintained in a good and safe condition and repair. Except as otherwise provided in the Loan Agreement, the Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Fixtures, the Equipment or the Personal Property, tenant finish and refurbishment of the Improvements) without the consent of Lender or as otherwise permitted pursuant to the Loan Agreement. Subject to and in accordance with the terms and conditions of the Loan Agreement, Mortgagor shall promptly repair, replace or rebuild, if applicable, 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 Condemnation.

Section 3.5 Waste. Mortgagor shall not commit or suffer any material waste of the Property or make any change in the use of the Property which reasonably might be expected to materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that reasonably might be expected to invalidate or allow the cancellation of any Policy, or do or permit to be done thereon anything that reasonably might be expected to in any way materially impair the value of the security of this Security Instrument. Mortgagor will not, without the prior written consent of Lender, permit any drilling or exploration 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.

Section 3.6 Payment for Labor and Materials. (a) Except as otherwise provided in the Loan Agreement and subject to Section 3.6(b) below, Mortgagor will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials ("Labor and Material Costs") incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, except for the Permitted Encumbrances.

(b) After prior written notice to Lender, Mortgagor, 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 Labor and Material Costs, provided that (i) no Event of Default has occurred and is continuing under the Loan Agreement, the Note, this Security Instrument or any of the other Loan Documents, (ii) Mortgagor 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 Labor and Material Costs from Mortgagor and from the Property or Mortgagor shall have paid all of the Labor and Material Costs under protest or Mortgagor shall have furnished security

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as provided in clause (vi) below, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Mortgagor 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, canceled or lost, and (vi) Mortgagor shall have furnished the security as may be required in the proceeding, or as may be required under the Loan Agreement to insure the payment of any contested Labor and Material Costs, together with all interest and penalties thereon.

Section 3.7 Performance of Other Agreements. Mortgagor shall observe and perform each and every term, covenant and provision to be observed or performed by Mortgagor pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.8 Title. Borrower has good, marketable and insurable fee simple title to the real property comprising part of the Property and good title to the balance of such Property, free and clear all Liens (as defined in the Loan Agreement) whatsoever except the Permitted Encumbrances (as defined in the Loan Agreement), such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. The Permitted Encumbrances in the aggregate do not materially and adversely affect the value, operation or use of the Property or Borrower's ability to repay the Loan. This Security Instrument, when properly recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a valid, perfected first priority lien on the Property, subject only to Permitted Encumbrances, such other liens as are permitted pursuant to the Loan Documents, and the Liens created by the Loan Documents and (b) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents.

ARTICLE 4- OBLIGATIONS AND RELIANCES

Section 4.1 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 Loan Agreement, 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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Section 4.2 No Lender Obligations. Notwithstanding the provisions of Subsection 1.1(i) and 1.1(k) or Section 1.2 hereof, this Security Instrument shall not be construed to bind Lender to the performance of any of the covenants, conditions or provisions contained in any Lease or any Lease Guaranty or otherwise impose any obligation upon Lender. Lender shall not be liable for any loss sustained by Mortgagor resulting from Lender's failure to let the Property after an Event of Default or from any other act or omission of Lender in managing the Property after an Event of Default unless such loss is caused by the willful misconduct or gross negligence of Lender. Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or any Lease Guaranties or under or by reason of this Security Instrument, and Mortgagor shall, and hereby agrees to, indemnify Lender for, and to hold Lender harmless from any and all liability, loss or damage which may or might be incurred under the Leases, any Lease Guaranty or under or by reason of this Security Instrument and from any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Lender by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases or any Lease Guaranty unless such loss is caused by the willful misconduct or gross negligence of Lender. Should Lender incur any such liability, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured by this Security Instrument and the other Loan Documents and Mortgagor shall reimburse Lender therefor within ten (10) days after demand and upon the failure of Mortgagor so to do Lender may, at its option, declare all sums secured by this Security Instrument and the other Loan Documents immediately due and payable. This Security Instrument shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor for the carrying out of any of the terms and conditions of the Leases or any Lease Guaranties; nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property including, without limitation, the presence of any Hazardous Substances (as defined in the Environmental Indemnity Agreement), except to the extent arising from Lender's gross negligence or willful misconduct, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger, except to the extent arising from Lender's gross negligence or willful misconduct. Notwithstanding the provisions of Subsections 1.1(u) and (v) hereof, Lender is not undertaking the performance of any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

Section 4.3 No Reliance on Lender.

(a) The general partners, members, 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.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, 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

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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.

Section 4.4 Reliance. Mortgagor recognizes and acknowledges that in accepting the Loan Agreement, 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 Section 4.1 of the Loan Agreement 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 making the Loan; 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 Section 4.1 of the Loan Agreement. All representations, warranties, covenants, conditions and agreements contained in the Loan Agreement and the other Loan Documents as same may be modified, renewed, substituted or extended are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 4.5 No Mortgagee in Possession. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Property by Lender.

ARTICLE 5 - FURTHER ASSURANCES

Section 5.1 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 expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, 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 deed of trust or mortgage supplemental hereto, any security instrument with 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.

Section 5.2 Further Acts, etc. Subject to the provisions of the Loan Agreement, Mortgagor will, at the cost of Mortgagor, and without expense to Lender, do, execute, acknowledge and deliver all and every 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

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confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Mortgagor 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 Legal Requirements. Mortgagor, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Mortgagor to the extent Lender may lawfully do so (or in the case of financing statements, without the signature of Mortgagor), one or more financing statements, chattel mortgages or comparable security instruments to evidence more effectively the security interest of Lender in the Property. Mortgagor 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 at law and in equity, including without limitation, such rights and remedies available to Lender pursuant to this Section 5.2.

Section 5.3 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 all or any portion of 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, Mortgagor will pay the tax, with interest and penalties thereon, if any (provided that nothing hereunder shall require Mortgagor to pay any income tax imposed on Lender by reason of its interest in the Property). If Lender is advised in writing by counsel chosen by it that the payment of tax by Mortgagor would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option, by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable.

(b) Mortgagor 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, by written notice of not less than one hundred twenty (120) 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 Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Mortgagor will pay for the same, with interest and penalties thereon, if any.

Section 5.4 Severing of Mortgage. This Security Instrument and the Note may, at any time until the same shall be fully paid and satisfied, at the sole election of Lender, be severed into two or more notes and two or more security instruments in such denominations as Lender shall determine in its sole discretion, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Mortgagor, upon written request of Lender, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Lender and/or its designee or designees substitute notes and security instruments in such principal amounts, aggregating not more than the then

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unpaid principal amount of this Security Instrument, and containing terms, provisions and clauses similar to those contained herein and in the Note, and such other documents and instruments as may be required by Lender; provided, however, that the foregoing shall be subject to the terms of Section 9.1.2 of the Loan Agreement. The provisions of this Section 5.4 are subject to the provisions of the Loan Agreement.

Section 5.5 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 Note or other Loan Document, and, in all other cases, upon Lender's execution and delivery to Mortgagor of a lost document indemnity in form and substance reasonably satisfactory to Mortgagor, Mortgagor 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 6 - DUE ON SALE/ENCUMBRANCE

Section 6.1 Lender Reliance. Borrower and Operating Lessee acknowledge that Lender has examined and relied on the experience of Borrower and Operating Lessee and their respective general partners, members, principals and (if either Borrower or Operating Lessee 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 and Operating Lessee acknowledge that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should an Event of Default occur in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

Section 6.2 No Sale/Encumbrance. Neither Mortgagor nor any Restricted Party shall Transfer the Property or any part thereof or any interest therein or permit or suffer the Property or any part thereof or any interest therein to be Transferred other than as expressly permitted pursuant to the terms of the Loan Agreement.

ARTICLE 7 - RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 Remedies. Except as may otherwise be provided in the Loan Agreement, upon the occurrence and during the continuance of any Event of Default, Mortgagor agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor 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

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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;

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

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;

(f) 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, trustee, 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 Mortgagor, any guarantor, indemnitor with respect to the Loan or of any Person liable for the payment of the Debt;

(h) the license granted to Mortgagor under Section 1.2 hereof shall automatically be revoked, and Lender shall immediately be entitled to possession of all Rents, whether or not Lender enters upon or takes control of the Property, and Lender may, at its option, without waiving such Event of Default, without regard to the adequacy of the security for the Debt, with or without bringing any action or proceeding, or by a receiver appointed by a court, enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Mortgagor and its agents or servants wholly therefrom, and take possession of the Property and all books, records and accounts relating thereto and Mortgagor agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, lease, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat on such terms and for such period of time as Lender may deem proper; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, renovations, repairs, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Mortgagor with respect to the Property, whether in the name of Mortgagor 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 and sums due under all Lease Guaranties, including those past due and unpaid;

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(v) require Mortgagor 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 Mortgagor; (vi) require Mortgagor to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise; and (vii) any law, custom or use to the contrary notwithstanding, apply the receipts from the Property to the payment of the Debt (subject to the express terms of the other Loan Documents), 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, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of 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 Fixtures, the Equipment, 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 Fixtures, the Equipment, the Personal Property, and (ii) request Mortgagor at its expense to assemble the Fixtures, the Equipment, the Personal Property 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 Fixtures, the Equipment, the Personal Property sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document (collectively, "Escrow Deposits") to the payment of the following items in any order in its sole discretion (but subject to the express terms of such Loan Documents):

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) Interest on the unpaid principal balance of the Loan;
- (iv) All other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

provided that any Escrow Deposits remaining on deposit with Lender following application of the Escrow Deposits by Lender as provided above shall be returned to Mortgagor in accordance

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with and subject to the terms and provisions of the Loan Agreement and the other Loan Documents;

- (k) pursue such other remedies as Lender may have under applicable law; or
- (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 (subject to the express terms of the other Loan Documents).

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property.

Section 7.2 Application of Proceeds. Upon the occurrence and during the continuance of an Event of Default, the purchase money, proceeds and avails of any disposition of the Property, and/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.

Section 7.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, make any payment or do any act required of Mortgagor hereunder 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, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a 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, 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.

Section 7.4 Actions and Proceedings. Subject to the terms of the Loan Agreement, Lender have the right to appear in and defend any material action or proceeding brought with respect to the Property and, provided that no Event of Default has occurred and is continuing, Lender shall endeavor to cooperate with Mortgagor and its legal counsel with respect to any defense by Lender of any such action. Subject to the terms of the Loan Agreement, Lender also have the right to bring any action or proceeding, in the name and on behalf of Mortgagor, which Lender, in its discretion, decides should be brought to protect its interest in the Property; provided that Lender shall notify Borrower that it intends to bring such action at least

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ten (10) days prior to Lender instituting any such action (unless (x) an Event of Default has occurred and is continuing or (y) the provision of such notice by Lender reasonably threatens to materially prejudice Lender's rights or materially adversely affect Lender's interest in the Property or Lender's rights and remedies under the Loan Documents, in either of which events such notice shall not be required), and Lender shall endeavor to provide to Borrower and its legal counsel reasonable periodic status as to any such action brought by Lender.

Section 7.5 Recovery of Sums Required to Be Paid. Subject to the terms of the Loan Agreement, 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 Mortgagor existing at the time such earlier action was commenced.

Section 7.6 Intentionally Omitted.

Section 7.7 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. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Mortgagor or any guarantor or indemnitor with respect to the Loan 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 (other than loss or damage caused by the willful misconduct or gross negligence of Lender or its agents or loss or damage first arising after Lender has taken control or possession of Property by foreclosure or deed in lieu thereof) is on Mortgagor, 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 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. Lender shall not 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.

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(d) Nothing contained in this Security Instrument and no act done or omitted by Lender pursuant to the power and rights granted to Lender hereunder shall be deemed to be a waiver by Lender of its rights and remedies under the Loan Agreement, the Note, or the other Loan Documents and this Security Instrument is made and accepted without prejudice to any of the rights and remedies possessed by Lender under the terms thereof. The right of Lender to collect the Debt and to enforce any other security therefor held by it may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Mortgagor hereby absolutely, unconditionally and irrevocably waives any and all rights to assert any setoff, counterclaim or crossclaim of any nature whatsoever with respect to the obligations of Mortgagor under this Security Instrument, the Loan Agreement, the Note, the other Loan Documents or otherwise with respect to the Loan in any action or proceeding brought by Lender to collect same, or any portion thereof, or to enforce and realize upon the lien and security interest created by this Security Instrument, the Loan Agreement, the Note, or any of the other Loan Documents (provided, however, that the foregoing shall not be deemed a waiver of Mortgagor's right to assert any compulsory counterclaim if such counterclaim is compelled under local law or rule of procedure, nor shall the foregoing be deemed a waiver of Mortgagor'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).

Section 7.8 Right to Release Any Portion of the Property and Other Security. Lender may release any portion of the Property from the lien of this Security Instrument 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. Lender may take or release from the liens created by the Loan Documents other security for the payment of the Debt, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the reduction or satisfaction of the Debt without prejudice to any of its rights under this Security Instrument.

Section 7.9 Violation of Laws. If the Property is not in material compliance with Legal Requirements, Lender may impose additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents, but only to the extent required to cause such compliance.

Section 7.10 Recourse and Choice of Remedies. Notwithstanding any other provision of this Security Instrument or the Loan Agreement, including, without limitation, Section 9.4 of the Loan Agreement, Lender and the other Indemnified Parties (as hereinafter defined) are entitled to enforce the obligations of Borrower contained in Sections 9.2 and 9.3 herein without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure or acceptance of a deed in lieu of foreclosure or otherwise, and in the event Lender commences a foreclosure action against the Property, Lender is entitled to pursue a deficiency judgment with respect to such obligations against Borrower with respect to the Loan. The provisions of Sections 9.2 and 9.3 herein are

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exceptions to any non-recourse or exculpation provisions in the Loan Agreement, the Note, this Security Instrument or the other Loan Documents, and Borrower with respect to the Loan is fully and personally liable for the obligations pursuant to Sections 9.2 and 9.3 herein. The liability of Borrower with respect to the Loan pursuant to Sections 9.2 and 9.3 herein is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Lender from foreclosing or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Borrower pursuant to Sections 9.2 and 9.3 herein whether or not action is brought against any other Person or whether or not any other Person is joined in the action or actions. In addition, Lender shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in Article 9 herein.

Section 7.11 Non-Waiver. The exercise by Lender of any option granted it in Section 7.1 of this Security Instrument and the collection of the Rents and sums due under the Lease Guaranties and the application thereof as herein provided shall not be considered a waiver of any default by Borrower or, as applicable, Operating Lessee under the Note, the Loan Agreement, the Operating Lease, the Leases, this Security Instrument or the other Loan Documents. 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. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (a) the failure of Lender to comply with any request of Mortgagor or any other party to take any action to enforce any of the provisions hereof or of the Loan Agreement, the Note or the other Loan Documents, (b) the release regardless of consideration, of the whole or any part of the Property from the liens created by the Loan Documents, or (c) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of this Security Instrument, the Loan Agreement, the Note, or the other Loan Documents. 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 any action to recover the Debt or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to enforce its rights under 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.

Section 7.12 Right of Entry. Upon reasonable notice to Mortgagor, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times (subject to the rights of Tenants under Leases).

ARTICLE 8 - ENVIRONMENTAL HAZARDS

Section 8.1 Environmental Representations, Warranties and Covenants; Lender's Rights; Environmental Indemnification. Borrower has concurrently herewith delivered to Lender that certain Environmental Indemnity Agreement in connection with the Loan, the terms and provisions of which are hereby fully incorporated herein by reference.

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ARTICLE 9 – INDEMNIFICATION

Section 9.1 General Indemnification. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable and unforeseeable consequential damages, of whatever kind or nature (including but not limited to reasonable attorneys' fees and other costs of defense) (collectively, the "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 one or more of the following: (a) ownership of this Security Instrument, the Property or any interest therein or receipt of any Rents; (b) any amendment to, or restructuring of, the Debt, the Note, the Loan Agreement, this Security Instrument, or any other Loan Documents, each to the extent required by Borrower; (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of this Security Instrument, the Loan Agreement, the Note or any of the other Loan Documents, each to the extent required by Borrower, whether or not suit is filed in connection with same, or in connection with Borrower, any guarantor or indemnitor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) 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; (e) 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; (f) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (g) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate Broker and Barter Exchange Transactions, which may be required in connection with this Security Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Security Instrument is made; (h) any failure of the Property to be in compliance with any Legal Requirements; (i) the enforcement by any Indemnified Party of the provisions of this Article 9; (j) 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 (k) the payment of any commission, charge or brokerage fee to anyone claiming through Borrower which may be payable in connection with the funding of the Loan, except to the extent such Losses were caused solely as a result of the gross negligence or willful misconduct of any Indemnified Party. Any amounts payable to Lender by reason of the application of this Section 9.1 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. For purposes of this Article 9, the term "Indemnified Parties" means Lender and any Person who is or will have been involved in the origination of the Loan, any Person who is or will have been involved in the servicing of the Loan secured hereby, any Person in whose name the encumbrance created by this Security Instrument is or will have been recorded, persons and entities who may hold or acquire or will have held a full or partial interest in the Loan secured hereby (including, but not limited to, investors or prospective investors in the Securities, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the

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Loan secured hereby for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including, but not limited to, any other Person who holds or acquires or will have held a participation or other full or partial interest in the Loan, whether during the term of the Loan or as a part of or following a foreclosure of the Loan and any successors by merger, consolidation or acquisition of all or a substantial portion of Lender's assets and business).

Section 9.2 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, but excluding any income, franchise or other similar taxes.

Section 9.3 ERISA Indemnification. 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 (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's sole discretion) that Lender may incur, directly or indirectly, as a result of a default under Sections 4.1.9 or 5.2.9 of the Loan Agreement.

Section 9.4 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 reasonably approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Borrower and any Indemnified Party and Borrower and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or additional to those available to Borrower, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without Borrower's consent, which consent shall not be unreasonably withheld. Upon demand, Borrower shall pay or, in the sole and absolute 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.

ARTICLE 10 - WAIVERS

Section 10.1 Waiver of Counterclaim. To the extent permitted by applicable law, Mortgagor 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 Loan Agreement, the Note, any of the other Loan Documents, or the Obligations (provided, however, that the foregoing shall not be

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deemed a waiver of Mortgagor's right to assert any compulsory counterclaim if such counterclaim is compelled under local law or rule of procedure, nor shall the foregoing be deemed a waiver of Mortgagor'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).

Section 10.2 Marshalling and Other Matters. To the extent permitted by applicable law, Mortgagor hereby waives 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, Mortgagor 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 Mortgagor, 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 law.

Section 10.3 Waiver of Notice. To the extent permitted by applicable law, Mortgagor shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument or any other Loan Documents specifically and expressly provides for the giving of notice by Lender to Mortgagor and except with respect to matters for which Lender are required by applicable law to give notice, and Mortgagor hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument or any of the other Loan Documents does not specifically and expressly provide for the giving of notice by Lender to Mortgagor.

Section 10.4 Waiver of Statute of Limitations. To the extent permitted by applicable law, Mortgagor 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.

Section 10.5 Bankruptcy Matters. (a) In any case commenced by or against either Borrower or Operating Lessee (in either case, the "Reorganized Party") under Chapter 11 of the Bankruptcy Code or any similar provision thereof or any similar federal or state statute (a "Reorganization Proceeding"), Lender shall have the exclusive right to exercise any voting rights in respect of this Security Instrument and the Debt and neither Borrower nor Operating Lessee shall have the right to, and may not, vote affirmatively in favor of any plan of reorganization unless Lender grants its permission thereto or Lender votes to accept such plan.

(b) In any Reorganization Proceeding with respect to the Reorganized Party (i) either of Borrower or Operating Lessee, as applicable, that is not the Reorganized Party (the "Other Party") shall file a proof of claim in respect of its claims against the Reorganized Party and shall send to each Lender a copy thereof together with evidence of the filing with the appropriate court or other authority, (ii) if the Other Party should fail to file such proof of claim by the tenth (10th) Business Day before the last day for filing of proofs of claim, or if Lender reasonably believes that the proof of claim so filed is less than the proper amount thereof, then Lender may file such proof of claim, or corrected proof of claim, on behalf of the Other Party, and (iii) if objection is made to the allowance of any claim of Lender, Lender shall have the right

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to intervene and fully participate in such proceedings and if such rights are denied and the Other Party fails to defend such claim, then Lender may defend such claim in the name of the Other Party and the Other Party grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising any and all rights and remedies available to Lender at law and in equity.

(c) The Other Party unconditionally assigns, transfers and sets over to Lender all of such Other Party's claims and rights to the payment of damages arising from any rejection by the Reorganized Party of the Operating Lease under the Bankruptcy Code. Lender and the Other Party shall proceed jointly or in the name of the Other Party in respect of any claim, suit, action or proceeding relating to the rejection of the Operating Lease, including, without limitation, the right to file and prosecute any proofs of claim, complaints, motions, applications, notices and other documents under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Debt shall have been satisfied and discharged in full. Any amounts received by Lender or the Other Party as damages arising out of the rejection of the Operating Lease as aforesaid shall be applied to all costs and expenses of Lender (including, without limitation, reasonable attorney's fees and costs) incurred in connection with the exercise of any of its rights or remedies in accordance with the Loan Documents.

(d) Upon or at any time after the occurrence and during the continuance of an Event of Default, Lender shall have the right to proceed in its own name or in the name of Mortgagor in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Mortgagor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

(e) If there shall be filed by or against Mortgagor a petition under the Bankruptcy Code, and Mortgagor, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Mortgagor shall give Lender not less than ten (10) days' prior notice of the date on which Mortgagor shall apply to the bankruptcy court for authority to reject the Lease. Lender shall have the right, but not the obligation, to serve upon Mortgagor within such ten-day period a notice stating that (i) Lender demands that Mortgagor assume and assign the Lease to Lender pursuant to Section 365 of the Bankruptcy Code and (ii) Lender covenants to cure or provide adequate assurance of future performance under the Lease. If Lender serves upon Mortgagor the notice described in the preceding sentence, Mortgagor shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Lender of the covenant provided for in clause (ii) of the preceding sentence.

Section 10.6 Survival. The indemnifications made pursuant to Sections 9.3 and 9.4 herein and the representations and warranties, covenants, and other obligations arising under Article 8, shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by any of the following: any satisfaction or other termination of this Security Instrument, any assignment or other transfer of all or any portion of this Security Instrument or Lender's interest in the Property (but, in such case, shall benefit both Indemnified Parties and

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any assignee or transferee), any exercise of Lender's rights and remedies pursuant hereto including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Mortgagor or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, and any act or omission that might otherwise be construed as a release or discharge of Mortgagor from the obligations pursuant hereto. Notwithstanding the provisions of this Security Instrument to the contrary, the liabilities and obligations of Mortgagor shall not apply to the extent such liabilities and obligations arise on or after the date any Indemnified Party or its nominee acquired title to or control of the Property, whether by foreclosure, exercise of power of sale or otherwise.

ARTICLE 11- EXCULPATION

The provisions of Section 9.4 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

ARTICLE 12--NOTICES

Section 12.1 Notices. All notices or other written communications hereunder shall be delivered in accordance with Section 10.6 of the Loan Agreement.

ARTICLE 13 - APPLICABLE LAW

Section 13.1 Governing Law. (a) THIS SECURITY INSTRUMENT WAS NEGOTIATED IN THE STATE OF NEW YORK, THE LOAN WAS MADE BY LENDER AND ACCEPTED BY MORTGAGOR IN THE STATE OF NEW YORK, AND THE PROCEEDS OF THE NOTE DELIVERED PURSUANT HERETO WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS SECURITY INSTRUMENT, THE NOTE, THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE OBLIGATIONS ARISING HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE APPLICABLE INDIVIDUAL PROPERTY IS LOCATED, IT

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BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS SECURITY INSTRUMENT, THE NOTE, THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS, AND THIS SECURITY INSTRUMENT, THE NOTE, THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(f) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR MORTGAGOR ARISING OUT OF OR RELATING TO THIS SECURITY INSTRUMENT MAY AT LENDER'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND MORTGAGOR WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND MORTGAGOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. MORTGAGOR DOES HEREBY DESIGNATE AND APPOINT:

Herrick, Feinstein LLP
 2 Park Avenue
 New York, New York 10016
 Attention: Sheldon Chanales, Esq.

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK, AND AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO MORTGAGOR IN THE MANNER PROVIDED HEREIN SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON MORTGAGOR IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF NEW YORK. MORTGAGOR (I) SHALL GIVE PROMPT NOTICE TO LENDER OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER, (II) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT WITH AN OFFICE IN NEW YORK, NEW YORK (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS), AND (III) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT CEASES TO

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HAVE AN OFFICE IN NEW YORK, NEW YORK OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR.

MORTGAGOR AND LENDER (BY ITS ACCEPTANCE HEREOF) EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, BASED ON, ARISING OUT OF, UNDER, OR IN CONNECTION WITH, OR RELATED, DIRECTLY OR INDIRECTLY, TO THE LOAN AND/OR THIS SECURITY INSTRUMENT, THE NOTE OR THE OTHER LOAN DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ANY ACTS OR OMISSIONS OF ANY PARTY HERETO OR BENEFICIARY HEREOF, OR THEIR RESPECTIVE OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH. MORTGAGOR AND LENDER EACH HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF MORTGAGOR OR LENDER OR THEIR COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT MORTGAGOR OR LENDER WOULD NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISIONS. MORTGAGOR ACKNOWLEDGES THAT THE PROVISIONS OF THIS PARAGRAPH ARE A MATERIAL INDUCEMENT TO LENDER TO MAKE THE LOAN.

Section 13.2 Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Borrower and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Lender shall never exceed the maximum lawful rate or amount, (b) in calculating whether any interest exceeds the lawful maximum, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Borrower to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Borrower to Lender, or if there is no such indebtedness, shall immediately be returned to Borrower.

Section 13.3 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 law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

ARTICLE 14 - DEFINITIONS

All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless

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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 or any interest therein", 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 "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all reasonable 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. 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 15 - MISCELLANEOUS PROVISIONS

Section 15.1 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, Operating Lessee 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.

Section 15.2 Successors and Assigns. This Security Instrument shall be binding upon and inure to the benefit of Mortgagor and Lender and their respective successors and assigns forever.

Section 15.3 Inapplicable Provisions. If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

Section 15.4 Headings, etc. The headings and captions of various 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.

Section 15.5 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.

Section 15.6 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 Mortgagor's obligations hereunder, under the Loan

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Agreement, the Note and the other Loan Documents and the performance and discharge of the Other Obligations.

Section 15.7 Entire Agreement. The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement between Mortgagor and Lender with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Mortgagor and Lender with respect thereto. Mortgagor hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Security Instrument and the other Loan Documents.

Section 15.8 Limitation on Lender's Responsibility. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Lender a "beneficiary in possession."

Section 15.9 Conflict of Terms. In case of any conflict between the terms of this Security Instrument and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

Section 15.10 Release or Assignment of Security Instrument. Notwithstanding anything to the contrary herein: If all of the Debt is paid or as may otherwise be permitted by the terms of the Loan Agreement, then and in that event only, all rights under this Security Instrument shall terminate and the Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, which shall be promptly released of record by Lender in due form. To the extent requested by Borrower, Lender agrees to assign the Note and this Security Instrument to such party as may be designated by Borrower upon the repayment (or purchase by another lender designated by Borrower) in full of the Debt or upon release of the Property as may otherwise be permitted under the Loan Agreement and Lender will cooperate in the preparation of all of the necessary documentation to effectuate an assignment of this Security Instrument and the indebtedness secured thereby, including the delivery of originals of the Loan Documents. All reasonable costs incurred by Lender under this paragraph promptly shall be reimbursed by Borrower.

ARTICLE 16 - STATE-SPECIFIC PROVISIONS

Section 16.1 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 16 and the terms and conditions of this Security Instrument, the terms and conditions of this Article 16 shall control and be binding.

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Section 16.2 Illinois Mortgage Foreclosure Law. In the event that any provision in this Security Instrument shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq. herein called the "Act"), the provisions of the Act shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Act.

If any provision of this Security Instrument shall grant to Lender any rights or remedies upon the occurrence and during the continuation of an Event of Default which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of said provision, Lender shall be vested with the rights granted in the Act to the full extent permitted by law.

Without limiting the generality of the foregoing, all expenses incurred by Lender upon the occurrence and during the continuation of an Event of Default to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Security Instrument, shall be added to the Debt.

Mortgagor acknowledges that the transaction of which this Security Instrument is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act), and upon the occurrence and during the continuation of an Event of Default to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption to the extent allowed under Section 15-1501(b) of the Act, and to the full extent permitted by law, the benefits of all present and future valuation, appraisal, homestead, exemption, stay, redemption and moratorium laws under any state or federal law.

Section 16.3 Mortgagor Waivers. Mortgagor agrees, to the fullest extent that Mortgagor may lawfully so agree, that upon the occurrence and during the continuation of an Event of Default, Mortgagor will not at any time insist upon or plead or in any manner whatsoever claim the benefit of any valuation, stay, extension, or exemption law now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Security Instrument or the absolute sale of the Property or the possession thereof by any purchaser at any sale made pursuant to any provision hereof, or pursuant to the decree of any court of competent jurisdiction; but Mortgagor, for Mortgagor and all who may claim through or under Mortgagor, so far as Mortgagor or those claiming through or under Mortgagor now or hereafter lawfully may, hereby waives upon the occurrence and during the continuation of an Event of Default the benefit of all such laws. Mortgagor, to the extent Mortgagor may lawfully do so, hereby waives upon the occurrence and during the continuation of an Event of Default any and all right to have the Property marshaled upon any foreclosure of this Security Instrument, or sold in inverse order of alienation, and agrees that Lender or any court having jurisdiction to foreclose this Security Instrument may sell the Property as an entirety. If any law now or hereafter in force referred to in this paragraph of which Mortgagor or Mortgagor's successor or successors might take advantage despite the provisions hereof, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the operation or application of the provisions of this paragraph.

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In the event of the commencement of judicial proceedings to foreclose this Security Instrument, Mortgagor, on behalf of Mortgagor, its successors and assigns, and each and every person or entity they may legally bind acquiring any interest in or title to the Property subsequent to the date of this Security Instrument: (a) expressly waives any and all rights of appraisal, valuation, stay, extension and (to the extent permitted by law) reinstatement and redemption from sale under any order or decree of foreclosure of this Security Instrument; and (b) to the extent permitted by applicable law, agrees that when sale is had under any decree of foreclosure of this Security Instrument, upon confirmation of such sale, the officer making such sale, or his successor in office, shall be and is authorized immediately to execute and deliver to any purchaser at such sale a deed conveying the Property, showing the amount paid therefor, or if purchased by the person in whose favor the order or decree is entered, the amount of his bid therefor.

Section 16.4 Maximum Amount Secured. The maximum indebtedness secured by this Security Instrument shall not exceed \$4,100,000,000.00.

Section 16.5 Amended Provision. This Security Instrument is hereby amended by deleting the word "of" following the words "then unpaid principal amount" in the second sentence of Section 5.4 and inserting in lieu thereof the words "secured by".

Section 16.6 Business Loan. Mortgagor covenants and agrees that (i) all of the proceeds of the Loans secured by this Security Instrument will be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, (ii) the entire principal obligation secured hereby constitutes: (A) a "business loan," as that term is used in, and for all purposes of, the Illinois Interest Act, 815 ILCS 205/0.01, et seq., including Section 4(1)(c) thereof; and (B) a "loan secured by a mortgage on real estate" within the purview and operation of Section 205/4(1)(l) thereof, and (iii) the indebtedness secured hereby is an exempted transaction under the Truth-In-Lending Act, 15 U.S.C. Section 1601m, et seq. and has been entered into solely for business purposes of Mortgagor and for Mortgagor's investment or profit, as contemplated by said section.

Section 16.7 Variable Rate, Additional Interest. This Security Instrument secures the full and timely payment of the Obligations, including, among other things, the obligation to pay interest on the unpaid principal balance at a variable rate of interest to the extent provided in the Loan Agreement.

Section 16.8 Protective Advances. All advances, disbursements and expenditures made by Lender in accordance with the terms of this Security Instrument and the other Loan Documents, either before and during a foreclosure of this Security Instrument, and before and after judgment of foreclosure therein, and at any time prior to sale of the Property, and, where applicable, after sale of the Property, and during the pendency of any related proceedings, in addition to those otherwise authorized by the Act, shall have the benefit of all applicable provisions of the Act.

Section 16.9 Maturity Date. The Loans shall be due and payable in full on or before May 12, 2012.

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Section 16.10 Qualification. The phrase “to the extent permitted by law” shall be added to the beginning of the first sentence of both Section 9.1 and Section 9.4.

Section 16.11 Qualification. The phrase “to the extent permitted by applicable law” shall be added to the beginning of Sections 1.1(j), 1.1(n), 1.1(o), 9.1, 9.2, 9.3 and Section 9.4 and between the words “and” and “Mortgagor” in the third sentence of Section 4.2.

Section 16.12 Collateral Protection Act. Unless Mortgagor provides Lender with evidence of the insurance required by this Security Instrument or any other Loan Document, Lender may purchase insurance at Mortgagor’s expense to protect Lender’s interest in the Property or any other collateral for the indebtedness secured hereby. This insurance may, but need not, protect Mortgagor’s interests. The coverage Lender purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Property or any other collateral for the indebtedness secured hereby. Mortgagor may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Mortgagor has obtained insurance as required under this Security Instrument or any other Loan Document. If Lender purchases insurance for the Property or any other collateral for the indebtedness secured hereby, Mortgagor shall be responsible for the costs of that insurance, including the insurance premiums, interest and any other charges that Lender may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the indebtedness secured hereby. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

Section 16.13 Fixture Filing. This Security Instrument also constitutes a “fixture filing” pursuant to Section 9-502 of the Illinois Uniform Commercial Code, 810 ILCS 5/1-101, et. seq. and shall be filed in the real estate records of the applicable county’s real estate records office.

(a) Name of Debtors: Borrower

Debtors’ mailing address: As set forth in the introductory paragraph hereof

Debtors’ Organizational ID: 3852418 and 3779740

Address of the property: Set forth on Exhibit A

Name of Secured Party: Lender

Address of Secured Party: As set forth in the introductory paragraph hereof.

(b) This financing statement covers the Collateral, and any proceeds or products of such Collateral.

(c) Some of the above goods are or are to become fixtures on the Real Estate described herein. Mortgagor is the record owner of the Real Estate described herein upon which the foregoing fixtures and other items and types of property are located.

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ARTICLE 17 - LEASEHOLD PROVISIONS

Section 17.1 Leasehold Estate. Mortgagor hereby represents and covenants:

- (a) that the Operating Lease is in full force and effect and unmodified;
- (b) that all rents (including additional rents and other charges) reserved in the said Operating Lease have been paid to the extent they were payable prior to the date hereof;
- (c) the quiet and peaceful possession of Lender, and Mortgagor further agrees to defend the leasehold estate created under the Operating Lease for the entire remainder of the term set forth therein, against all and every person or persons lawfully claiming, or who may claim the same or any part thereof, subject to the payment of the rents in the Operating Lease reserved and subject to the performance and observance of all of the terms, covenants, conditions and warranties thereof;
- (d) that there is no uncured default under the Operating Lease or in the performance of any of the terms, covenants, conditions or warranties thereof on the part of the lessee to be observed and performed. Further, no state of facts exist under the Operating Lease which, with the lapse of time or giving of notice or both would constitute a default thereunder.

Section 17.2 Payment of Lease Expenses. Operating Lessee shall pay or cause to be paid all rents, additional rents, taxes, assessments, water rates, sewer rents, and other charges and impositions payable by the lessee under the Operating Lease for which provision has not been made hereinbefore, when and as often as the same shall become due and payable.

Section 17.3 Mortgagor's Covenants with Respect to Operating Lease.

(a) Operating Lessee shall at all times promptly and faithfully keep and perform, or cause to be kept and performed, all the covenants and conditions contained in the Operating Lease by the lessee under the Operating Lease be kept and performed and in all respects conform to and comply with the terms and conditions of the Operating Lease, and the Mortgagor covenants that it shall not do or permit anything which will impair or tend to impair the security of this Security Instrument or will be grounds for declaring a forfeiture of the Operating Lease, and upon any such failure aforesaid, Mortgagor shall be subject to all of the rights and remedies granted Lender in this Security Instrument.

(b) Mortgagor shall not modify, extend or in any way alter the terms of the Operating Lease or cancel or surrender said Operating Lease, or waive, execute, condone or in any way release or discharge the lessor thereunder of or from the obligations, covenants, conditions and agreements by said lessor to be done and performed; and Mortgagor does expressly release, relinquish and surrender unto Lender all of its rights, power and authority to cancel, surrender, amend, modify or alter in any way the terms and provisions of the Operating Lease and any attempt on the part of Mortgagor to exercise any such right without the written approval and consent of Lender thereto being first had and obtained shall constitute a Default under the terms hereof and the entire Indebtedness shall, at the option of Lender, become due and payable forthwith and without notice.

UNOFFICIAL COPY

(c) The entire Indebtedness shall immediately become due and payable at the option of Lender, if Mortgagor fails to give Lender immediate notice of any default under the Operating Lease or of the receipt by it of any notice of default from the lessor thereunder, or if the Mortgagor fails to furnish to Lender immediately any and all information which it may request concerning the performance by the Mortgagor of the covenants of the Operating Lease, or if the Mortgagor fails to permit Lender or its representative at all reasonable times to make investigation or examination concerning the performance by the Mortgagor of the covenants of the Operating Lease, or if the Mortgagor fails to permit Lender or its representative at all reasonable time to make investigation or examination concerning such performance. The Mortgagor shall deliver to Lender an original executed copy of the Operating Lease, an estoppel certificate from the lessor of the Operating Lease within ten (10) days of request by Lender and in such form and content as shall be satisfactory to Lender, as well as any and all documentary evidence received by it showing compliance by the Mortgagor with the provisions of the Operating Lease. Mortgagor shall also promptly deliver to Lender an exact copy of any notice, communication, plan, specification or other instrument or document received or given by it in any way relating to or affecting the Operating Lease.

(d) In the event of any failure by Mortgagor to perform any covenant on the part of lessee to be observed and performed under the Operating Lease, the performance by Lender on behalf of Mortgagor of the Operating Lease covenant shall not remove or waive, as between Mortgagor and Lender, the corresponding Default under the terms hereof and any amount so advanced by Lender or any costs incurred in connection therewith, with interest thereon at the Default Rate shall constitute additional Indebtedness and be immediately due and payable.

(e) To the extent permitted by law, the price payable by the Mortgagor, or by any other party so entitled, in the exercise of the right of redemption, if any, shall include all rents paid and other sums advanced by Lender, on behalf of Mortgagor, as lessee under the said Operating Lease.

Section 17.4 Merger. So long as any of the Indebtedness shall remain unpaid, unless Lender shall otherwise in writing consent, the fee title and the leasehold estate in the Leasehold Estate shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates either in the lessor or in the lessee, or in a third party, by purchase or otherwise; and the Mortgagor covenants and agrees that, if it shall acquire the fee title, or any other estate, title or interest in the Premises covered by said Operating Lease, this Security Instrument shall be considered as mortgaged, assigned or conveyed to Lender and the lien hereof spread to cover such estate with the same force and effect as though specifically herein mortgaged, assigned or conveyed and spread. The provisions of this paragraph shall not apply if the holder of the Note acquires the fee of the Premises unless Lender shall so elect.

[NO FURTHER TEXT ON THIS PAGE]

UNOFFICIAL COPY

IN WITNESS WHEREOF, this Security Instrument has been executed by Borrower and Operating Lessee as of the day and year first above written.

BORROWER:

ESA P PORTFOLIO L.L.C., a Delaware limited liability company

By: _____

Name: David Lichtenstein
Title: President

ESH/ESA PROPERTIES L.L.C.

By: **ESA PROPERTIES L.L.C.**, a Delaware limited liability company

By: _____

Name: David Lichtenstein
Title: President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

OPERATING LESSEE:

**ESA P PORTFOLIO OPERATING LESSEE
INC., a Delaware corporation**

By: _____
Name: David Lichtenstein
Title: President

**ESA OPERATING LESSEE INC., a
Delaware corporation**

By: _____
Name: David Lichtenstein
Title: President

Property of Cook County Clerk's Office



UNOFFICIAL COPY

STATE OF NEW JERSEY)
) ss.:
COUNTY OF OCEAN)

I, **Carol A. Gutterman**, a Notary Public for the said County and State of New Jersey, do hereby certify that David Lichtenstein, President of ESA PROPERTIES L.L.C., a Delaware limited liability company, which is operating in the State of Illinois under the name of ESH/ESA PROPERTIES L.L.C., personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

WITNESS my hand and official stamp or seal, this 9 day of August, 2007.

Carol A. Gutterman

Notary Public

[SEAL]

My commission expires:

CAROL A. GUTTERMAN
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 11/17/2011

UNOFFICIAL COPY

STATE OF NEW JERSEY)
) ss.:
COUNTY OF OCEAN)

I, **Carol A. Gutterman**, a Notary Public for the said County and State of New Jersey, do hereby certify that David Lichtenstein, President of ESA P PORTFOLIO OPERATING LESSEE INC., a Delaware corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the corporation.

WITNESS my hand and official stamp or seal, this 9 day of August, 2007.

Carol A. Gutterman
Notary Public

[SEAL]

CAROL A. GUTTERMAN
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 11/17/2011

My commission expires:

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF NEW JERSEY)
) ss.:
COUNTY OF OCEAN)

I, **Carol A. Gutterman**, a Notary Public for the said County and State of New York, do hereby certify that David Lichtenstein, President of ESA OPERATING LESSEE INC., a Delaware corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the corporation.

WITNESS my hand and official stamp or seal, this 9 day of August, 2007.

Carol A. Gutterman

Notary Public

[SEAL]

My commission expires:

CAROL A. GUTTERMAN
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 11/17/2011

Property of Cook County Clerk's Office

UNOFFICIAL COPY**EXHIBIT A**

ESA
Site # Site Address

753	1177 S. Northpoint Boulevard Waukegan, IL County: Lake
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PARCEL 1:

LOTS 35 AND 36 INCLUSIVE, IN NORTHPOINT BUSINESS CENTER, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 25 AND PART OF THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1989 AS DOCUMENT 2823637, IN LAKE COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE PERMANENT ACCESS AND SIGNAGE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DOCUMENT RECORDED APRIL 28, 1997 AS NUMBER 3960958, OVER, UNDER AND ACROSS THE FOLLOWING DESCRIBED LAND:
PART OF LOTS 37 AND 38 IN NORTHPOINT BUSINESS CENTER, BEING A PART OF THE SOUTHEAST 1/4 OF SECTION 25, AND PART OF THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 11, EAST IN THE CITY OF WAUKEGAN, LAKE COUNTY, ILLINOIS, THIRD PRINCIPAL MERIDIAN BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 37 IN SAID NORTHPOINT BUSINESS CENTER, THENCE SOUTH 89 DEGREES 13 MINUTES 19 SECONDS EAST 300.25 FEET TO A POINT; THENCE SOUTH 00 DEGREES 03 MINUTES 32 SECONDS WEST 14.95 FEET TO A POINT; THENCE NORTH 89 DEGREES 56 MINUTES 28 SECONDS WEST 236.44 FEET TO A POINT; THENCE SOUTHWESTERLY 21.22 FEET ON THE ARC OF A CURVE WHOSE CENTER LIES TO THE SOUTHEAST, WHOSE RADIUS IS 13.50 FEET AND WHOSE CHORD BEARS SOUTH 45 DEGREES 01 MINUTES 46 SECONDS WEST 19.10 FEET TO A POINT; THENCE SOUTH 45.32 FEET TO A POINT; THENCE SOUTHWESTERLY 32.44 FEET ON THE ARC OF A CURVE WHOSE CENTER LIES TO THE NORTHWEST, WHOSE RADIUS IS 45.50 FEET AND WHOSE CHORD BEARS SOUTH 20 DEGREES 25 MINUTES 27 SECONDS WEST 31.76 FEET TO A POINT; THENCE SOUTH 40 DEGREES 50 MINUTES 54 SECONDS WEST 11.74 FEET TO A POINT; THENCE SOUTHWESTERLY 2.44 FEET ON THE ARC OF A CURVE WHOSE CENTER LIES TO THE NORTHEAST, WHOSE RADIUS IS 13.50 FEET AND WHOSE CHORD BEARS SOUTH 35 DEGREES 39 MINUTES 50 SECONDS WEST 2.44 FEET TO A POINT ON THE NORTH LINE OF NORTHPOINT BOULEVARD; THENCE NORTHWESTERLY 27.70 FEET ALONG SAID NORTH LINE AND THE ARC OF A CURVE WHOSE CENTER LIES TO THE SOUTHWEST, WHOSE RADIUS IS 300.00 FEET AND WHOSE CHORD BEARS NORTH 46 DEGREES 52 MINUTES 59 SECONDS WEST 27.69 FEET TO A POINT; THENCE NORTHEASTERLY 3.48 FEET ON THE ARC OF A CURVE WHOSE CENTER LIES TO THE NORTHWEST, WHOSE RADIUS IS 13.50 FEET AND WHOSE CHORD BEARS NORTH 48 DEGREES 13 MINUTES 35 SECONDS EAST, 3.47 FEET TO A POINT; THENCE NORTH 40 DEGREES 50 MINUTES 54 SECONDS EAST 9.63 FEET TO A POINT; THENCE NORTHEASTERLY 13.19 FEET ON THE ARC OF A CURVE WHOSE CENTER LIES TO THE NORTHWEST, WHOSE RADIUS IS 18.50 FEET AND WHOSE CHORD BEARS NORTH 20 DEGREES 25 MINUTES 27 SECONDS EAST 12.91 FEET TO A POINT; THENCE NORTH 27.26 FEET TO A POINT; THENCE SOUTH 89 DEGREES 13 MINUTES 19 SECONDS WEST 23.31 FEET TO A POINT; THENCE NORTH 00 DEGREES 03 MINUTES 20 SECONDS EAST 50.03 FEET TO THE POINT OF BEGINNING.

UNOFFICIAL COPY**EXHIBIT A**

ESA

Site # Site Address

CONTINUED

	753	1177 S. Northpoint Boulevard Waukegan, IL County: Lake
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PARCEL 3:

NON-EXCLUSIVE PERMANENT EASEMENT FOR STORM WATER DRAINAGE FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DOCUMENT RECORDED APRIL 28, 1997 AS NUMBER 3960958, OVER, UNDER AND ACROSS THE FOLLOWING DESCRIBED LAND:
PART OF LOT 27 IN THE NORTHPOINT BUSINESS CENTER, BEING A PART OF THE SOUTHEAST 1/4 OF SECTION 25, AND PART OF THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 11 EAST, CITY OF WAUKEGAN, LAKE COUNTY, ILLINOIS, THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF LOT 27 IN SAID NORTHPOINT BUSINESS CENTER; THENCE NORTH 89 DEGREES 56 MINUTES 28 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 114.28 FEET TO THE POINT OF BEGINNING OF THE LANDS TO BE DESCRIBED; THENCE CONTINUING NORTH 89 DEGREES 56 MINUTES 28 SECONDS WEST 10.00 FEET TO A POINT; THENCE NORTH 00 DEGREES 03 MINUTES 32 SECONDS EAST 21.58 FEET TO A POINT; THENCE SOUTH 89 DEGREES 56 MINUTES 28 SECONDS EAST 10.00 FEET TO A POINT; THENCE SOUTH 00 DEGREES 03 MINUTES 32 SECONDS WEST 21.58 FEET TO A POINT OF BEGINNING.

Waukegan County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

ESA
Site # Site Address

	525	1181 N. Rohlwing Rd. Itasca, IL County: Du Page
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TRACTS 1 AND 2 IN ITASCA BANQUET ASSESSMENT PLAT OF PART OF
FRACTIONAL SECTION 6, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD
PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 13,
1994 AS DOCUMENT R04-086696, IN DU PAGE COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

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ESA
Site # Site Address

	4030	1200 American Lane Schaumburg, IL County: Lake Cook
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LOT 3 IN AMERICAN LANE PLAT OF CONSOLIDATION AND RESUBDIVISION, BEING A CONSOLIDATION AND RESUBDIVISION OF LOTS 8, 9 AND PART OF LOT 10 IN ANDERSON'S WOODFIELD PARK BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 13, SAID CONSOLIDATION ALSO INCLUDING PARCEL B AS SHOWN ON ANDERSON'S PLAT OF CONSOLIDATION, RESUBDIVISION AND DEDICATION IN THE NORTHEAST 1/4 OF SECTION 14 AND IN THE NORTHWEST 1/4 OF SECTION 13, ALL IN TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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EXHIBIT A

ESA
Site # Site Address

	677	1201 East Touhy Ave. Des Plaines, IL County: Cook
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ESA
Site # Site Address

	4063	1207 E. Touhy Avenue Des Plaines, IL County: Cook
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LOTS 1 AND 2 IN EXTENDED STAY AMERICA RESUBDIVISION, BEING A RESUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 32, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

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EXHIBIT A

ESA
ite # Site Address

	4023	1225 Lakeview Drive Romeoville, IL County: Will
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LOT 1 IN WINDHAM LAKES RESUBDIVISION NO. 19. BEING A PART OF THE SOUTHWEST 1/4 OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 29, 1998 AS DOCUMENT R98-045978, IN WILL COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

UNOFFICIAL COPY**EXHIBIT A**

ESA
Site # Site Address

532	15 W. 122nd S. Frontage Rd. Burr Ridge, IL County: DuPage
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PARCEL 1:

LOT 1 OF DOM MASCH'S RESUBDIVISION OF LOTS 18 AND 19 (EXCEPT THAT PART TAKEN FOR HIGHWAY) IN ROBERT BARTLETT'S HINSDALE COUNTRY SIDE, A RESUBDIVISION IN THE SOUTHEAST QUARTER OF NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID RESUBDIVISION RECORDED JUNE 27, 1962 AS DOCUMENT R62-20766, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2:

LOTS 18, 19, 21, 22, 23, AND 24 (EXCEPT THAT PART TAKEN FOR HIGHWAY) IN ROBERT BARTLETT'S HINSDALE COUNTRY SIDE, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER AND PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 17, 1944 AS DOCUMENT 462444, IN DUPAGE COUNTY, ILLINOIS.

NOW KNOWN AS

LOT 1 IN FRONTAGE ROAD SUBDIVISION BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 1, 1996 AS DOCUMENT NUMBER R96-071549 IN DUPAGE COUNTY, ILLINOIS.

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ESA
Site # Site Address

153	1525 Busch Pkwy. Buffalo Grove, IL County: Lake
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PARCEL 1:

LOT 3 IN THE CORPORATE GROVE FIRST RESUBDIVISION, BEING A RESUBDIVISION OF LOTS 1 THROUGH 7 IN THE CORPORATE GROVE, A SUBDIVISION OF PORTIONS OF SECTIONS 26 AND 27, TOWNSHIP 43 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID RESUBDIVISION RECORDED JANUARY 31, 1997 AS DOCUMENT NUMBER 3928723 IN THE VILLAGE OF BUFFALO GROVE, LAKE COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR THE PURPOSE OF INGRESS AND EGRESS AS CREATED BY PLAT OF THE CORPORATE GROVE FIRST RESUBDIVISION OF LOTS 1 THROUGH 7 IN THE CORPORATE GROVE, A SUBDIVISION OF PORTIONS OF SECTIONS 26 AND 27, TOWNSHIP 43 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID RESUBDIVISION RECORDED JANUARY 31, 1997 AS DOCUMENT NUMBER 3928723 IN THE VILLAGE OF BUFFALO GROVE, LAKE COUNTY, ILLINOIS.

UNOFFICIAL COPY

EXHIBIT A

ESA
Site # Site Address

	4019	154 Regency Park O'Fallon, IL County: St. Clair
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Lot 16 of "Regency Park - 2nd Addition"; reference being had to the plat thereof recorded in the recorder's office of St. Clair county, Illinois in Book of Plats "96" on page 61.

Except the coal, oil, gas and other minerals underlying the surface of said land and all rights and easements in favor of the estate of said coal, oil, gas and other minerals.

Property of Cook County Clerk's Office

UNOFFICIAL COPY**EXHIBIT A**

ESA
Site # Site Address

	4165	215 N. Milwaukee Avenue Vernon Hills, IL County: Lake
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PARCEL 1:

LOT 3 IN SOUTH MARKETPLACE RESUBDIVISION, (BEING A RESUBDIVISION OF LOT 3 AND PART OF LOT 4 IN THE MARKETPLACE AT VERNON HILLS AND ALSO OF LOT 1 AND OF LOT 2 IN PERCY WILSON'S RIVERVIEW ACRES) IN SECTION 3, TOWNSHIP 43 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED JANUARY 28, 2000 AS DOCUMENT 4484763, IN LAKE COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1, AS CONTAINED IN THE INSTRUMENT ENTITLED EASEMENT DECLARATION AND RELOCATION OF EASEMENT DATED DECEMBER 15, 1998 AND RECORDED DECEMBER 24, 1998 AS DOCUMENT 4264517, IN LAKE COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1, OVER THOSE PORTIONS OF LOTS 4 AND 6 IN SOUTH MARKETPLACE RESUBDIVISION AS SHOWN IN PLAT THEREOF RECORDED JANUARY 28, 2000 AS DOCUMENT 4484763.

UNOFFICIAL COPY**EXHIBIT A**

ESA
Site # Site Address

4061	2345 Sokol Court Darien, IL County: Du Page
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PARCEL 1

LOT 1 IN BURNSIDE'S PRESERVES OF WATERFALL GLEN, RESUBDIVISION NO. 1, BEING A RESUBDIVISION OF LOT 32 IN BURNSIDE'S PRESERVES OF WATERFALL GLEN, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 25, 1998 AS DOCUMENT R98-125986, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS, CREATED IN THE JOINT ACCESS EASEMENT AGREEMENT MADE JUNE 30, 1998 BY AND BETWEEN CHICAGOLAND SOKOL BUILDING ASSOCIATION, AN ILLINOIS CORPORATION, AND BURNSIDE CONSTRUCTION COMPANY, AN ILLINOIS CORPORATION, RECORDED JULY 10, 1998 AS DOCUMENT R98-137396, OVER, UPON AND ACROSS THE FOLLOWING LAND:

THAT PORTION OF LOT 31 IN BURNSIDE'S PRESERVES OF WATERFALL GLEN, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 10, 1997 AS DOCUMENT R97-99748, IN DUPAGE COUNTY, ILLINOIS, FALLING WITHIN "SOKOL COURT" AS MORE FULLY SHOWN AND DELINEATED ON SAID PLAT RECORDED AS DOCUMENT R97-99748.

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EXHIBIT A

ESA
Site # Site Address

	530	2400 Golf Rd. Rolling Meadows, IL County: Cook
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ALL THAT PART OF THE SOUTH 1/2 OF SECTION 8, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 8; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID SECTION 8, A DISTANCE OF 35 FEET; THENCE NORTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 64 DEGREES 17 MINUTES TO THE LEFT WITH THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 66.83 FEET TO A POINT ON THE NORTH LINE OF GOLF ROAD, AS WIDENED, FOR THE POINT OF BEGINNING; THENCE WEST ALONG THE NORTH LINE OF SAID GOLF ROAD, AS WIDENED, SAID NORTH LINE BEING DISTANT 50 FEET NORTH OF THE NORTH LINE OF ROUTE 58 AS DEDICATED BY DOCUMENT 10488006, A DISTANCE OF 464.11 FEET; THENCE NORTH ALONG A LINE AT RIGHT ANGLES FROM THE LAST DESCRIBED COURSE, A DISTANCE OF 438.98 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE PROPERTY CONVEYED TO THE NORTHERN ILLINOIS GAS COMPANY BY WARRANTY DEED FROM SIMON E. KARSTEN AND MARY ELLEN KARSTEN, HIS WIFE, RECORDED NOVEMBER 13, 1958 AS DOCUMENT 17376462; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID NORTHERN ILLINOIS GAS COMPANY RIGHT OF WAY, AN ARC DISTANCE OF 53.15 FEET TO A POINT OF TANGENT AS DESCRIBED IN THE AFORESAID WARRANTY DEED; THENCE CONTINUING SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID RIGHT OF WAY, A DISTANCE OF 231 FEET TO AN ANGLE POINT; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 22 DEGREES 30 MINUTES TO THE RIGHT FROM THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 39.20 FEET TO AN ANGLE POINT; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 22 DEGREES 30 MINUTES TO THE LEFT FROM THE LAST DESCRIBED COURSE EXTENDED, A DEED DISTANCE OF 289.34 FEET (295.77 FEET MEASURED) TO THE MOST SOUTHERLY CORNER OF THE PROPERTY AS DESCRIBED IN SAID WARRANTY DEED; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE, A DISTANCE OF 99.11 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

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EXHIBIT A

ESA Site #	Site Address
4016	2520 173rd Street Lansing, IL County: Cook

LOT 1 OF OAK STREET SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

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EXHIBIT A

ESA
Site # Site Address

510	3150 Finley Rd. Downers Grove, IL County: Du Page
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PARCEL 1:

THAT PART OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID NORTHWEST 1/4 WITH THE WEST LINE OF FINLEY ROAD ACCORDING TO THE PLAT OF DEDICATION RECORDED JULY 15, 1959 AS DOCUMENT NO. 931536, SAID WEST LINE OF FINLEY ROAD BEING A LINE 50.00 FEET, AS MEASURED AT RIGHT ANGLES, WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST 1/4 (BEARINGS AND DISTANCES REFERRED TO IN THIS LEGAL DESCRIPTION AS "RECORD" ARE BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM-EAST ZONE AS SHOWN ON PLATS OF SURVEY PREPARED BY THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY); THENCE SOUTH 00 DEGREES 23 MINUTES 16 SECONDS EAST ALONG SAID WEST LINE OF FINLEY ROAD, 368.22 FEET TO A POINT FOR A PLACE OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 23 MINUTES 16 SECONDS EAST ALONG SAID WEST LINE OF FINLEY ROAD, 145.80 FEET; THENCE SOUTH 62 DEGREES 59 MINUTES 28 SECONDS WEST, 38.32 FEET; THENCE SOUTH 73 DEGREES 54 MINUTES 04 SECONDS WEST, 44.32 FEET; THENCE SOUTH 77 DEGREES 36 MINUTES 17 SECONDS WEST, 56.30 FEET; THENCE SOUTH 83 DEGREES 49 MINUTES 53 SECONDS WEST, 57.95 FEET; THENCE NORTH 88 DEGREES 03 MINUTES 51 SECONDS WEST, 95.54 FEET; THENCE NORTH 78 DEGREES 29 MINUTES 35 SECONDS WEST, 67.95 FEET; THENCE NORTH 67 DEGREES 40 MINUTES 00 SECONDS WEST, 45.52 FEET; THENCE NORTH 58 DEGREES 18 MINUTES 06 SECONDS WEST, 102.90 FEET; THENCE NORTH 29 DEGREES 27 MINUTES 44 SECONDS WEST, 79.90 FEET; THENCE NORTH 41 DEGREES 10 MINUTES 43 SECONDS WEST, 50.04 FEET; THENCE NORTH 00 DEGREES 20 MINUTES 24 SECONDS WEST, 42.11 FEET; THENCE NORTH 23 DEGREES 56 MINUTES 52 SECONDS EAST, 26.70 FEET; THENCE SOUTH 17 DEGREES 38 MINUTES 25 SECONDS EAST, 41.27 FEET; THENCE NORTH 82 DEGREES 27 MINUTES 38 SECONDS EAST, 47.02 FEET; THENCE NORTH 80 DEGREES 27 MINUTES 23 SECONDS EAST, 88.04 FEET; THENCE SOUTH 72 DEGREES 49 MINUTES 17 SECONDS EAST, 53.00 FEET; THENCE SOUTH 72 DEGREES 45 MINUTES 28 SECONDS EAST, 39.69 FEET; THENCE SOUTH 36 DEGREES 57 MINUTES 56 SECONDS EAST, 44.37 FEET; THENCE SOUTH 41 DEGREES 05 MINUTES 57 SECONDS EAST, 32.81 FEET; THENCE SOUTH 88 DEGREES 42 MINUTES 18 SECONDS EAST, 36.91 FEET; THENCE NORTH 89 DEGREES 07 MINUTES 31 SECONDS EAST, 26.26 FEET; THENCE SOUTH 88 DEGREES 00 MINUTES 50 SECONDS EAST, 38.44 FEET; THENCE SOUTH 83 DEGREES 13 MINUTES 02 SECONDS EAST, 35.75 FEET; THENCE SOUTH 78 DEGREES 09 MINUTES 14 SECONDS EAST, 35.39 FEET; THENCE SOUTH 69 DEGREES 23 MINUTES 59 SECONDS EAST, 37.07 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

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EXHIBIT A

ESA
Site # Site Address

CONTINUED

510	3150 Finley Rd. Downers Grove, IL County: Du Page
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PARCEL 2:

THAT PART OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SAID NORTHWEST 1/4 WITH THE WEST LINE OF FINLEY ROAD ACCORDING TO THE PLAT OF DEDICATION RECORDED JULY 15, 1959 AS DOCUMENT NO. 971576, SAID WEST LINE OF FINLEY ROAD BEING A LINE 50.00 FEET, AS MEASURED AT RIGHT ANGLES, WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST 1/4 (BEARINGS AND DISTANCES REFERRED TO IN THIS LEGAL DESCRIPTION AS "RECORD" ARE BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM-EAST ZONE AS SHOWN ON PLATS OF SURVEY PREPARED BY THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY); THENCE SOUTH 00 DEGREES 23 MINUTES 16 SECONDS EAST ALONG SAID WEST LINE OF FINLEY ROAD, 368.22 FEET; THENCE NORTH 69 DEGREES 23 MINUTES 59 SECONDS WEST, 37.07 FEET; THENCE NORTH 78 DEGREES 09 MINUTES 14 SECONDS WEST, 35.39 FEET; THENCE NORTH 83 DEGREES 13 MINUTES 02 SECONDS WEST, 35.75 FEET; THENCE NORTH 88 DEGREES 00 MINUTES 50 SECONDS WEST, 38.44 FEET; THENCE SOUTH 89 DEGREES 07 MINUTES 31 SECONDS WEST, 26.26 FEET; THENCE NORTH 88 DEGREES 42 MINUTES 18 SECONDS WEST, 36.91 FEET; THENCE NORTH 41 DEGREES 05 MINUTES 57 SECONDS WEST, 32.81 FEET; THENCE NORTH 36 DEGREES 57 MINUTES 56 SECONDS WEST, 44.37 FEET; THENCE NORTH 72 DEGREES 45 MINUTES 28 SECONDS WEST, 39.69 FEET; THENCE NORTH 72 DEGREES 49 MINUTES 17 SECONDS WEST, 53.00 FEET; THENCE SOUTH 80 DEGREES 27 MINUTES 23 SECONDS WEST, 82.04 FEET; THENCE SOUTH 82 DEGREES 27 MINUTES 38 SECONDS WEST, 47.02 FEET; THENCE NORTH 87 DEGREES 38 MINUTES 25 SECONDS WEST, 41.27 FEET; THENCE NORTH 84 DEGREES 30 MINUTES 06 SECONDS WEST, 46.23 FEET TO THE EASTERLY LINE OF THE NORTH-SOUTH TOLLWAY; THENCE NORTH 05 DEGREES 29 MINUTES 54 SECONDS EAST (RECORD NORTH 03 DEGREES 19 MINUTES 34 SECONDS EAST) ALONG SAID EASTERLY LINE OF THE NORTH-SOUTH TOLLWAY, 271.77 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 31 (THE EASTERLY LINE OF SAID NORTH-SOUTH TOLLWAY BEING A STRAIGHT LINE DRAWN FROM A POINT 252.00 FEET EAST OF STATION 1264+50.00 ON THE SAID CENTER LINE OF THE NORTH-SOUTH TOLLWAY, AS MEASURED AT RIGHT ANGLES TO SAID CENTER LINE, TO A POINT ON THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 31, 283.00 FEET EAST OF THE CENTER LINE OF THE NORTH-SOUTH TOLLWAY, AS MEASURED AT RIGHT ANGLES TO SAID CENTER LINE); THENCE SOUTH 89 DEGREES 49 MINUTES 59 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4, 535.34 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

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ESA
Site # Site Address

4096	4575 Frontage Road Hillside, IL County: Cook
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PARCEL 1:

LOT 2 IN HILLSIDE EXTENDED STAY AMERICA, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 25, 1999 AS DOCUMENT 99286269 (EXCEPT THAT PART TAKEN FOR STREET).

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1, CONTAINED IN THE EASEMENT AGREEMENT AND DECLARATION OF RESTRICTIONS MADE MARCH 30, 1999 BY AND BETWEEN NEWCASTLE PARTNERS, AN ILLINOIS GENERAL PARTNERSHIP AND ESA ILLINOIS, INC., AN ILLINOIS CORPORATION, RECORDED APRIL 5, 1999 AS DOCUMENT 99323032, AND AS CONTAINED IN THE PLAT OF HILLSIDE EXTENDED STAY AMERICA, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 25, 1999 AS DOCUMENT 99286269, OVER, UPON AND ACROSS THAT PORTION OF LOTS 3 AND 4 THEREOF, BEING 40 FEET IN WIDTH, LOCATED WITHIN THE NORTHWESTERLY 20 FEET OF LOT 4 AND THE SOUTHEASTERLY 20 FEET OF LOT 3 THEREIN.

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Site # Site Address

	640	5724 Northridge Dr. Gurnee, IL County: Lake
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LOT 9 IN THE SECOND RESUBDIVISION OF NORTHRIDGE PLAZA, BEING A RESUBDIVISION OF NORTHRIDGE PLAZA, BEING A SUBDIVISION OF PART OF SECTIONS 15 AND 16, BOTH IN TOWNSHIP 45 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT OF SAID SECOND RESUBDIVISION OF NORTHRIDGE PLAZA RECORDED MAY 2, 1996 AS DOCUMENT 3819338, IN LAKE COUNTY, ILLINOIS.

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EXHIBIT A

ESA
Site # Site Address

	752	653 Clark Drive Rockford, IL County: Winnebago
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Lot One (1) as designated upon the Plat of Resubdivision of Lot Six (6) of Bell School Subdivision Plat No. 2 and part of the Southeast Quarter (1/4) of Section 23, Township 44 North, Range 2 East of the Third Principal Meridian, the Plat of which Resubdivision is recorded in Book 41 of Plats on Page 26B in the Recorder's Office of Winnebago County, Illinois, situated in the County of Winnebago and State of Illinois.

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EXHIBIT A

ESA
Site # Site Address

	55	747 N. Bell School Road Rockford, IL County: Winnebago
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Lot One (1) as designated upon the Plat of I-90 Commercial Park, being a Subdivision of part of the Southeast Quarter (1/4) of Section 23, Township 44 North, Range 2 East of the Third Principal Meridian, the Plat of which is recorded in Book 41 of Plats on Page 28A, in the Recorder's Office of Winnebago County, Illinois; situated in the County of Winnebago and State of Illinois.

Property of Cook County Clerk's Office

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EXHIBIT A

ESA
Site # Site Address

	4206	7524 State Road Bedford Park, IL County: Cook
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LOT 2 IN COSTCO SUBDIVISION, BEING A SUBDIVISION OF PART OF THE
NORTHEAST 1/4 OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE
THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

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EXHIBIT A

ESA
Site # Site Address

	4095	1075 Lake Street Hanover Park, IL County: DuPage
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LOT 2 IN EVANGEL ASSEMBLY OF GOD SUBDIVISION BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 40 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT R98-191592 IN DUPAGE COUNTY, ILLINOIS.

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ESA
Site # Site Address

	660	1575 Bond St. Naperville, IL County: DuPage
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LOT 2 IN SENSESA RESUBDIVISION, BEING A SUBDIVISION IN THE SOUTHWEST 1/4 OF SECTION 3 AND THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 25, 1997 AS DOCUMENT R97-040674, IN DUPAGE COUNTY, ILLINOIS.

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EXHIBIT A

ESA
Site # Site Address

	4200	1805 S. Veterans Pkwy. Bloomington, IL County: McKean
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Lots 9, 10, and 11 in First Addillon to Veterans Place Subdivision in the City of Bloomington,
according to the Plat thereof recorded July 28, 1993 as Document No. '93-25104, in MCLEAN
COUNTY, ILLINOIS

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ESA

Site # Site Address

4190	2000 N. Roselle Road Schaumburg, IL County: Lake Cook
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PARCEL 1:

LOT 2 IN HILLCREST COMMONS II BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 3 AND PART OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED OCTOBER 16, 1998 AS DOCUMENT 98931796, IN COOK COUNTY, ILLINOIS, (EXCEPT FROM SAID LOT 2 THAT PORTION DEDICATED FOR PUBLIC ROAD BY PLAT OF DEDICATION RECORDED MAY 13, 2003 AS DOCUMENT 0313332095 DESCRIBED AS FOLLOWS: THE SOUTHWESTERLY 70 FEET (AS MEASURED PERPENDICULAR TO THE LINE THEREOF) DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE ON A RECORD BEARING OF NORTH 27 DEGREES 52 MINUTES 18 SECONDS WEST ALONG THE SOUTHWESTERLY LINE OF SAID LOT 2, 489.63 FEET; THENCE NORTH 16 DEGREES 09 MINUTES 56 SECONDS WEST 98.11 FEET TO A POINT ON A LINE THAT IS 20.00 FEET NORTHEAST AND PARALLEL WITH THE SOUTHWESTERLY LINE OF SAID LOT 2; THENCE NORTH 27 DEGREES 51 MINUTES 18 SECONDS WEST ALONG SAID PARALLEL LINE, 125.00 FEET; THENCE NORTH 11 DEGREES 02 MINUTES 57 SECONDS WEST, 24.98 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 2; THENCE NORTH 27 DEGREES 51 MINUTES 18 SECONDS WEST ALONG THE SOUTHWESTERLY LINE OF SAID LOT 2, 35.15 FEET TO THE WEST LINE OF SAID LOT 2; THENCE NORTH 06 DEGREES 06 MINUTES 33 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 2, 12.00 FEET TO THE NORTH LINE OF SAID LOT 2; THENCE SOUTH 81 DEGREES 02 MINUTES 57 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 2, 80.40 FEET TO A POINT ON A LINE THAT IS 70 FEET NORTHEAST OF AND PARALLEL WITH THE SOUTHWESTERLY LINE OF SAID LOT 2; THENCE SOUTH 27 DEGREES 51 MINUTES 18 SECONDS EAST ALONG SAID PARALLEL LINE, 723.84 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 2; THENCE SOUTH 62 DEGREES 08 MINUTES 42 SECONDS WEST ALONG SAID SOUTHEASTERLY LINE OF SAID LOT 2, 70.00 FEET TO THE POINT OF BEGINNING)

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 AS DELINEATED ON THE PLAT OF SUBDIVISION RECORDED AS DOCUMENT 98931796 AND AS CREATED IN THE DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS RECORDED AS DOCUMENT 98958457.

PARCEL 3:

NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 AS GRANTED IN EASEMENT AGREEMENT RECORDED AS DOCUMENT 85133409 AND IN THE RECIPROCAL EASEMENT AGREEMENT RECORDED AS DOCUMENT 95385397.

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EXHIBIT A

ESA
Site # Site Address

4040	260 E. 22nd St. Lombard, IL County: Du Page
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TAX ID # 06-20-307-024

PARCEL 1:

THAT PART OF LOT 3 IN JAY C. BENNETT SR., COUNTY CLERK, ST. REGIS ASSESSMENT PLAT OF PART OF THE SOUTH 1/2 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 26, 1980 AS DOCUMENT R80-49897, DESCRIBED BY BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 3 AND RUNNING THENCE NORTH 89 DEGREES 56 MINUTES 57 SECONDS WEST, ON THE SOUTH LINE THEREOF, 221.13 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 24 SECONDS EAST, 309.00 FEET; THENCE NORTH 40 DEGREES 20 MINUTES 15 SECONDS WEST, 220.44 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 24 SECONDS EAST, 90.0 FEET TO THE POINT ON THE NORTH LINE OF SAID LOT 3 WHICH IS 114.22 FEET WEST OF THE POINT OF CURVATURE IN SAID NORTH LINE; THENCE EASTERLY, SOUTHEASTERLY AND SOUTHERLY, ALONG THE NORTHERLY, NORTHEASTERLY AND EASTERLY LINES OF SAID LOT 3, TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE AND PERPETUAL EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR PEDESTRIAN AND VEHICULAR INGRESS, EGRESS AND CROSSING PURPOSES OVER LOT 7 IN JAY C. BENNETT, SR., COUNTY CLERK, ST. REGIS ASSESSMENT PLAT NO. 3, OF PART OF THE SOUTH 1/2 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT R84-39243, IN DU PAGE COUNTY, ILLINOIS, AS CONTAINED IN THE DECLARATION AND GRANTS OF EASEMENTS RECORDED JUNE 8, 1984 AS DOCUMENT R84-43691.

PARCEL 3:

NON-EXCLUSIVE AND PERPETUAL EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR STORM DRAINAGE, DETENTION AND RETENTION PURPOSES OVER THAT PART OF LOTS P, P-1 AND Q OF YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1 (ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST 1/2 OF THE SOUTHWEST 1/4, THE WEST 1/2 OF THE SOUTHEAST 1/4, AND THE SOUTH 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, (ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT 452575) DESCRIBED BY COMMENCING AT THE NORTHEAST CORNER OF SAID LOT P-1 AND RUNNING THENCE SOUTH ALONG THE EAST LINE OF SAID LOT, 691.95 FEET; THENCE SOUTH 68 DEGREES 07 MINUTES 16 SECONDS EAST, 35.56 FEET TO THE WEST LINE OF FAIRFIELD AVENUE FOR A POINT OF BEGINNING (SAID POINT BEING THE NORTHEAST CORNER OF LOT 1

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ESA
Site # Site Address

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4040	260 E: 22nd St. Lombard, IL County: Du Page
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TAX ID # 06-20-307-024

OF JAY C. BENNETT, SR., COUNTY CLERK, ST. REGIS ASSESSMENT PLAT NO. 2 RECORDED AS DOCUMENT R83-25469); THENCE CONTINUING SOUTH 68 DEGREES 07 MINUTES 16 SECONDS WEST, 114.26 FEET TO AN ANGLE POINT IN THE NORTH LINE OF SAID LOT 1; THENCE WEST, 272.87 FEET TO A CORNER OF SAID LOT; THENCE NORTH, 183.80 FEET TO THE NORTHEAST CORNER OF LOT 2 OF SAID ST. REGIS ASSESSMENT PLAT NO. 2; THENCE NORTH 84 DEGREES 10 MINUTES 11 SECONDS EAST, 77.10 FEET; THENCE EAST 100.00 FEET; THENCE SOUTHEASTERLY ON A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 85.5 FEET, AN ARC DISTANCE OF 60.06 FEET (THE CHORD BEARING SOUTH 69 DEGREES 52 MINUTES 30 SECONDS EAST, 58.84 FEET) TO A POINT OF REVERSE CURVE; THENCE SOUTHEASTERLY ON A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 72.5 FEET, AN ARC DISTANCE OF 37.96 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS EAST ON THE TANGENT TO SAID CURVE, 127.82 FEET TO THE WEST LINE OF FAIRFIELD AVENUE; THENCE SOUTH ON SAID WEST LINE, 55.18 FEET TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS, AS CONTAINED IN THE DECLARATION AND GRANTS OF EASEMENTS RECORDED JUNE 8, 1984 AS DOCUMENT R84-43691.

PARCEL 4:

NON-EXCLUSIVE AND PERPETUAL EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR STORM SEWER LINE EASEMENT OVER A STRIP OF LAND 10 FEET IN WIDTH, THE CENTER LINE BEING DESCRIBED BY BEGINNING AT A POINT ON THE EAST LINE OF LOT 3 OF ST. REGIS ASSESSMENT PLAT WHICH IS 80 FEET NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE EAST AT RIGHT ANGLES TO SAID EAST LINE, 30 FEET TO THE WEST LINE OF LOT 5 IN JAY C. BENNETT, SR., COUNTY CLERK, ST. REGIS ASSESSMENT PLAT; THENCE NORTHERLY TO A POINT WHICH IS 270 FEET NORTH AND 10 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 5 IN JAY C. BENNETT, SR., COUNTY CLERK, ST. REGIS ASSESSMENT PLAT; THENCE NORTHEASTERLY TO A POINT ON THE NORTH LINE OF SAID LOT 5 IN JAY C. BENNETT, SR., COUNTY CLERK, ST. REGIS ASSESSMENT PLAT WHICH IS 45 FEET EAST OF THE NORTHWEST CORNER OF SAID PARCEL FOR THE PLACE OF TERMINATION, AS CONTAINED IN THE DECLARATION AND GRANTS OF EASEMENTS RECORDED JUNE 8, 1984 AS DOCUMENT R84-43691.

PARCEL 5:

NON-EXCLUSIVE AND PERPETUAL EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR WATER MAIN EASEMENT OVER THE NORTH 20 FEET OF THE SOUTH 143 FEET OF LOT 5 OF ST. REGIS ASSESSMENT PLAT, AS CONTAINED IN THE DECLARATION AND GRANTS OF EASEMENTS RECORDED JUNE 8, 1984 AS DOCUMENT R84-43691.

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Site # Site Address

CONTINUED

4040	260 E. 22nd St. Lombard, IL County: Du Page
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PARCEL 6:

TAX ID # 06-20-307-024

NON-EXCLUSIVE AND PERPETUAL EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR STORM SEWER LINE EASEMENT OVER THE SOUTH 20 FEET AND THE EAST 30 FEET OF LOT 1 OF ST. REGIS ASSESSMENT PLAT NO. 2, AS CONTAINED IN THE DECLARATION AND GRANTS OF EASEMENTS RECORDED JUNE 8, 1984 AS DOCUMENT R84-43691.

PARCEL 7:

NON-EXCLUSIVE AND PERPETUAL EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR STORM SEWER LINE EASEMENT OVER THAT PART OF LOTS P, P-1, Q AND R OF YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1 (ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST 1/2 OF THE SOUTHWEST 1/4, THE WEST 1/2 OF THE SOUTHEAST 1/4 AND THE SOUTH 2332 FEET OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, (ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452575) DESCRIBED BY BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTH 1/2 OF 18TH STREET WITH THE WEST LINE OF FAIRFIELD AVENUE AND RUNNING THENCE NORTH 89 DEGREES 54 MINUTES 29 SECONDS WEST ON SAID SOUTH LINE, 599.89 FEET TO THE WEST LINE OF SAID LOT R; THENCE SOUTH ALONG SAID WEST LINE, 532 FEET TO THE NORTH LINE OF LOT 2 OF JAY C. BENNETT, SR., COUNTY CLERK, ST. REGIS ASSESSMENT PLAT NO. 2 (RECORDED AS DOCUMENT R83-25469); THENCE EAST ALONG SAID NORTH LINE, 220.99 FEET TO THE NORTHEAST CORNER OF SAID LOT; THENCE NORTH 84 DEGREES 10 MINUTES 11 SECONDS EAST, 77.10 FEET; THENCE EAST, 100.0 FEET; THENCE SOUTHEASTERLY ON A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 85.5 FEET, AN ARC DISTANCE OF 60.06 FEET (THE CHORD BEARING SOUTH 69 DEGREES 52 MINUTES 03 SECONDS EAST, 58.85 FEET) TO A POINT OF REVERSE CURVE; THENCE SOUTHEASTERLY ON A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 72.5 FEET, AN ARC DISTANCE OF 37.96 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS EAST ON THE TANGENT TO SAID CURVE, 127.82 FEET TO SAID WEST LINE OF FAIRFIELD AVENUE; THENCE NORTH ON SAID LOT, 617.08 FEET TO THE POINT OF BEGINNING, (EXCEPT THAT PART THEREOF FALLING WITHIN ST. REGIS CONDOMINIUM, RECORDED AS DOCUMENT R75-8504), IN DU PAGE COUNTY, ILLINOIS, AS CONTAINED IN THE DECLARATION AND GRANTS OF EASEMENTS RECORDED JUNE 8, 1984 AS DOCUMENT R84-43691.

PARCEL 8:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR STORM SEWER LINE EASEMENT OVER A STRIP OF LAND 10 FEET IN WIDTH EXTENDING FROM THE SOUTH LINE OF LOT 2 OF ST. REGIS ASSESSMENT PLAT NO. 3 TO THE NORTH LINE OF LOT 4 OF SAID ASSESSMENT PLAT, THE CENTER LINE OF SAID STRIP BEING A LINE DRAWN PARALLEL WITH AND 158 FEET WEST OF THE EAST LINE OF SAID LOT 2, AS CONTAINED IN THE DECLARATION AND GRANTS OF EASEMENTS RECORDED JUNE 8, 1984 AS DOCUMENT R84-43691.

UNOFFICIAL COPY**EXHIBIT A**

ESA
Site # Site Address

4194	4306 North Brandywine Drive Peoria, IL County: Peoria
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Parcel 1:

A part of the Southeast Quarter of Section 19, Township 9 North, Range 8 East of the Fourth Principal Meridian, more particularly described as follows;

Commencing at the Southeast corner of the Southeast Quarter of said Section 19, thence South 89 degrees 08 minutes 53 seconds West (bearings assumed for the purpose of description only), along the South line of the Southeast Quarter of said Section 19, 25.00 feet to the Westerly right-of-way line of Dawn Drive, thence North 0 degrees 48 minutes 29 seconds West, along the Westerly right-of-way line of said Dawn Drive, 312.60 feet; thence South 89 degrees 11 minutes 31 seconds West, 7.00 feet to the Point of Beginning of the Tract to be described: From the Point of Beginning, thence South 89 degrees 11 minutes 31 seconds West, 118.00 feet; thence North 0 degrees 48 minutes 29 seconds West, 114.3 feet; thence South 89 degrees 08 minutes 53 seconds West, 140.00 feet; thence South 46 degrees 18 minutes 11 seconds West, 91.15 feet to the Easterly right-of-way line of Brandywine Drive; thence Northwesterly, along said Easterly right-of-way line, on a curve to the left, having a radius of 320.00 feet, for an arc distance of 13.47 feet; thence North 27 degrees 35 minutes 34 seconds West, along said Easterly right-of-way line of Brandywine Drive, 152.78 feet; thence Northwesterly, along said Easterly right-of-way line of Brandywine Drive, on a curve to the left, having a radius of 320.00 feet, for an arc distance of 104.25 feet; thence North 44 degrees 25 minutes 34 seconds East, 89.96 feet; thence North 89 degrees 25 minutes 34 seconds East, 396.29 feet to a point 7.00 feet Westerly of the Westerly right-of-way line of said Dawn Drive; thence South 0 degrees 48 minutes 29 seconds East, parallel to the Westerly right-of-way line of Dawn Drive, 345.97 feet to the Point of Beginning; situated in the County of Peoria and State of Illinois.

Parcel 2:

A part of the Southeast Quarter of Section 19, Township 9 North, Range 8 East of the Fourth Principal Meridian, more particularly described as follows:

Commencing as a point of reference at the Southwest corner of the Southeast Quarter of said Section 19, thence South 89 degrees 08 minutes 53 seconds West (bearings assumed for the purpose of description only), along the South line of the Southeast Quarter of said Section 19, 25.00 feet to the Westerly right-of-way line of Dawn Drive; thence North 00 degrees 48 minutes 29 seconds West 312.60 feet along the Westerly right-of-way line of said Dawn Drive to the Point of Beginning; From the Point of Beginning thence South 89 degrees 11 minutes 31 seconds West 7.00 feet; thence North 00 degrees 48 minutes 29 seconds West 345.97 feet; thence North 89 degrees 26 minutes 47 seconds East 2.82 feet to the Westerly line of a survey by Austin Engineering, document no. 91-30386, in the Peoria County Recorder of Deeds; thence South 01 degrees 00 minutes 00 seconds East 331.40 feet along the said Westerly line of document number 91-30386; thence North 89 degrees 47 minutes 21 seconds East 3.06 feet along the South line of said document 91-30386 to the Westerly right-of-way line of Dawn Drive; thence South 00 degrees 48 minutes 29 seconds East 14.52 feet along the Westerly right-of-way line of Dawn Drive to the Point of Beginning, situated in the County of Peoria and State of Illinois.

UNOFFICIAL COPY**EXHIBIT A**

ESA
Site # Site Address

4082	445 Warrenville Road Lisle, IL County: Du Page
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THAT PART OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION POINT OF THE EAST LINE OF THE COMMONWEALTH EDISON COMPANY'S RIGHT OF WAY AND THE SOUTH LINE OF WARRENVILLE ROAD FOR A POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 10 MINUTES 55 SECONDS EAST ALONG SAID SOUTH LINE, A DISTANCE OF 306.25 FEET; THENCE SOUTH 21 DEGREES 49 MINUTES 05 SECONDS WEST, 85.00 FEET; THENCE SOUTH 25 DEGREES 48 MINUTES 51 SECONDS WEST, 672.85 FEET TO A POINT ON SAID EAST LINE OF COMMONWEALTH EDISON COMPANY'S RIGHT OF WAY; THENCE NORTH 0 DEGREE 42 MINUTES 24 SECONDS WEST ALONG SAID EAST LINE, 705.72 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS LOT 1 IN FINAL PLAT OF SUBDIVISION OF EXTENDED STAY AMERICA OF LISLE, BEING A SUBDIVISION OF THAT PART OF THE SOUTHEAST 1/4 OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DuPage COUNTY, ILLINOIS

UNOFFICIAL COPY**EXHIBIT A**

ESA
Site # Site Address

4138	5211 Old Orchard Road Skokie, IL County: Cook
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PARCEL 1:

LOT 2 IN HAMPTON INN & SUITES SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 AND THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE VILLAGE OF SKOKIE, COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT IN FAVOR OF PARCEL 1 AS CREATED BY DECLARATION AND GRANT OF EASEMENTS MADE BY EDENS OLD ORCHARD VENTURE, L.L.C., AN ILLINOIS LIMITED LIABILITY COMPANY AND RECORDED OCTOBER 8, 1998 AS DOCUMENT 98907634 FOR THE FOLLOWING PURPOSES:

PARKING, RECIPROCAL CROSS PARKING EASEMENT FOR VEHICULAR PARKING, OVER, UPON, ACROSS AND THROUGH THOSE PORTIONS OF THE LAND, AS DEFINED THEREIN AS THE "PARKING AREAS";

INGRESS AND EGRESS; ACCESS ROAD, PRIVATE STREETS PROVIDING INGRESS AND EGRESS, INTERIOR LANES, ROADS, SIDEWALKS, PATHS AND OTHER RIGHT OF WAY INTENDED FOR VEHICULAR OR PEDESTRIAN TRAFFIC, OVER, UPON, ACROSS AND THROUGH THOSE AREAS DEPICTED ON THE SITE PLAN;

COMMON STORM DRAINAGE, SANITARY SEWERS, DETENTION BASIN, SURFACE DRAINAGE, UNDER, THROUGH AND ACROSS THE "UTILITY EASEMENT AREAS", DEFINED THEREIN; AND

SIGN, OVER THE AREA DESIGNATED THEREIN AS "SIGN EASEMENT AREA."

UNOFFICIAL COPY**EXHIBIT A**

ESA
Site # Site Address

	541	550 West Grand Ave. Elmhurst, IL County: Du Page
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PARCEL 1:

LOT 2 IN ESA GRAND AVENUE, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 25, 1996 AS DOCUMENT R96-175213, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITIES MADE BY AND BETWEEN OLD KENT BANK AS TRUSTEE UNDER A TRUST AGREEMENT DATED DECEMBER 5, 1991 AND KNOWN AS TRUST NUMBER 6505 AND ESA 0541, INC., DATED OCTOBER 29, 1996 AND RECORDED AS DOCUMENT R96-186821.

UNOFFICIAL COPY

EXHIBIT A

ESA
Site # Site Address

..	4012	610 W. Marketview Drive Champaign, IL County: Champaign
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LOT 1 OF SEVENTY-FOUR CENTRE FOURTH ADDITION TO THE CITY OF
CHAMPAIGN, AS PER PLAT RECORDED JANUARY 28, 1998 AS DOCUMENT 98R 2301,
IN CHAMPAIGN COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

UNOFFICIAL COPY**SCHEDULE 1****OTHER BORROWERS**

ESA 2005 Portfolio L.L.C. f/k/a BRE/ESA 2005 Portfolio L.L.C., a Delaware limited liability company
ESA 2005-San Jose L.L.C. f/k/a BRE/ESA 2005-San Jose L.L.C., a Delaware limited liability company
ESA 2005-Waltham L.L.C. f/k/a BRE/ESA 2005-Waltham L.L.C., a Delaware limited liability company
ESA Acquisition Properties L.L.C. f/k/a BRE/ESA Acquisition Properties L.L.C., a Delaware limited liability company
ESA Alaska L.L.C. f/k/a BRE/ESA Alaska L.L.C., a Delaware limited liability company
ESA Canada Properties Borrower L.L.C., a Delaware limited liability company
ESA FL Properties L.L.C. f/k/a BRE/ESA FL Properties L.L.C., a Delaware limited liability company
ESA MD Borrower L.L.C. f/k/a BRE/ESA MD Borrower L.L.C., a Delaware limited liability company
ESA MN Properties L.L.C. f/k/a BRE/ESA MN Properties L.L.C., a Delaware limited liability company
ESA P Portfolio MD Borrower L.L.C. f/k/a BRE/ESA P Portfolio MD Borrower L.L.C., a Delaware limited liability company
ESA P Portfolio PA Properties L.L.C. f/k/a BRE/ESA P Portfolio PA Properties L.L.C., a Delaware limited liability company
ESA P Portfolio TXNC Properties L.P. f/k/a BRE/ESA P Portfolio TXNC Properties L.P., a Delaware limited partnership
ESA PA Properties L.L.C. f/k/a BRE/ESA PA Properties L.L.C., a Delaware limited liability company
ESA TX Properties L.P. f/k/a BRE/ESA TX Properties L.P., a Delaware limited partnership
ESH/Homestead Portfolio L.L.C. f/k/a BRE/Homestead Portfolio L.L.C., a Delaware limited liability company

UNOFFICIAL COPY

ESH/HV Properties L.L.C. f/k/a BRE/HV Properties L.L.C., a Delaware limited liability company
ESH/MSTX Property L.P. f/k/a BRE/MSTX Property L.P., a Delaware limited partnership
ESH/TN Properties L.L.C. f/k/a BRE/TN Properties L.L.C., a Delaware limited liability company
ESH/TX Properties L.P. f/k/a BRE/TX Properties L.P., a Delaware limited partnership

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