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Doc#: 0736541064 Fee: \$270.00
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Cook County Recorder of Deeds
Date: 12/31/2007 10:46 AM Pg: 1 of 124

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

Oakwood Chicago Associates, LLC , Elmwood Chicago Associates, LLC, Landings Chicago
Associates, LLC, and Walkkill Chicago Associates, LLC,

each a Delaware limited liability company
(collectively, Borrower)

in favor of

PNC BANK, NATIONAL ASSOCIATION
(Lender)

Date: December 28, 2007

Location: ATT Building
225 West Randolph Street
Chicago, Cook County, Illinois

Property Identification Number:

- #17-09-443-001-0000
- #17-09-443-002-0000
- #17-09-443-003-0000
- #17-09-443-004-0000
- #17-09-443-005-0000
- #17-09-444-001-0000 (PT)
- #17-09-444-016-0000
- #17-09-444-020-0000

PREPARED BY, RECORD AND RETURN TO:

PNC BANK, NATIONAL ASSOCIATION
10851 Mastin, Suite 300
Overland Park, Kansas 66210

Loan No.: 94-0954251

Box 400 M. Koff 01 8336515 9 of 10

Property of Cook County Clerk's Office

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THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (the "Security Instrument") is made as of December 28, 2007, by Oakwood Chicago Associates, LLC, Elmwood Chicago Associates, LLC, Landings Chicago Associates, LLC, and Wallkill Chicago Associates, LLC, each a Delaware limited liability company (collectively, "Borrower"), having its principal place of business (or residing) at c/o Kushner Companies, 18 Columbia Turnpike, Florham Park, New Jersey 07932, in favor of PNC Bank, National Association ("Lender"), having a mailing address at 10851 Mastin, Suite 300, Overland Park, Kansas 66210.

RECITALS:

To secure the payment of an indebtedness in the principal sum of ONE HUNDRED THIRTY TWO MILLION ONE HUNDRED FIFTY ONE THOUSAND ONE HUNDRED ELEVEN AND 88/100TH DOLLARS (\$132,151,111.88), lawful money of the United States of America, to be paid with interest according to the following: (1) that certain Promissory Note of even date herewith executed by Elmwood Chicago Associates, LLC in the original principal amount of \$5,820,727.87, (2) that certain Promissory Note of even date herewith executed by Oakwood Chicago Associates, LLC in the original principal amount of \$84,243,162.20, (3) that certain Promissory Note of even date herewith executed by Landings Chicago Associates, LLC in the original principal amount of \$18,165,623.99, and (4) that certain Promissory Note of even date herewith executed by Wallkill Chicago Associates, LLC in the original principal amount of \$23,921,597.82, copies of which are attached to and made a part hereof as Exhibit B-1, Exhibit B-2, Exhibit B-3, and Exhibit B-4 (said Promissory Notes, together with all extensions, renewals or modifications thereof, are referred to collectively as the "Notes", and said indebtedness, interest and all other sums due hereunder, and under the Notes and the Other Security Documents (hereinafter defined), including applicable attorney fees and costs, and including any amounts due to Lender pursuant to that certain Interest Rate Lock Agreement dated as of December 26, 2007 executed by Random Properties Acquisition Corp. I and Greenwich Capital Financial Products, Inc. in favor of Lender, is collectively referred to as the "Debt"), which Debt in the aggregate shall not at any time exceed the sum of 200% of the original principal amount of the Notes), Borrower hereby irrevocably mortgages, gives, grants, bargains, sells, alienates, conveys, confirms, pledges, assigns, grants a security interest in, and hypothecates to Lender, its successors and assigns, with the right to entry and possession, all of its estate, right, title and interest in, to, and under any and all of the following described property (collectively the "Mortgaged Property"), whether now owned or held or hereafter acquired:

(a) The real property described in Exhibit A attached hereto (the "Premises") and the buildings, structures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (the "Improvements");

(b) all easements, rights-of-way, 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, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises, to the center line thereof and all the estates, rights, titles, interests, dower

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and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Premises and the Improvements and every part and parcel thereof, with the appurtenances thereto; and

(c) all other assets of Borrower, of every kind and nature, now existing and hereafter acquired and arising and wherever located, related to the ownership or operation of the Premises, including without limitation, accounts, deposit or reserve accounts, commercial tort claims, letter of credit rights, chattel paper (including electronic chattel paper), documents, instruments, investment property, general intangibles (including payment intangibles), software, goods, inventory, equipment, furniture and fixtures, all supporting obligations of the foregoing, and all cash and non-cash proceeds and products (including without limitation insurance proceeds) of the foregoing, and all additions and accessions thereto, substitutions therefor and replacements thereof, and including, without limitation, the following;

(1) all machinery, equipment, fixtures (including but not limited to all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), building equipment, materials and supplies, and other property of every kind and nature, whether tangible or intangible, owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Premises and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Premises and the Improvements (hereinafter collectively called the "Equipment"), including the proceeds of any sale or transfer of the foregoing, and, without limiting the generality of the foregoing, if any such Equipment is subject to any prior security interest or prior security agreement (as such terms are defined in the Uniform Commercial Code, as adopted and enacted in the state or states in which any of the Mortgaged Property is located), then the Mortgaged Property shall include all of the right, title and interest of Borrower in and to any such Equipment, together with all deposits and payments now or hereafter made by Borrower with respect to such Equipment;

(2) all awards, payments or compensation, including interest thereon, heretofore or hereafter made with respect to the Mortgaged Property for any injury or decrease in the value of the Mortgaged Property related to any exercise of the right of eminent domain or condemnation (including without limitation, any transfer made in lieu of or in anticipation of the exercise of said rights or for a change of grade);

(3) all leases [including, without limitation, that certain Lease dated on or about December 27, 2007 between Borrower, as landlord, and AT&T Services, Inc. (the "ATT Tenant"), as tenant (the "ATT Lease"), reciprocal easement agreements, tenant in common agreements (including without limitation that certain Tenant in Common Agreement dated on or about the date hereof executed by each Borrower (the "TIC Agreement"), and other agreements and arrangements affecting the use, enjoyment or occupancy of, or the conduct of any activity upon or at the Premises and the Improvements heretofore or hereafter entered into (the "Leases"), all income, rents (including, without limitation, all percentage rents), issues, profits and revenues (including all oil and gas or other mineral royalties and bonuses) from the Mortgaged Property (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, subject to the Excepted Rights and Excepted Payments;

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(4) all proceeds of, and any unearned premiums on, any insurance policies covering the Mortgaged Property, including, without limitation, insurance proceeds payable under Schedule 9.1, clauses (ii), (iv), (vi) or (vii) of the ATT Lease, any "Restoration Deficiency Amount" (as defined in the ATT Lease), any "Lessee Insurance Payment" (as defined in the ATT Lease)(excluding any Lessee Insurance Payment with respect to insurance described in Schedule 9.1, Sections (a)(i) and (a)(iii) of the ATT Lease), the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Mortgaged Property, excluding any Excepted Rights and Excepted Payments;

(5) the right, in the name and on behalf of Borrower, but not to Borrower's exclusion, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of Lender in the Mortgaged Property;

(6) any payment due to Borrower pursuant to Section 12.2(b) of the ATT Lease; and

(7) any payment due to Borrower pursuant to any guaranty of the ATT Lease now or hereafter in effect;

(8) all other property or collateral of any nature whatsoever, now or hereafter given as additional security for the payment of the Debt, including without limitation, property management agreements now or hereafter entered into with any person or entity providing management services to the Mortgaged Property, service contracts, common area agreements, licenses, permits, construction warranties and other contracts, agreements and instruments relating to the Mortgaged Property (including, without limitation, agreements pursuant to which Borrower acquired any of the Mortgaged Property, and including any security or indemnities given in connection therewith), security deposits, royalties, refunds, expense reimbursements, reserve or escrow deposits or accounts related to the Mortgaged Property or any Lease and all documents relating to each of the foregoing.

TO HAVE AND TO HOLD the Mortgaged Property unto and to the use and benefit of Lender, and the successors and assigns of Lender, forever to secure the payment to Lender of the Debt at the time and in the manner provided for its payment in the Notes, in this Security Instrument or in the Other Security Documents free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois (which rights and benefits are hereby expressly released and waived);

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 Notes, in this Security Instrument or in the Other Security Documents, and shall abide by and comply with each and every covenant and condition set forth herein and in the Notes in a timely manner, these presents and the estate hereby granted shall cease, terminate and be void, and Lender shall execute and deliver to Borrower a satisfaction or discharge of this Security Instrument, in recordable form.

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Borrower hereby represents and warrants to and covenants and agrees with Lender as follows:

1. Payment of Debt and Incorporation of Covenants, Conditions and Agreements. Borrower will pay the Debt at the time and in the manner provided in the Notes, this Security Instrument and the Other Security Documents. All the covenants, conditions and agreements contained in: (a) the Notes; and (b) all and any documents (other than the Notes or this Security Instrument) (collectively the "Other Security Documents") now or hereafter executed by Borrower and/or others in favor of Lender, which wholly or partially secure or guaranty payment of the Notes, provide for any indemnity in favor of or payment to Lender related to the Debt, the Notes or the Mortgaged Property, provide for any escrow/holdback arrangements or for any actions to be completed by Borrower subsequent to the date hereof, or are otherwise related to the loan secured by this Security Instrument (the "Loan"), are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein. Notwithstanding anything herein to the contrary, neither this Security Instrument nor any of the Other Security Documents shall secure the payment of any Environmental Losses (as defined in that certain Environmental Indemnity Agreement executed in favor of Lender contemporaneously herewith).

2. Warranty of Title. Borrower warrants that Borrower has good title to the Mortgaged Property and has the right to mortgage, give, grant a security interest in, bargain, sell, alienate, convey, confirm, pledge, assign and hypothecate the same and that Borrower possesses an unencumbered fee estate in the Premises and the Improvements and that it owns the Mortgaged Property free and clear of all liens, encumbrances and charges whatsoever except for those exceptions shown in the title insurance policy in favor of Lender insuring the lien of this Security Instrument, none of which will materially and adversely affect the ability of Borrower to pay in full the Debt, the use of the Mortgaged Property for the use currently being made thereof, the operation of the Mortgaged Property, or the value of the Mortgaged Property. Borrower shall forever warrant, defend and preserve such title and the validity and priority of the lien of this Security Instrument to Lender against the claims of all persons whomsoever.

3. Insurance Requirements. If the ATT Lease is in full force and effect, Borrower, at its sole cost and expense, shall cause ATT Tenant, for the mutual benefit of Borrower and Lender to obtain and maintain during the entire term of the ATT Lease policies of insurance that satisfy the requirements of Section 9.1 and Schedule 9.1 of the ATT Lease and to pay the Insurance Premiums (as hereafter defined) or to self insure in accordance with and if permitted by Section 9.2 of the ATT Lease. If at any time during the term of this Security Instrument, the ATT Lease is not in full force and effect, or ATT Tenant fails (beyond any applicable notice and/or grace period as provided in accordance with the ATT Lease) to obtain and maintain policies of insurance or to pay the Insurance Premiums as the same become due and payable in accordance with Section 9.1 and Schedule 9.1 of the ATT Lease or fails to meet the requirements for self insurance in accordance with Section 9.2 of the ATT Lease, then the following provisions shall apply:

(a) Borrower, at its sole cost and expense, will keep the Mortgaged Property insured during the entire term of this Security Instrument for the mutual benefit of Borrower and Lender against loss or damage by fire and against loss or damage by other risks and hazards covered by

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a standard extended coverage insurance policy providing "special" form coverage including, but not limited to, fire, lightning, explosion, windstorm or hail, smoke, aircraft or vehicles, riot or civic commotion, terrorism (if such coverage is available), vandalism, malicious mischief, burglary, theft, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet or water damage, and to the extent required by Lender, earthquake or any other risks insured against by persons operating like properties in the locality of the Mortgaged Property. Such insurance shall be in an amount not less than the lesser of (i) the then full replacement cost of the Mortgaged Property, without deduction for physical depreciation, or (ii) the outstanding principal balance of the Debt; but in any event an amount sufficient to ensure that the insurer issuing said policies would not deem Borrower a co-insurer under said policies. The policies of insurance carried in accordance with this paragraph shall be paid annually in advance, shall contain the "Replacement Cost Endorsement" with a waiver of depreciation, and, if required by Lender, shall contain "Ordinance and Law" coverage. Any deductibles applicable to any insurance policy with respect to physical loss (including fire, lightning, windstorm or hail, smoke, aircraft or vehicles, riot or civil commotion, terrorism, vandalism, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet and water damage) shall not exceed \$50,000 (except where a separate wind loss deductible applies in which event the deductible shall not exceed two percent (2%) of the face amount of the policy). If Borrower does not provide Lender evidence of the insurance coverages required under this Security Instrument within two (2) business days before expiration or termination of any existing policies, Lender may purchase insurance at Borrower's expense to cover Lender's interest in the Premises. The insurance may, but need not, protect Borrower's interest. The coverages that Lender purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Premises. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has obtained insurance as required by this Security Instrument. If Lender purchases insurance for the Premises, Borrower will be responsible for the costs of such insurance, including, without limitation, interest and any other charges which Lender may 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. The cost of the insurance may be more than the cost of insurance Borrower may be able to obtain on its own.

(b) Borrower, at its sole cost and expense, for the mutual benefit of Borrower and Lender, shall also obtain and maintain during the entire term of this Security Instrument the following policies of insurance:

(i) Flood insurance (meeting the current requirement of the Federal Insurance Administration) if any part of the Mortgaged Property is located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance has been made available under the Flood Disaster Protection Act of 1973 (and any successor act thereto) in an amount at least equal to the lesser of (A) the outstanding principal balance of the Debt; (B) the maximum amount of coverage available to Borrower under the National Flood Insurance Program; or (C) the then full replacement cost of the Mortgaged Property, without deduction for physical depreciation.

(ii) General liability insurance on an "occurrence basis", in the amount of at least \$1,000,000.00 per occurrence, and \$2,000,000.00 in the aggregate per occurrence

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against claims for bodily injury or property damage occurring on, in or about the Mortgaged Property, which insurance shall include a commercial excess or umbrella liability of \$50,000,000.00 per occurrence and in the aggregate.

(iii) Business Income and/or Rental Value insurance in an amount equal to the sum of: (A) the total anticipated rental income (including percentage rents) payable by all tenants under Leases (whether or not such Leases are terminable in the event of a fire or casualty); (B) the total amount of all Taxes (hereinafter defined), Other Charges (hereinafter defined) or similar charges which a tenant is obligated to pay on Borrower's behalf; and (C) an amount equal to the fair rental value of any portion of the Mortgaged Property occupied by Borrower; for a period of at least twenty four (24) months after the date of the fire or other casualty in question, with a twelve (12) month period of extended indemnity. The amount of such insurance shall be increased from time to time during the term of this Security Instrument as and when Lender requires, to reflect all rent, additional rent, increased rent and increased additional rent payable by all new or renewal tenants, and all increased profits or other income from the Mortgaged Property. No exclusions shall be allowed for any risks specifically enumerated in subsection (a) above.

(iv) Boiler and Machinery Insurance if any steam boiler, air conditioning equipment, high pressure piping, machinery and equipment pressure vessels or similar apparatus now exists or is hereafter installed in the Improvements (excepting any such apparatus located within and serving individual residential units of the Improvements, if any).

(v) Such other insurance as may from time to time be required by Lender in order to protect its interests.

(vi) Notwithstanding anything in subsection 3(a) above to the contrary, Borrower shall be required to obtain and maintain coverage in its standard extended coverage insurance policy (or by a separate policy) against loss or damage by terrorist acts in an amount equal to 100% of the "full replacement cost" of the Mortgaged Property; provided that such coverage is available. In the event that such coverage with respect to terrorist acts is not included as part of the standard extended coverage insurance policy required by subsection 3(a) above, Borrower shall, nevertheless be required to obtain coverage for terrorism (as stand alone coverage) in an amount equal to 100% of the "full replacement cost" of the Mortgaged Property; provided that such coverage is available. Notwithstanding the foregoing, with respect to any such stand-alone policy covering terrorist acts, Borrower shall not be required to pay any Insurance Premiums (as hereafter defined) solely with respect to such terrorism coverage in excess of the Terrorism Premium Cap (as hereafter defined); provided that if the Insurance Premiums payable with respect to such terrorism coverage exceeds the Terrorism Premium Cap, Lender may, at its option (1) purchase such stand-alone terrorism policy, with Borrower paying such portion of the Insurance Premiums with respect thereto equal to the Terrorism Premium Cap and the Lender paying such portion of the Insurance Premiums in excess of the Terrorism Premium Cap or (2) modify the deductible amounts, policy limits and other required policy terms to reduce the Insurance Premiums payable with respect to such stand-alone terrorism policy to the Terrorism Premium Cap. As used

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herein, (i) "Terrorism Premium Cap" means an amount equal to 150% of the aggregate Insurance Premiums payable with respect to all the insurance coverage under Section 3(a) above for the last policy year in which coverage for terrorism was included as part of the standard extended coverage insurance policy required by subsection 3(a) above, adjusted annually by a percentage equal to the increase in the Consumer Price Index (hereinafter defined) and (ii) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York Metropolitan Statistical Area, All Items (1982-84 = 100), or any successor index thereto, approximately adjusted, and in the event that the Consumer Price Index is converted to a different standard reference base or otherwise revised, the determination of adjustments provided for herein shall be made with the use of such conversion factor, formula or table for converting the Consumer Price Index as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then with the use of such conversion factor, formula or table as may be published by Prentice-Hall, Inc., or any other nationally recognized publisher of similar statistical information; and if the Consumer Price Index ceases to be published, and there is no successor thereto (i) such other index as Lender and Borrower shall agree upon in writing or (ii) if Lender and Borrower cannot agree on a substitute index, such other index, as reasonably selected by Lender. Borrower shall obtain the coverage required under this subsection (j) from a carrier which otherwise satisfies the rating criteria specified in Section 3(c) below (a "Qualified Carrier") or in the event that such coverage is not available from a Qualified Carrier, Borrower shall obtain such coverage from the highest rated insurance company providing such coverage.

(c) All policies of insurance (individually a "Policy", and collectively the "Policies") required pursuant to this Security Instrument: (i) shall be issued by an insurer satisfactory to Lender, in its sole discretion; (ii) shall contain a mortgagee non-contribution clause satisfactory to Lender, in its sole discretion, naming Lender as the person to which all payments made by such insurance company shall be paid; (iii) shall be maintained throughout the term of this Security Instrument without cost to Lender; (iv) shall be assigned and delivered to Lender; (v) shall contain such provisions as Lender deems necessary or desirable to protect its interest including, without limitation, endorsements providing that neither Borrower, Lender nor any other party shall be a co-insurer under said Policies and that Lender shall receive at least thirty (30) days prior written notice of any modification, termination or cancellation of the applicable Policy; and (vi) shall be satisfactory in form and substance to Lender and shall be approved by Lender as to amounts, form, risk coverage, deductibles, loss payees and insureds. Borrower shall pay the premiums for such Policies (the "Insurance Premiums") as the same become due and payable. Not later than thirty (30) days prior to the expiration date of each of the Policies, Borrower will deliver to Lender satisfactory evidence of the renewal of each expiring Policy.

(d) If insurance for earthquake or special hazards is obtained by Borrower in its sole discretion and without requirement of Lender, then Borrower, when obtaining such insurance coverage, shall meet the insurance requirements hereof except as to matters requiring Lender's further approval, and such insurance coverage: (i) shall be within the meaning of a "Policy" or "Policies"; and (ii) shall be for the benefit of Lender and all proceeds thereof constitute additional security for the Debt, and Lender shall have all rights with respect to and be entitled to receive all proceeds in the same manner it would receive any Insurance Proceeds (hereinafter

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defined) in the event the Mortgaged Property is damaged or destroyed by a Casualty (hereinafter defined) or by any risk or loss insured against.

(e) Any failure by Lender to insist on full compliance with all of the above insurance requirements at closing does not constitute a waiver of Lender's right to subsequently require full compliance with these requirements.

(f) All insurance required hereunder shall be issued by companies approved by Lender and licensed to do business in the state where the Property is located. All policies evidencing the required insurance shall contain a special mortgagee clause in favor of Lender providing, among other things, that the policies may not be canceled without thirty (30) days prior to written notice to Lender; shall not contain any effective co insurance provisions; shall be written for a term of not less than one year, with premiums prepaid, and shall be issued by a company or companies acceptable to Lender and having a rating of A or higher (or the equivalent thereof) from at least two (2) of the Rating Agencies (one of which shall be Standard & Poor's if Standard & Poor's is rating the securities issued in any Securitization (the "Securities") and one of which must be Moody's if Moody's is rating the Securities, or if only one Rating Agency is rating the Securities, then by such one Rating Agency.

4. Casualty Loss. If the ATT Lease is in full force and effect, then the provisions of the ATT Lease shall govern notice of a Casualty (as hereafter defined), the settlement, adjustment, collection and application of the Insurance Proceeds (as hereafter defined) and the restoration of the Mortgaged Property; provided, however, so long as the ATT Lease remains in effect Borrower shall cause all insurance proceeds payable under Schedule 9.1, clauses (ii), (iv), (vi) or (vii) of the ATT Lease, any "Restoration Deficiency Amount" (as defined in the ATT Lease), and any "Lessee Insurance Payment" (as defined in the ATT Lease) to be paid to Lender and disbursed in accordance with the ATT Lease. If the ATT Lease is cancelled, surrendered or terminated, then the following provisions shall apply:

(a) If the Mortgaged Property is damaged or destroyed, in whole or in part, by fire or other casualty (a "Casualty"), Borrower shall give prompt notice thereof to Lender. Borrower hereby authorizes and empowers Lender to settle, adjust or compromise any claims for any insurance proceeds arising from any Casualty (the "Insurance Proceeds") to receive such Insurance Proceeds and to retain and apply such Insurance Proceeds as set forth herein; provided, however, with the written consent of Lender, Borrower may settle, adjust or compromise any such claim. If no Event of Default (hereinafter defined), or event which with the giving of notice or passage of time, or both, would give rise to an Event of Default, has occurred as of the date of the Casualty or as of the date any Insurance Proceeds are to be paid or disbursed to Borrower, then:

(i) If the aggregate amount of any Insurance Proceeds resulting from a Casualty is equal to \$25,000.00 or less, such Insurance Proceeds shall be paid directly to Borrower and shall be applied by Borrower to the prompt repair and replacement of the Mortgaged Property;

(ii) If the aggregate amount of any Insurance Proceeds resulting from a Casualty (or series of related Casualties) exceeds \$25,000.00 and the value of the

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Mortgaged Property immediately following such Casualty remains greater than fifty percent (50%) of its value immediately prior to such Casualty, then all Insurance Proceeds from such Casualty shall be paid to Lender; provided, however, that so long as no Event of Default exists and subject to the requirements set forth herein, Lender shall disburse such amounts of the Insurance Proceeds (after deduction for Lender's costs and expenses of collection) as Lender reasonably deems necessary for the repair or replacement of the Mortgaged Property, with any balance remaining after such disbursement being applied by Lender to the Debt in such priority and proportions as Lender deems proper;

(iii) If the value of the Mortgaged Property immediately following any Casualty (or series of related Casualties) does not exceed fifty percent (50%) of its value immediately prior to such Casualties, then all Insurance Proceeds from such Casualties shall be paid directly to Lender and Lender, at its discretion may declare the entire Debt to be immediately due and payable and apply all such Insurance Proceeds, after deduction for Lender's costs and expenses of collection, to the Debt in such priority and proportions as Lender deems proper. In the event Lender does not declare the entire Debt to be immediately due and payable, Borrower shall promptly repair, replace or rebuild any part of the Mortgaged Property destroyed by such Casualty. In such event, subject to the requirements set forth herein, Lender shall disburse such amounts of the Insurance Proceeds as Lender reasonably deems necessary for the repair or replacement of the Mortgaged Property, with any balance remaining after such disbursement being applied by Lender to the Debt in such priority and proportions as Lender deems proper; and

(iv) If no Event of Default (as hereinafter defined) has occurred, and no event has occurred that with notice and/or the passage of time, or both, would constitute an Event of Default, then no Prepayment Consideration (as defined in the Notes) will be then due with respect to any application of Insurance Proceeds to the Debt pursuant to subclauses (ii) or (iii) above, or with respect to any required prepayment of the entire Debt pursuant to Lender's election to declare the entire Debt to be immediately due and payable pursuant to subclause (iii) above. An Event of Default which existed but which was completely cured prior to the date of Casualty shall not in itself give rise to any Prepayment Consideration under this subsection.

(b) All disbursements of any portion of any Insurance Proceeds held by Lender shall be subject to all terms and conditions deemed necessary by Lender, including: (1) Lender's receipt of satisfactory requests for disbursements, paid bills and lien waivers, architect certificates or other certificates, and certificates or endorsements from title insurance companies; (ii) Borrower's deposit with Lender of any additional funds necessary to supplement the Insurance Proceeds, so as to cover, in advance, the entire cost of the necessary repairs or replacements to the Mortgaged Property as established by the certificate of an architect or engineer (employed by Lender at Borrower's expense); (iii) such architect's or engineer's determination that such repairs or replacements may be effected within a period of six (6) months or less; (iv) Borrower's prompt and diligent completion of such repairs or replacements in accordance with plans and specifications submitted to and approved by Lender; and (v) Lender's inspection, at Borrower's cost and expense, of the repairs or replacements to the Mortgaged Property to verify that such repairs or replacements have been completed in a good

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and workmanlike manner and are otherwise acceptable to Lender. Lender, whether in possession of the Premises or not, shall not have any obligation to advance or make funds other than the Insurance Proceeds available for the repair or replacement of the Mortgaged Property.

5. Payment of Taxes and Other Charges.

(a) Borrower shall pay and discharge (or cause ATT Tenant to pay and discharge) all taxes, assessments, water rates and sewer rents now or hereafter levied or assessed or imposed against the Mortgaged Property or any part thereof (collectively the "Taxes"), and all ground rents, utility charges, maintenance charges, other governmental impositions, and all other liens or charges whatsoever which may be or become a lien or charge against the Mortgaged Property (including without limitation, mechanics and materialmen's liens, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Premises), now or hereafter related to, or levied, assessed or imposed against, the Mortgaged Property or any part thereof (collectively the "Other Charges") as the same become due and payable. Borrower will deliver to Lender, promptly upon Lender's request, evidence satisfactory to Lender that the Taxes and Other Charges have been paid prior to the same becoming delinquent to the extent ATT Tenant maintains documentation as part of its customary retention policy; provided, however, ATT Tenant shall be required to maintain in its records, evidence of payment of real estate taxes for a period of not less than four (4) years.

(b) After prior written notice to Lender, Borrower, at its own expense, or ATT Tenant at its expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Taxes or Other Charges, provided that in the case of any contest by ATT Tenant, ATT Tenant complies with the requirements of Section 8.6(c) of the ATT Lease with respect to permitted contests and in the case of any contest by Borrower: (i) no Event of Default has occurred and shall be continuing; (ii) Borrower is permitted to do so under the provisions of any mortgage, deed of trust, ground lease, or other instrument which creates a superior or junior lien to this Security Instrument (it being understood that no such superior or junior liens will be permitted unless specifically allowed, in writing, by Lender); (iii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder; (iv) neither the Mortgaged Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost; (v) Borrower shall have set aside adequate reserves (which Lender may at its option require to be placed in escrow with Lender) for the payment of the Taxes or Other Charges, together with all interest and penalties; and (vi) Borrower shall have furnished such security as may be required in the proceeding, or as may be requested by Lender to insure the payment of any such Taxes or Other Charges, together with all interest and penalties thereon.

6. Escrowed Funds. Borrower shall not be required to escrow any funds required under this Section 6, as long as (i) the ATT Tenant is required to pay all Insurance Premiums, or the ATT Tenant has elected to self-insure in accordance with and if permitted by Section 9.2 of the ATT Lease, Taxes and Other Charges payable in accordance with the terms of the ATT Lease and (ii) the entire ATT Lease remains in full force and effect. If the above conditions are

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not met, then the following provisions shall apply during the period when such conditions are not met:

Borrower shall, at the option of Lender or its designee, pay to Lender or its designee on the first day of each calendar month one-twelfth of an amount which would be sufficient to pay all Insurance Premiums, Taxes and Other Charges payable, or estimated by Lender to be payable, during the next ensuing twelve (12) months. (The aggregate of said amounts so held by Lender is hereinafter called the "Escrowed Funds"). Borrower hereby pledges to Lender any and all Escrowed Funds now or hereafter held by Lender as additional security for the payment of the Debt. Lender will apply the Escrowed Funds to payments of Taxes, Other Charges and Insurance Premiums required to be made by Borrower pursuant hereto. If the amount of the Escrowed Funds held by Lender shall exceed the amounts required for the payment of the Taxes, Other Charges and Insurance Premiums described above, Lender shall, in its discretion, return any excess to Borrower or credit such excess against future payments to be made to the Escrowed Funds. If, at any time, the Escrowed Funds are not sufficient to pay the Taxes, Other Charges and Insurance Premiums described above, Borrower shall promptly pay to Lender, upon demand, an amount which Lender shall estimate as sufficient to make up the deficiency. Upon the occurrence of an Event of Default, Lender may apply any Escrowed Funds held by it to the payment of the following items in any order in its sole discretion:

- (a) Taxes and Other Charges;
- (b) Insurance Premiums;
- (c) Interest on the unpaid principal balance of the Notes;
- (d) Amortization of the unpaid principal balance of the Notes; and
- (e) All other sums payable pursuant to the Notes, this Security Instrument and the Other Security Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument and any applicable Prepayment Consideration.

Until expended or applied as above provided, the Escrowed Funds shall constitute additional security for the Debt. The Escrowed Funds shall not constitute a trust fund and may be commingled with other monies held by Lender. No earnings or interest on the Escrowed Funds shall be payable to Borrower.

To the extent Borrower timely deposits all required Escrowed Funds with Lender, Borrower shall be relieved of any further obligation to directly pay, or to deliver to Lender any evidence of the payment of (prior to their expiration or delinquency), any Insurance Premiums, Taxes or Other Charges.

7. Condemnation. If the ATT Lease is in full force and effect, then the provisions of the ATT Lease shall govern notice of a Condemnation (as hereafter defined), the settlement, adjustment, collection and application of any award or payment therefor and the restoration of the Mortgaged Property. If the ATT Lease is cancelled, surrendered or terminated, then the following provisions shall apply:

Borrower shall promptly give Lender written notice of the actual or threatened commencement of any exercise of a right of condemnation or eminent domain affecting all or

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any part of the Mortgaged Property (each such event being hereinafter referred to as a "Condemnation"), and shall deliver to Lender copies of any and all papers served in connection with any such Condemnation. Notwithstanding any taking (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking) of all or any part of the Mortgaged Property through a Condemnation, Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Notes, this Security Instrument and the Other Security Documents, and the Debt shall not be reduced until any award or payment therefor shall have been actually received and applied by Lender (after deducting any expenses of collection, including reasonable attorney's fees) to the Debt. Lender shall not be limited to the rate of interest paid on any such award or payment from a Condemnation but shall be entitled to receive out of such award or payment interest at the rate then applicable under the Notes. Borrower shall cause any award or payment payable to Borrower in any Condemnation to be paid directly to Lender. Lender shall apply, at Lender's discretion, any such award or payment (after deducting any expenses of collection, including reasonable attorney's fees) to (a) the reduction or discharge of the Debt (whether or not then due and payable) or (b) the restoration, repair, replacement, or rebuilding of the portion of the Mortgaged Property remaining after the Condemnation. No Prepayment Consideration shall be payable solely in connection with such application; provided, however, that notwithstanding the foregoing, if an Event of Default is existing as of the date of the Condemnation, or an event has occurred as of the date of the Condemnation that with notice and or the passage of time, or both, would constitute an Event of Default hereunder, then any Condemnation awards or proceeds applied to the Debt pursuant to this section shall be subject to the Prepayment Consideration computed in accordance with the terms of the Notes. If the Mortgaged Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of any such award or payment, Lender shall have the right, whether or not a deficiency judgment on the Notes shall have been sought, recovered or denied, to receive said award or payment in an amount sufficient to fully satisfy the Debt.

8. Leases and Rents. Borrower does hereby absolutely and unconditionally assign to Lender all current and future Leases and Rents, it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only, subject, however, to the Excepted Rights and Excepted Payments (as hereafter defined). The terms and conditions of this assignment shall be governed by the Assignment of Leases and Rents (the "Assignment of Leases") executed by Borrower in favor of Lender contemporaneously with this Security Instrument. Except as permitted pursuant to the Assignment of Leases, Borrower shall not enter into any future Leases of all or any part of the Mortgaged Property. The "Excepted Rights and Excepted Payments" shall mean the following described properties, payments, amounts, rights, interests and privileges: (i) all payments to Borrower by ATT Tenant pursuant to any indemnity under the ATT Lease which by the terms thereof are payable to Borrower or its successors, permitted assigns, beneficial owners, employees, officers, directors, shareholders, members, servants, agents and affiliates thereof; (ii) any insurance proceeds payable under general public liability policies or self-insurance maintained by ATT Tenant pursuant to Section 9 of the ATT Lease, which, by the terms of such policies or self-insurance, are solely for the benefit of and payable directly to Borrower or its successors, permitted assigns, employees, officers, directors, shareholders, members, servants, agents and affiliates thereof, in each such case for their own respective accounts; and (iii) Borrower's right, but not to Lender's exclusion, (A) to receive from ATT Tenant certificates and other documents and information that ATT Tenant is required to give or furnish to Borrower in

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accordance with the ATT Lease; (B) to inspect the Mortgaged Property and all records relating thereto; and (C) to sue for damages or to enforce performance or observance by ATT Tenant under the ATT Lease of the applicable terms, conditions and agreements of the ATT Lease as allowed by law, equity, or the ATT Lease. The "Excepted Rights and Excepted Payments" shall not include any of the following: (1) insurance proceeds payable under Schedule 9.1, clauses (ii), (iv), (vi) or (vii) of the ATT Lease; (2) any "Restoration Deficiency Amount" (as defined in the ATT Lease); (3) any "Lessee Insurance Payment" (as defined in the ATT Lease) (excluding any Lessee Insurance Payment with respect to insurance described in Schedule 9.1, Sections (a)(i) and (a)(iii) of the ATT Lease); or (4) any payments to Borrower by ATT Tenant pursuant to any indemnity under the ATT Lease to the extent Borrower is obligated by the terms of this Security Instrument or any of the Other Security Documents to indemnify Lender with respect to the same subject matter.

9. Maintenance, Use and Management of Mortgaged Property. If the ATT Lease is in full force and effect, then the provisions of the ATT Lease shall govern the maintenance and use of the Mortgaged Property, and so long as ATT Tenant complies with its obligations with respect to maintenance and use under the ATT Lease, Borrower shall be deemed in full compliance with this Section 9. Lender hereby acknowledges and agrees to be bound by the provisions set forth in subsections 8.4(a), (b) and (c) of the ATT Lease. If the ATT Lease is cancelled, surrendered or terminated, then the following provisions of this Section shall apply with respect to maintenance, use and management of the Mortgaged Property:

(a) Borrower shall maintain the Mortgaged Property in good condition and repair. The Improvements and the Equipment shall not be removed, demolished or materially altered (except for normal replacement of the Equipment) without the consent of Lender; not to be unreasonably withheld. Borrower shall promptly repair, replace or rebuild any part of the Mortgaged Property which reasonably requires such repair, replacement or rebuilding, and shall also complete and pay for any structure at any time in the process of construction or repair on the Premises. Borrower shall promptly comply with all laws, orders and ordinances affecting the Mortgaged Property, or the use thereof, except that Borrower shall be permitted to contest any change or proposed change thereto under the same terms and conditions as permitted in paragraph 5(b), above.

(b) Without limiting any rights Lender or its selected representatives may possess hereunder, under the Notes or under any Other Security Document to inspect the Mortgaged Property, Lender shall have the right to conduct physical inspections of the Mortgaged Property to ensure Borrower is appropriately maintaining the Mortgaged Property. Following any such inspection, should Lender determine that the Mortgaged Property has not been maintained as required herein, Lender shall have the right to demand that Borrower complete corrective measures within ninety (90) days. Failure of Borrower to complete such corrective measures within such period shall constitute an immediate Event of Default and shall entitle Lender to exercise all remedies available to it, including, without limitation, performing Borrower's obligations hereunder. If any such corrective measures are of a type which cannot be completed within such ninety (90) day period but Borrower diligently commences and prosecutes such corrective action, Lender shall allow a reasonable additional time period (not to exceed an additional ninety (90) days) to complete such corrective action.

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(c) Subject to the terms of the ATT Lease, Borrower shall use and continuously operate and permit the use and continuous operation of the Premises and the Improvements as provided for in Borrower's original loan application to Lender.

(d) Unless Lender otherwise consents in writing, Borrower shall not initiate, join in, acquiesce in or consent to: (i) the removal or resignation of the property manager for the Mortgaged Property, if any; or (ii) if such property manager is an entity affiliated with Borrower, the transfer of ownership, management or control of such property manager to a person or entity other than Borrower, its managing member, general partner, affiliated entity, or similar controlling entity in Borrower. Any property management agreement for the Premises entered into later with a property manager shall contain a provision whereby the property manager agrees that any and all mechanics' lien rights that the property manager or anyone claiming by, through or under the property manager may have in the Premises shall be subject and subordinate to the lien of this Security Instrument and shall provide that Lender may terminate such agreement at any time after the occurrence of an Event of Default under this Security Instrument. Such property management agreement or a short form thereof, at Lender's request, shall be recorded with the Recorder of Deeds of the county where the Premises are located. In addition, if the property management agreement in existence as of the date hereof does not contain a subordination provision, Borrower shall cause the property manager under such agreement to enter into a subordination of the management agreement with Lender, in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager to the lien of this Security Instrument.

(e) Notwithstanding anything herein to the contrary, in connection with any request for Lender's consent to any removal or replacement of the property manager subsequent to the conveyance of the Notes to a real estate mortgage investment conduit (a "REMIC"), within the meaning of Section 860D of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code") or to another entity in connection with a Securitization (hereinafter defined), Borrower acknowledges that Lender may require Borrower to obtain and deliver to Lender other documentation evidencing that the proposed removal or replacement will not (i) cause the then owner of the Notes to fail to qualify as a REMIC, and (ii) result in a qualification, downgrade or withdrawal of any credit rating then in effect for any securities or certificates issued by the then owner of the Notes in connection with a Securitization which includes the Notes.

(f) Unless Lender otherwise consents in writing, Borrower shall not initiate, join in, acquiesce in or consent to: (i) any change, modification or alteration of the existing access to the Mortgaged Property; (ii) any change in any private restrictive covenant, replat, easement, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Mortgaged Property or any part thereof. If under applicable zoning provisions the use of all or any portion of the Mortgaged Property is or shall become a nonconforming use, Borrower will not cause or permit such nonconforming use to be discontinued or abandoned without the express written consent of Lender.

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10. Sale of Mortgaged Property or Change in Borrower.

(a) Borrower acknowledges that Lender has examined and relied on the creditworthiness and experience of Borrower and ATT Tenant in agreeing to make the Loan secured hereby, and that Lender has a valid interest in maintaining the value of the Mortgaged Property so as to ensure that should Borrower default in the repayment of the Debt, Lender can recover the Debt by a sale of the Mortgaged Property.

(b) Borrower may not Transfer (hereinafter defined) the Mortgaged Property, nor allow any Change in Ownership (hereinafter defined), unless all of the following conditions shall have been satisfied: (i) Lender has received Borrower's written request for a Transfer, or for a Change in Ownership (or any other request resulting in a new obligor under the Loan) and Lender shall have expressly approved, in its sole discretion, such request in writing, subject to the satisfaction of all requirements hereunder; (ii) no Event of Default has occurred and is continuing; (iii) the proposed new owner/assignee of the Mortgaged Property (the "New Borrower") meets all of Lender's Underwriting Standards (hereinafter defined); (iv) the Mortgaged Property meets all of Lender's Underwriting Standards related to its financial condition, cash flow, operating income, physical condition, management and operation; (v) Borrower provides Lender such other information and documentation reasonably required by Lender, including without limitation, engineering reports, appraisals, environmental reports and title endorsements; (vi) Borrower reimburses Lender for all underwriting and other costs ("Underwriting Costs") incurred by Lender in connection with such Transfer or Change in Ownership (including without limitation, engineering and/or architect's fees, environmental studies, title searches, credit checks, title endorsements, appraisal fees, attorney fees and any costs associated with obtaining any REMIC Opinion or Rating Agency No-Downgrade Letter (as such terms are hereinafter defined) required by Lender); and (vii) Borrower remits to Lender both a reasonable administrative fee and an assumption fee in the amount of \$100,000 for the first such Transfer or Change in Ownership to the extent such first Transfer or Change in Ownership closes within the initial twelve (12) month period following the closing of the Loan, and in the amount of one eighth of one percent (0.125%) of the outstanding balance of the Debt as of the date of any other Transfer or Change in Ownership. Borrower shall reimburse Lender for all Underwriting Costs incurred by Lender in connection with any request for Lender's consent to a Transfer or a Change in Ownership, whether or not any requested Transfer or Change in Ownership is approved or consummated. Any Transfer or Change in Ownership in violation of the terms of this paragraph 10 shall constitute an Event of Default, and Lender may then declare the entire Debt immediately due and payable upon any such Transfer or Change in Ownership. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to so declare the Debt immediately due and payable, or in denying any request for approval of a Transfer or Change in Ownership. This provision shall apply to every Transfer or Change in Ownership whether or not Lender has consented to any previous Transfer or Change in Ownership.

(c) "Lender's Underwriting Standards" shall mean the actual commercial loan underwriting standards used by PNC Bank, National Association, in connection with its making of loans for the purpose of Securitization, or any successor entity that is then servicing the Loan, in effect at the time of the proposed Transfer or Change in Ownership, or, if no such standards exist, such standards which are then customary for a commercial lender in connection with the

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origination of a commercial mortgage loan, for the purpose of Securitization, of the size and type of Borrower's loan from Lender secured hereby.

(d) A "Transfer" is defined as any sale, conveyance, assignment, alienation, mortgage, hypothecation, encumbrance, grant of a lien over or a security interest in, pledge or other transfer of the Mortgaged Property or any part thereof or interest therein, whether voluntary or involuntary. Without limiting the generality of the foregoing, a Transfer is deemed to include: (i) an installment sales agreement wherein Borrower agrees to sell the Mortgaged Property or any part thereof for a price to be paid in installments; (ii) an agreement by Borrower leasing all or a substantial part of the Mortgaged Property for other than actual occupancy by a space tenant thereunder; or (iii) a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents. Notwithstanding the foregoing, the creation of any lien in favor of the Mezzanine Lender under the Intercreditor Agreement (each as hereinafter defined) shall not be subject to the requirements of this Section 10.

(e) A "Change in Ownership" shall occur: (i) when the ownership or control of more than forty-nine percent (49%), in the aggregate, of the applicable indicia of ownership or actual ownership interest in Borrower, any Indemntor (hereinafter defined), or any Controlling Entity (hereinafter defined) shall be vested in a party or parties who were not owners of such indicia of ownership or actual ownership interest as of the closing of the Loan (1) by any one or more voluntary or involuntary sales, conveyances, transfers, assignments, mortgages, hypothecations, encumbrances, grants of liens over or security interests in, or pledges of such indicia of ownership or actual ownership interest or any interest therein, or (2) in one or a series of transactions causing the creation or issuance of any additional indicia of ownership or actual ownership interest; or (ii) upon the change, removal or resignation of a managing member, general partner or similar controlling person or entity of Borrower, any Indemntor or any Controlling Entity. The term "Controlling Entity" shall mean any managing member, general partner or similar controlling entity in Borrower or any Indemntor. Involuntary changes in ownership resulting from a death or physical or mental disability, and any Change in Ownership permitted by the Intercreditor Agreement shall not be considered a Change in Ownership.

(f) A Change of Ownership shall not be deemed to have occurred when a shareholder, member, partner or other person (for purposes of this paragraph each of the foregoing is called an "Estate Planning Transferor") possessing an ownership interest in Borrower makes a one-time transfer (an "Estate Planning Transfer") during the term of the Loan, of all or part of such ownership interest for estate planning purposes to a trust or other entity for the benefit of any of such person's spouse, children or grandchildren, or any of them (each, a "Permitted Transferee"); provided, however, that any such Estate Planning Transfer shall be subject to the following conditions:

(i) No Event of Default, and no event or condition that, with the giving of notice or passage of time or both, would constitute an Event of Default, shall exist on the date of the proposed Estate Planning Transfer; and

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(ii) No such Estate Planning Transfer shall in any event absolve any Estate Planning Transferor, in whole or in part, from its liability, if any, to Lender under the Notes, this Security Instrument or any Other Security Document; and

(iii) Each applicable Permitted Transferee shall execute and deliver to Lender an agreement, in a form acceptable to Lender in its sole discretion, whereby such Permitted Transferee, upon the death of the applicable Estate Planning Transferor, becomes jointly and severally liable for the liability, if any, of such Estate Planning Transferor to Lender under the Notes, this Security Instrument or any Other Security Documents; and

(iv) Lender has been paid a \$3,500 administrative fee and all out-of-pocket costs incurred by Lender (including, without limitation, attorney fees) in effecting any Estate Planning Transfer; and

(v) Lender has determined that, from the date of the closing of the loan to the date of the proposed Estate Planning Transfer, there has been no material adverse change in the (a) financial condition of the Estate Planning Transferor, and (b) financial or physical condition of the Mortgaged Property.

An Estate Planning Transfer shall be effective only upon the date of satisfaction of the last of such conditions to be satisfied. Lender shall have the absolute and unconditional right to require reasonable evidence of the satisfaction of each condition to an Estate Planning Transfer.

(g) Borrower shall be released from liability for the Debt only after: (i) all conditions for a Transfer or Change in Ownership have been satisfied; (ii) all security documents deemed necessary by Lender have been executed, delivered, recorded and perfected; (iii) Lender has received a policy of title insurance (or similar assurance) reflecting the new ownership and the priority and perfection of Lender's security; (iv) the New Borrower has assumed all required personal liability; and (v) all other reasonable requirements of Lender are satisfied. Indemnitor shall be relieved of its obligations under the Nonrecourse Indemnification Agreement of even date herewith and of its obligations under the Environmental Indemnification Agreement of even date herewith when the foregoing conditions have been satisfied and when a replacement Indemnitor acceptable to Lender has been approved by Lender.

(h) Notwithstanding anything herein to the contrary, in connection with any request for Lender's consent to a Transfer or Change in Ownership subsequent to the conveyance of the Notes to a real estate mortgage investment conduit (a "REMIC"), within the meaning of Section 860D of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code") or to another entity in connection with a Securitization (hereinafter defined), Borrower acknowledges that Lender may require Borrower to obtain and deliver to Lender other documentation evidencing that the proposed Transfer or Change in Ownership will not (i) cause the then owner of the Notes to fail to qualify as a REMIC (a "REMIC Opinion"); and (ii) result in a qualification, downgrade or withdrawal of any credit rating then in effect for any securities or certificates issued by the then owner of the Notes in connection with a Securitization which includes the Notes (a "Rating Agency No-Downgrade Letter").

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(i) In addition to any other requirements of this Paragraph 10, so long as the Mortgaged Property is owned by tenants in common, as a condition to any Transfer, any purchaser of an undivided interest in the Mortgaged Property shall execute an assignment and assumption of the TIC Agreement.

(j) Anything herein to the contrary notwithstanding, no Transfer or Change in Ownership or Estate Planning Transfer shall be permitted hereunder if such Transfer or Change in Ownership or Estate Planning Transfer would result in Charles Kushner owning a direct or indirect ownership in Borrower, and no other transfer of any direct or indirect ownership interest in Borrower shall be made (whether or not such transfer would constitute a "Change in Ownership") which would result in Charles Kushner owning a direct or indirect ownership in Borrower; provided, however, a Transfer shall be permitted to an irrevocable trust established for the benefit of Charles Kushner upon the death of Seryl Kushner of all or any portion of her interest in the Borrower if Charles Kushner has no control over such trust.

11. Anti-Terrorism Laws.

(a) Neither Borrower nor any of its affiliates is in violation of any laws or regulations relating to terrorism or money laundering ("Anti-Terrorism Laws"), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "Executive Order") and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56.

(b) Neither Borrower, any of its affiliates, or any of its brokers or other agents acting or benefiting from the Loan is a Prohibited Person. A "Prohibited Person" is any of the following:

(i) a person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order;

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

(iii) a person or entity with whom any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a person or entity who commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or

(v) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list.

(c) Neither Borrower, any of its affiliates or any of its brokers or other agents acting in any capacity in connection with the Loan (1) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Prohibited

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Person, (2) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(d) Borrower shall not (1) conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any Prohibited Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or any other Anti-Terrorism Law, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law (and Borrower shall deliver to Lender any certification or other evidence requested from time to time by any Lender in its reasonable discretion, confirming Borrower's compliance herewith).

12. Estoppel Certificates and No Default Affidavits.

(a) After request by Lender, Borrower shall within ten (10) business days furnish Lender with a statement, duly acknowledged and certified by Borrower, setting forth: (i) the amount of the original principal amount of the Notes; (ii) the unpaid principal amount of the Notes; (iii) the rate of interest of the Notes; (iv) the date installments of interest and/or principal were last paid; (v) any offsets or defenses to the payment of the Debt, if any; and (vi) that the Notes, this Security Instrument and the Other Security Documents are valid, legal and binding obligations and have not been modified, or if modified, giving particulars of such modification.

(b) Within ten (10) business days after request by Lender, Borrower will request and use reasonable efforts to obtain an estoppel certificate from ATT Tenant, in substantially the form required by the ATT Lease. If ATT Tenant fails to provide such estoppel certificate, Borrower shall provide a certificate with respect to the tenancy of such tenant, in form and substance satisfactory to Lender.

(c) Upon the written request of Borrower, no more than one time in any twelve (12) month period, Lender shall deliver an estoppel, upon which the Mezzanine Lender may rely, from Lender, with respect to compliance by Borrower with Notes, this Security Instrument and the Other Security Documents.

13. Splitting the Notes; Cooperation; Indemnification.

(a) Splitting the Notes. Lender has the right from time to time to sever the Notes into one or more separate promissory notes in such denominations as Lender determines in its sole discretion, which promissory notes may be included in separate sales or Securitizations undertaken by Lender. In conjunction with any such action, Lender may redefine the interest rate and amortization schedule; provided, however: (a) if Lender redefines the interest rate, the weighted average of the interest rates contained in the severed promissory notes taken in the aggregate shall equal the Applicable Interest Rate (without giving effect to any deviation attributable to the imposition of any rate of interest at the Default Rate or prepayments upon a Casualty or Condemnation or during the continuance of an Event of Default), and (b) if Lender redefines the amortization schedule, the amortization of the severed promissory notes taken in

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the aggregate shall, require no more amortization to be paid under the Loan than as required under the Notes at the time such action was taken by Lender. Subject to the foregoing, each severed promissory note, and the Loan evidenced thereby, shall be upon all of the terms and provisions contained in the Notes, this Security Instrument and the Other Security Documents which continue in full force and effect, except that Lender may allocate specific collateral given for the Loan as security for performance of specific promissory notes, in each case with or without cross default provisions. Borrower, at Borrower's expense, agrees to cooperate with all reasonable requests of Lender to accomplish the foregoing, including, without limitation, execution and prompt delivery to Lender of a severance agreement and such other documents as Lender shall reasonably require. Borrower hereby appoints Lender its attorney-in-fact with full power of substitution (and which shall be deemed to be coupled with an interest and irrevocable until the Loan is paid and the Security Instrument is discharged of record, with Borrower hereby ratifying all that its said attorney shall do by virtue thereof) to make and execute all documents necessary or desirable to effect the aforesaid severance; provided, however, Lender shall not make or execute any such documents under such power until five (5) days after written notice has been given to Borrower by Lender of Lender's intent to exercise its rights under such power, and such exercise shall be in strict accordance with this Section 13(a). Borrower's failure to deliver any of the documents requested by Lender hereunder for a period of fifteen (15) Business Days after such notice by Lender shall, at Lender's option, constitute an Event of Default hereunder.

(b) Lender's Rights to Sell or Securitize. Borrower acknowledges that Lender, and each successor to Lender's interest, may (without prior notice to Borrower or Borrower's prior consent), sell or grant participations in the Loan (or any part thereof), sell or subcontract the servicing rights related to the Loan, Securitize the Loan or include the Loan as part of a Securitization and, in connection therewith, assign Lender's rights hereunder to a Securitization trustee. For purposes hereof, "Securitization" or "Securitize" means the sale of the Loan, by itself or as part of pool with other loans, in a transaction whereby mortgage pass-through certificates or other securities evidencing a beneficial interest, backed by the Loan or such pool of loans, will be sold as a rated or unrated public offering or private placement. Borrower, at its expense, agrees to cooperate with all reasonable requests of Lender in connection with any of the foregoing including, without limitation, executing any financing statements or other documents deemed necessary by Lender or its transferee to create, perfect or preserve the rights and interest to be acquired by such transferee, provide any updated financial information with appropriate verification through auditors letters, additional appraisals, environmental reports, engineering reports and similar due diligence materials, and updates, verifications and consents with respect to such materials that were delivered at closing, deliver a so called "10b-5" opinion, revised organizational documents and revise or deliver additional counsel opinions satisfactory to the Rating Agencies, re-executing or making non-financial modifications to the Notes, this Security Instrument or the Other Security Documents, provided that no such modification, revision, additional documentation, or other action in connection with such cooperation shall increase any financial obligations of Borrower under the Notes, this Security Instrument or the Other Security Documents or materially increase the non-financial obligations or materially decrease the rights of Borrower pursuant to the Notes, this Security Instrument or the Other Security Documents; delivering additional tenant estoppel certificates, subordination or similar agreements (subject to the obligation of the ATT Tenant to provide such instruments under the ATT Lease); participate (including senior management of Borrower) in meetings and presentations to the Rating

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Agencies and prospective investors, in each case as required by the Rating Agencies or prospective investors; and review information contained in a preliminary or final private placement memorandum, prospectus, prospectus supplements or other disclosure document, providing a mortgagor estoppel certificate and such other information about Borrower any Indemnitor or their affiliates, ATT Tenant or the Mortgaged Property as Lender may reasonably require, and to the extent in Borrower's possession, for Lender's offering materials.

(c) Dissemination of Information. Borrower acknowledges that Lender may provide to third parties with an existing or prospective interest in the servicing, enforcement, evaluation, performance, ownership, purchase, participation or Securitization of the Loan, including, without limitation, any Rating Agency and any entity maintaining databases on the underwriting and performance of commercial mortgage loans, any and all information which Lender now has or may hereafter acquire relating to the Loan, the Mortgaged Property, Borrower or any Indemnitor or their affiliates, as Lender determines necessary or desirable and that such information may be included in disclosure documents in connection with a Securitization or syndication of participation interests, including, without limitation, a prospectus, prospectus supplement, offering memorandum, private placement memorandum or similar document (each, a "Disclosure Document") and also may be included in any filing with the Securities and Exchange Commission pursuant to the Securities Act or the Securities Exchange Act. To the fullest extent permitted under applicable law, Borrower irrevocably waives all rights, if any, to prohibit such disclosure, including, without limitation, any right of privacy.

(d) Securitization Indemnification. Borrower agrees to provide, and to cause Indemnitor to provide, in connection with each Disclosure Document, an indemnification certificate: (a) certifying that such Disclosure Document has carefully been examined, including, without limitation, the sections entitled "Special Considerations," and/or "Risk Factors," and "Certain Legal Aspects of the Mortgage Loan," or similar sections, and all sections relating to Borrower, Indemnitor, their respective affiliates, the Loan, the Notes, this Security Instrument or the Other Security Documents, ATT Tenant, and the Mortgaged Property, and any risks or special considerations relating thereto, and that, to the best of such indemnitor's knowledge, such sections (and any other sections reasonably requested) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; (b) indemnifying Lender (and for purposes of this Paragraph, Lender shall include its officers and directors) and the affiliate of Lender that (i) has filed the registration statement, if any, relating to the Securitization and/or (ii) which is acting as issuer, depositor, sponsor and/or a similar capacity with respect to the Securitization (any Person described in (i) or (ii), an "Issuer Person"), and each director and officer of any Issuer Person, and each Person or entity who controls any Issuer Person within the meaning of Section 15 of the Securities Act or Section 20 of the Securities Exchange Act (collectively, "Issuer Group"), and each Person which is acting as an underwriter, manager, placement agent, initial purchaser or similar capacity with respect to the Securitization, each of its directors and officers and each Person who controls any such Person within the meaning of Section 15 of the Securities Act or Section 20 of the Securities Exchange Act which is acting as an underwriter, manager, placement agent, initial purchaser or similar capacity with respect to the Securitization, each of its directors and officers and each Person who controls any such Person within the meaning of Section 15 of the Securities Act and Section 20 of the Securities Exchange Act (collectively, "Underwriter Group") for any Losses to which

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Lender, the Issuer Group or the Underwriter Group may become subject insofar as the Losses arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in such section or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated in such sections necessary in order to make the statements in such sections or in light of the circumstances under which they were made, not misleading (collectively, "**Securities Liabilities**"); provided, however, Borrower shall not be liable to the extent any Securities Liabilities result from information which was incomplete or incorrect which information would have been complete and correct but for Lender's failure to make any changes requested by Borrower; and (c) agreeing to reimburse Lender, the Issuer Group and the Underwriter Group for any legal or other expenses reasonably incurred by Lender, the Issuer Group and the Underwriter Group in investigating or defending the Securities Liabilities; provided, however, that indemnitor will be liable under clauses (b) or (c) above only to the extent that such Securities Liabilities arise out of, or are based upon, any such untrue statement or omission made therein in reliance upon, and in conformity with, information furnished to Lender or any member of the Issuer Group or Underwriter Group by or on behalf of Borrower or a Indemnitor in connection with the preparation of the Disclosure Documents or in connection with the underwriting of the Loan, including, without limitation, financial statements of Borrower, or any Indemnitor, and operating statements, rent rolls, environmental site assessment reports and property condition reports with respect to the Mortgaged Property; provided, however, Borrower will be liable for materials prepared by persons other than Borrower only to the extent such materials contain information which Borrower knew was untrue or misleading. This indemnity is in addition to any liability which Borrower or Indemnitor may otherwise have and shall be effective whether or not an indemnification certificate described above is provided and shall be applicable based on information previously provided by or on behalf of Borrower or a Indemnitor if the indemnification certificate is not provided. For purposes hereof, "**Losses**" means any and all claims, suits, liabilities (including, without limitation, strict liabilities and liabilities under federal and state securities laws), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, and amounts paid in settlement of whatever kind or nature (including without limitation reasonable legal fees and other costs of defense).

(e) Additional Financial Information. If Lender expects, in connection with any Securitization, that Borrower, alone or in conjunction with any Borrower affiliated entity, or the Mortgaged Property, alone or in conjunction with any other property, will be a "Significant Obligor" under Regulation AB, Borrower shall furnish to Lender (1) the financial data required under Item 1112(b)(1) of Regulation AB if Lender expects that the aggregate principal amount of the Loan together with any related loans included in such Securitization may, at any time, equal or exceed ten percent (10%) (but less than twenty percent (20%)) of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in such Securitization; or (2) the financial statements required under Item 1112(b)(2) of Regulation AB if Lender expects that the aggregate principal amount of the Loan together with any related loans included in such Securitization may, at any time, equal or exceed twenty percent (20%) of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in such Securitization. Such financial data or financial statements shall be furnished to Lender (A) within ten (10) business days after request from Lender in connection with the preparation of any disclosure documents for the Securitization, (B) not later than thirty (30) days after the end of each fiscal quarter of Borrower and (C) not later than seventy-five (75) days after

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the end of each fiscal year of Borrower. If requested by Lender, Borrower shall furnish to Lender financial data and/or financial statements for any tenant of the Property if, in connection with a Securitization, Lender expects there to be, with respect to such tenant or group of affiliated tenants, a concentration within all of the mortgage loans included or expected to be included in the Securitization such that such tenant or group of affiliated tenants would constitute a "Significant Obligor" under Regulation AB. All such financial data and financial statements shall be prepared in accordance with GAAP, and shall meet the requirements of Regulation AB and other applicable legal requirements, and shall be so certified by the chief financial officer or administrative member of Borrower. All such financial statements shall be audited by independent accountants of Borrower acceptable to Lender in accordance with Regulation AB and all other applicable legal requirements, shall be accompanied by the manually executed report of the independent accountants thereon, which report shall meet the requirements of Regulation AB and all other applicable legal requirements, and shall be further accompanied by a manually executed written consent of the independent accountants, in form and substance acceptable to Lender, to the inclusion of such financial statements in any disclosure documents for the Securitization or any other required securities law filings and to the use of the name of such independent accountants and the reference to such independent accountants as "experts" in any disclosure documents for the Securitization or any other required securities law filings, all of which shall be provided, at Borrower's expense, at the same time as the related financial statements are required to be provided. If requested by Lender, Borrower shall provide Lender, promptly upon request, with any other or additional financial statements, or financial, statistical or operating information, as Lender shall determine to be required pursuant to Regulation AB or any amendment, modification or replacement thereto or other applicable legal requirements in connection with any disclosure documents for the Securitization or any other required securities law filings or as shall otherwise be reasonably requested by Lender. In the event Lender determines in connection with a Securitization, that the financial data and financial statements required in order to comply with Regulation AB or any amendment, modification or replacement thereto or other legal requirements are other than as provided herein, Lender may request, and Borrower shall promptly provide, such other financial data and financial statements as Lender determines to be necessary or appropriate for such compliance. Notwithstanding anything to the contrary herein contained, Borrower shall only be required to provide financial data and financial information (i) regarding ATT Tenant and the guarantor of the ATT Lease to the extent Borrower is permitted to obtain such data and information under the ATT Lease and is authorized to provide such data and information to Lender, or (ii) regarding the Mortgaged Property to the extent that such data and information is in Borrower's possession or is available to Borrower upon request under the ATT Lease, or which can be obtained by the Borrower through the use of commercially reasonable efforts.

(f) The out-of-pocket cost to Borrower of providing such information and documents or other actions in connection with such cooperation shall be borne by Borrower up to but not in excess of \$100,000.00, with any out-of-pocket costs in excess of such amount to be paid by Lender.

14. Books and Records; Reporting Requirements.

(a) Borrower and Indemnitors (if any) shall keep complete and accurate books and records of account in accordance with the statements and principles of the American Institute of

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Certified Public Accountants, consistently applied, or to the extent required by Paragraph 13(e), in accordance with GAAP, consistently applied. Borrower shall deliver, or cause to be delivered, the reports and financial statements described below, all in form acceptable to Lender (collectively the "Reports"), within the time period required. Any required certification of such reports and financial statements must be by the chief financial officer (or other person acceptable to Lender) of Borrower or Indemnitior, as applicable.

(i) Within thirty (30) days after the close of each fiscal year of Borrower, Borrower shall deliver, or cause to be delivered to Lender: (A) a certified current rent roll; (B) a certified annual operating statement of the Mortgaged Property; and (C) a certified annual balance sheet and profit and loss statement of Borrower. If the original principal amount of the Loan was \$20,000,000.00 or more, then all of the foregoing must be delivered within one hundred twenty (120) days after the close of each fiscal year of Borrower and must be audited by independent certified public accountants acceptable to Lender.

(ii) Within thirty (30) days after the close of each fiscal year of Indemnitior, Borrower shall deliver, or cause to be delivered to Lender: a certified annual balance sheet and profit and loss statement of Indemnitior. If the original principal amount of the Loan was \$20,000,000.00 or more, then all of the foregoing must be delivered within one hundred twenty (120) days after the close of each fiscal year of Indemnitior and must be audited by independent certified public accountants acceptable to Lender.

(iii) Within thirty (30) days after the close of each calendar quarter, Borrower shall deliver, or cause to be delivered to Lender the following: (A) a certified current rent roll; (B) a certified quarterly operating statement of the Mortgaged Property; (C) a certified quarterly balance sheet and profit and loss statement of Borrower.

(iv) Within sixty (60) days after filing, Borrower shall deliver, or cause to be delivered to Lender a certified copy of Borrower's tax return.

(b) Within thirty (30) days after the close of each fiscal year of Borrower, Borrower shall deliver to Lender, for Lender's approval in its sole discretion, a report (the "Leasing Report") setting forth the minimum economic terms which Borrower proposes for use in connection with the standard lease form for Leases of portions of the Mortgaged Property during the twelve month period beginning upon such anniversary date. The terms set forth in the Leasing Report shall reflect the prevailing market conditions for like properties in the locality of the Mortgaged Property. This subsection (b) shall not apply so long as the ATT Lease remains in effect.

(c) Intentionally Deleted.

(d) Borrower shall supplement the required Reports and the Leasing Reports (if required) and provide such other financial information in respect of Borrower and Indemnitior, and, to the extent within Borrower's possession, the Mortgaged Property as Lender, from time to time, may request. Borrower acknowledges that, without timely delivery of complete and accurate Reports, Lender may not be able to execute a Securitization. Borrower agrees that if the

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Borrower fails to deliver any of the Reports within thirty (30) days after the date upon which such Report is due, provided Lender has given Borrower at least fifteen (15) days prior notice of such failure, then there shall be an Event of Default hereunder.

15. Performance of Other Agreements. Borrower shall observe and perform each and every term to be observed or performed by Borrower pursuant to the terms of any agreement, including the TIC Agreement, or recorded instrument affecting or pertaining to the Mortgaged Property.

16. Further Acts, Etc. Borrower will, at Borrower's cost, complete and deliver any such further acts or documents required by Lender, from time to time, to correct errors in the documenting of the Loan or to better assure, convey, assign, transfer, perfect or confirm unto Lender the property and rights intended to be given it in this Security Instrument, the Notes or any Other Security Document. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender under the Notes, this Security Instrument, the Other Security Documents, at law or in equity, including without limitation the rights and remedies described in this paragraph.

17. Recording of Security Instrument, Etc. Except where otherwise prohibited by law, Borrower will pay all filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment, and subsequent release or reconveyance of this Security Instrument and the Notes, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property, any instrument of further assurance and all federal, state, county and municipal, taxes, duties, impositions, assessments and charges arising out of or in connection with the same. Borrower shall hold harmless and indemnify Lender, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making and recording of this Security Instrument.

18. Events of Default. The Debt shall become immediately due and payable at the option of Lender, without notice or demand, upon the occurrence of any one or more of the following events (each an "Event of Default"):

(a) if Borrower fails to make the full and punctual payment of any amount payable pursuant to this Security Instrument, the Notes (or any of them) or any Other Security Document, which failure is not cured on or before the fifth (5th) day after written notice from Lender to Borrower of such failure;

(b) if Borrower fails to pay the entire outstanding principal balance of the Notes (or any of them), together with all accrued and unpaid interest, on the date when due, whether on the Maturity Date (as defined in the Notes), or upon acceleration, or on the Prepayment Date (as defined in the Notes);

(c) if Borrower or ATT Tenant fails to make the full and punctual payment of Taxes or Other Charges as required hereby;

(d) if Borrower or ATT Tenant fails to keep the Policies of insurance required hereby in full force and effect, or fails to promptly deliver copies thereof to Lender upon request;

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(e) if a Transfer or a Change in Ownership occurs in violation of the provisions of this Security Instrument;

(f) if any representation or warranty of Borrower or any Indemnitee made herein, in any guaranty or indemnity or in any certificate, report, financial statement or other instrument or document furnished to Lender shall have been false or misleading in any material and adverse respect when made;

(g) if Borrower shall make an assignment for the benefit of creditors or if Borrower is not paying debts as and when the same become due;

(h) if a receiver, liquidator or trustee of Borrower shall be appointed or if Borrower is adjudicated bankrupt or insolvent, or if any petition for bankruptcy, reorganization or arrangement pursuant to federal bankruptcy law, or any similar federal or state law, shall be filed by or against, consented to, or acquiesced in by, Borrower or if any proceeding for the dissolution or liquidation of Borrower shall be instituted; however, if such appointment, adjudication, petition or proceeding was involuntary and not consented to by Borrower, then upon the same not being discharged, stayed or dismissed within sixty (60) days;

(i) if Borrower shall be in default, beyond any applicable notice and cure period, under any other deed of trust, mortgage or security agreement covering any part of the Mortgaged Property whether it be superior or junior in priority to this Security Instrument (it not being implied by this clause that any such encumbrance will be permitted);

(j) if the Mortgaged Property becomes subject to any mechanic's, materialman's or other lien (other than a lien for local real estate taxes and assessments not then due and payable, or any lien being contested by Borrower or ATT Tenant pursuant to its rights hereunder or under the ATT Lease) and such lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of thirty (30) calendar days;

(k) the expiration, dismissal or final adjudication of any appeal rights of Borrower in connection with any judgment entered against it in excess of \$100,000.00 which is not fully covered by insurance (other than Borrower's deductible, if any);

(l) if Borrower or ATT Tenant fails to promptly and diligently cure any material violations of laws or ordinances affecting the Mortgaged Property; or

(m) if for more than thirty (30) days after written notice from Lender, any Borrower fails to comply with the provisions of Paragraph 56 hereof; or

(n) if there is an event of default under the TIC Agreement or if the TIC Agreement is assigned, amended, modified or terminated without Lender's prior written consent.

(o) if any Borrower commences any action to partition the Mortgaged Property, whether or not the action is successful, or asserts any lien rights against another Borrower.

(p) if for more than thirty (30) days after written notice from Lender, Borrower shall fail to perform any other term, covenant or condition of the Notes, this Security Instrument or

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any of the Other Security Documents; provided, however, that if such failure to perform is of a type which cannot be cured within such thirty (30) day period and Borrower diligently commences and prosecutes such cure, Lender shall allow a reasonable additional time period (not to exceed one hundred twenty (120) additional days) to complete such cure.

19. Right to Cure Defaults. Upon the occurrence of any Event of Default, or if Lender may do such acts or make such payments in Borrower's stead, in such manner and to the extent that Lender may deem necessary to protect the security hereof. Any such acts or payments by Lender shall be at Lender's sole discretion, may be taken without notice to or demand on Borrower, and will not release Borrower from any obligation hereunder. Lender is authorized to enter upon the Mortgaged Property for such purposes, or appear in, defend or bring any action or proceeding to protect its interest in the Mortgaged Property, to cause this Security Instrument to be foreclosed or to collect the Debt. All such costs and expenses (including reasonable attorney fees) incurred by Lender in remedying any such Event of Default, in acting or making payments in Borrower's stead, or in appearing in, defending or bringing any of the foregoing actions or proceedings, shall bear interest at the Default Rate from the date incurred by Lender until the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the above rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the Other Security Documents and shall be immediately due and payable upon demand by Lender therefor. All advances, disbursements and expenditures made by Lender before and during a foreclosure and before and after a judgment of foreclosure and at any time prior to sale, and where applicable after sale, shall have the benefit of all applicable provisions of the Illinois Mortgage Foreclosure Act, as amended from time to time.

20. Lender's Remedies.

(a) Upon the occurrence of any Event of Default, Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Mortgaged Property, including, without limitation, the following actions:

- (i) declare the entire Debt to be immediately due and payable;
- (ii) institute proceedings to foreclose this Security Instrument, in which case the Mortgaged Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (iii) 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 of this Security Instrument for the balance of the Debt not then due;
- (iv) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Notes or the Other Security Documents;
- (v) recover judgment on the Notes (or any of them) either before, during or after any proceedings for the enforcement of this Security Instrument;

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

(vii) enforce Lender's interest in the Leases and Rents and enter into or upon the Mortgaged Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, and thereupon Lender may: (A) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Mortgaged Property and conduct the business thereat; (B) complete any construction on the Mortgaged Property in such manner and form as Lender deems advisable; (C) make alterations, additions, renewals, replacements and improvements to or on the Mortgaged Property; (D) exercise all rights and powers of Borrower with respect to the Mortgaged Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all earnings, revenues, rents, issues, profits and other income of the Mortgaged Property and every part thereof; and (E) apply the receipts from the Mortgaged Property to the payment of the Debt, after deducting therefrom all expenses (including reasonable attorney fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, assessments, Insurance Premiums and Other Charges in connection with the Mortgaged Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees; or

(viii) pursue such other rights and remedies as may then be available at law and in equity. To the extent permitted presently or in the future by laws of the state in which the Premises and Improvements are located, Lender may institute a proceeding or proceedings, judicial, or nonjudicial, by advertisement or otherwise, for the complete or partial foreclosure of this Security Instrument or the complete or partial sale of the Mortgaged Property under a power of sale which power is hereby granted to Lender.

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

(b) Upon the completion of any sale or sales made under or by virtue of this Security Instrument, an officer of any court empowered to do so shall execute and deliver to the purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Lender is hereby irrevocably appointed the true and lawful attorney of Borrower, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Mortgaged Property and rights so sold, and for that purpose Lender may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Borrower hereby ratifying and confirming all that Lender shall lawfully do by virtue hereof. Any such sale or sales made under or by virtue of this Security Instrument pursuant to any judicial proceedings or any judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Borrower in and to the properties and rights so sold, and shall be a perpetual bar both at law and

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in equity against Borrower and against any and all persons claiming or who may claim the same, or any part thereof from, through or under Borrower.

(c) In any suit or proceeding to foreclosure the lien hereof, there shall be allowed and included as additional indebtedness in judgment or decree of foreclosure and sale, all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorney fees, appraiser fees, outlays for documentary and expert evidence, stenographer charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies and similar data and assurances with respect to title, as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Mortgaged Property. Upon any sale made under or by virtue of this Security Instrument pursuant to any judicial proceedings or any judgment or decree of foreclosure and sale, Lender may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Debt the net sales price after deducting therefrom, to the extent allowed by applicable law, the expenses of the sale and costs of the action and any other sums which Lender is authorized to deduct under this Security Instrument.

(d) No recovery of any judgment by Lender and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of Borrower shall affect in any manner or to any extent the lien of this Security Instrument upon the Mortgaged Property or any part thereof, or any liens, rights, powers or remedies of Lender hereunder, but such liens, rights, powers and remedies of Lender shall continue unimpaired as before.

(e) Lender may release, regardless of consideration and without the necessity for any notice to or a consent by any person or entity, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interests created in or evidenced by this Security Instrument or the Other Security Documents or their stature as a first and prior lien and security interests in and to the Mortgaged Property. For payment of the Debt, Lender may resort to any security in such order and manner as Lender may elect.

(f) Lender shall have all rights, remedies and recourses granted in the Notes, this Security Instrument and the Other Security Documents or available at law or equity (including the Uniform Commercial Code), which rights: (i) shall be cumulative and concurrent; (ii) may be pursued separately, successively or concurrently against Borrower or others obligated under the Notes, this Security Instrument and the Other Security Documents, or against the Mortgaged Property, or against any one or more of them, at the sole discretion of Lender; (iii) may be exercised as often as occasion therefore shall arise and exercise or failure to exercise any of them shall not be construed as a waiver or release thereof or of any other right, remedy or recourse; and (iv) are intended to be, and shall be, nonexclusive. No enforcement of any rights, remedies or recourse under the Notes (or any of them), this Security Instrument and the Other Security Documents or otherwise at law or equity shall be deemed to cure any Event of Default. The remedies provided for in this Security Instrument may be exercised in any order.

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21. Changes in the Laws Regarding Taxation. If any law is enacted or adopted or amended after the date of this Security Instrument which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Mortgaged Property, Borrower will pay such tax, with interest and penalties thereon, if any. In the event Lender is advised by counsel chosen by it that the payment of such tax or interest and penalties by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then in any such event, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the entire Debt immediately due and payable; provided, however, that no Prepayment Consideration shall be required solely as a result of a prepayment required by any such declaration.

22. Documentary Stamps. 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 Notes or this Security Instrument, or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

23. Usury Laws. This Security Instrument, the Other Security Documents and the Notes are subject to the express condition that at no time shall Borrower be obligated or required to pay interest on the Debt or any other charges at a rate which could subject Lender to either civil or criminal liability as a result of being in excess of the maximum interest rate which Borrower is permitted by law to contract or agree to pay. If by the terms of this Security Instrument, the Other Security Documents, or the Notes, Borrower is at any time required or obligated to pay any such amounts at a rate in excess of such maximum rate, the rate of interest under the Notes shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate and all previous payments in excess of such maximum rate shall be deemed to have been payments in reduction of the principal and not on account of the interest due hereunder.

24. Right of Entry. Lender and its agents shall have the right to enter and inspect the Mortgaged Property at all reasonable times, subject to the terms of the ATT Lease.

25. Intentionally Omitted.

26. Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code adopted and enacted by the state or states where any of the Mortgaged Property is located (the "Uniform Commercial Code"), made by and between Borrower, as debtor, and Lender, as secured party. Borrower hereby grants to Lender, as security for the Debt, a security interest in the Mortgaged Property to the full extent that the Mortgaged Property may be subject to the Uniform Commercial Code (said portion of the Mortgaged Property so subject to the Uniform Commercial Code being herein referred to as the "Collateral"). If an Event of Default shall occur, 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, Borrower shall at its expense

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assemble the Collateral and make it available to Lender at a convenient place acceptable to Lender. Borrower shall pay to Lender on demand any and all expenses, including legal expenses and attorney fees, incurred or paid by Lender in protecting the interest in the Collateral and in enforcing Lender's rights hereunder with respect to the Collateral. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Borrower in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower. The Collateral may be sold in such manner, portions, order or parcels as Lender may determine, with or without having first taken possession of same. The right of sale arising out of any Event of Default shall not be exhausted by any one or more sales or attempted sales, any other action, proceeding, or other exercise of a remedy, and the liens granted by this Security Instrument shall continue unimpaired. The proceeds of any disposition of the Collateral, or any part thereof, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

27. Actions and Proceedings. Lender has the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Mortgaged Property. Lender shall, at its option, be subrogated to the lien of any deed of trust, mortgage or other security instrument discharged in whole or in part by the Debt, and any such subrogation rights shall constitute additional security for the payment of the Debt.

28. WAIVER OF COUNTERCLAIM. BORROWER HEREBY WAIVES THE RIGHT TO ASSERT A COUNTERCLAIM, OTHER THAN A MANDATORY OR COMPULSORY COUNTERCLAIM, IN ANY ACTION OR PROCEEDING BROUGHT AGAINST IT BY LENDER, AND, TO THE EXTENT PERMITTED BY LAW, WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY EITHER PARTY HERETO AGAINST THE OTHER, IN ANY COUNTERCLAIM ASSERTED BY LENDER, OR ITS SUCCESSORS OR ASSIGNS, AGAINST BORROWER OR IN ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS SECURITY INSTRUMENT, THE NOTES, ANY OF THE OTHER SECURITY DOCUMENTS OR THE DEBT.

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

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

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date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

31. Costs and Expenses. Without limiting Lender's rights under any other provision herein or in the Notes or any Other Security Document, Borrower agrees that it will reimburse Lender for any and all reasonable costs and expenses incurred by Lender in connection with any breach or default of this Security Instrument, the Notes or any Other Security Document, or in connection with any request that Lender take, or refrain from taking, any action with respect to Borrower or the Mortgaged Property.

32. Access Laws.

(a) Borrower agrees that, to the extent applicable, the Mortgaged Property shall at all times comply with the requirements of the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act of 1988, all similar state and local laws and ordinances related to access and all rules, regulations, and orders issued pursuant thereto including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (collectively the "Access Laws").

(b) Notwithstanding any provisions set forth herein or in any other document regarding Lender's approval of alterations of the Mortgaged Property, Borrower shall not alter (or permit ATT Tenant to alter) the Mortgaged Property in any manner which would increase Borrower's (or ATT Tenant's) responsibilities for compliance with the applicable Access Laws without the prior written approval of Lender, unless such alteration is permitted under the ATT Lease. The foregoing shall apply to tenant improvements constructed by Borrower or ATT Tenant or any subtenants. Lender may condition any such approval upon receipt of a certificate of an architect, engineer or other person acceptable to Lender regarding compliance with applicable Access Laws.

(c) Borrower agrees to give prompt notice to Lender of the receipt by Borrower of any complaints related to any violations of any Access Laws and of the commencement of any proceedings or investigations which relate to compliance with applicable Access Laws.

33. Indemnification. Borrower shall protect, defend, indemnify and save harmless Lender from and against all liabilities, obligations, claims, demands, damages, penalties, causes of action, losses, fines, costs and expenses (including without limitation reasonable attorney fees and expenses) (the "Indemnified Obligations"), imposed upon, incurred by or asserted against Lender by reason of: (a) ownership of this Security Instrument, the Mortgaged Property or any interest therein or receipt of any Rents; (b) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) any use, non-use or condition in, on or about the Mortgaged Property or any part thereof or on adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (d) performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof; and (e) any failure of the Mortgaged Property to comply with any Access Laws. Any amounts payable to Lender by reason of the application of this indemnification shall be secured by this Security Instrument and the Other

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Security Documents, 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. The obligations and liabilities of Borrower under this paragraph shall survive any termination, satisfaction or assignment of this Security Instrument and the exercise by Lender of any of its rights or remedies hereunder, including, but not limited to, the acquisition of the Mortgaged Property by foreclosure or a conveyance in lieu of foreclosure. The foregoing indemnification shall not relate to Indemnified Obligations arising from Lender's gross negligence or willful misconduct.

34. Notices. Except as otherwise specified herein, any notice, consent, request or other communication required or permitted hereunder shall be in writing and shall be deemed properly given if delivered in accordance with the notice requirements contained in the Notes.

35. Authority.

(a) Borrower (and the undersigned representative of Borrower, if any) has full power, authority and right to execute, deliver and perform its obligations pursuant to this Security Instrument, and to mortgage, give, grant, bargain, sell, alienate, convey, confirm, pledge, hypothecate and assign the Mortgaged Property pursuant to the terms hereof and to keep and observe all of the terms of this Security Instrument on Borrower's part to be performed.

(b) Borrower represents and warrants that Borrower is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended, and the related Treasury Department regulations, including temporary regulations.

36. Waiver of Notice. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument specifically and expressly provides for the giving of notice by Lender to Borrower and except with respect to matters for which Lender is required by applicable law to give notice, and Borrower hereby expressly waives the right to receive any other notice.

37. Remedies of Borrower. In the event that a claim or adjudication is made that Lender has acted unreasonably or unreasonably delayed acting in any case where by law or under the Notes, this Security Instrument or the Other Security Documents, it has an obligation to act reasonably or promptly, Lender shall not be liable for any monetary damages, and Borrower's remedies shall be limited to injunctive relief or declaratory judgment.

38. Sole Discretion of Lender. Wherever pursuant to this Security Instrument, Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide that arrangements or terms are satisfactory or not satisfactory shall be in the sole and absolute discretion of Lender and shall be final and conclusive, except as may be otherwise expressly and specifically provided herein.

39. Nonwaiver. The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of: (a) the failure of Lender to comply with any request of Borrower or any Indemnitor to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof, of the Notes or the Other

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Security Documents; (b) the release, regardless of consideration, of the whole or any part of the Mortgaged Property, or of any person liable for the Debt or any portion thereof; or (c) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Notes, this Security Instrument or the Other Security 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 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 and remedies of Lender under this Security Instrument and the Other Security Documents 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.

40. Waiver of Automatic or Supplemental Stay. In the event of the filing of any voluntary or involuntary petition under the Bankruptcy Code by or against Borrower (other than an involuntary petition filed by or joined by Lender), Borrower shall not assert, or request any other party to assert, that the automatic stay under § 362 of the Bankruptcy Code shall operate or be interpreted to stay, interdict, condition, reduce or inhibit the ability of the Lender to enforce any rights it has by virtue of this Security Instrument, or any other rights that Lender has, whether now or hereafter acquired, against any Indemnitee. Further, Borrower shall not seek a supplemental stay or any other relief, whether injunctive or otherwise, pursuant to §105 of the Bankruptcy Code or any other provision therein to stay, interdict, condition, reduce or inhibit the ability of Lender to enforce any rights it has by virtue of this Security Instrument against any Indemnitee. The waivers contained in this paragraph are a material inducement to Lender's willingness to make the Loan, and Borrower acknowledges and agrees that no grounds exist for equitable relief which would bar, delay or impede the exercise by Lender of its rights and remedies against Borrower or any Indemnitee.

41. Bankruptcy Acknowledgment. In the event the Mortgaged Property or any portion thereof or interest therein becomes property of any bankruptcy estate or subject to any state or federal insolvency proceeding, then Lender shall immediately become entitled, in addition to all other relief to which Lender may be entitled under this Security Instrument, to obtain: (a) an order from the Bankruptcy Court or other appropriate court granting immediate relief from any automatic stay laws (including §362 of the Bankruptcy Code) so to permit Lender to pursue its rights and remedies against Borrower as provided under this Security Instrument and all other rights and remedies of Lender at law and in equity under applicable state law; and (b) an order from the Bankruptcy Court prohibiting Borrower's use of all "cash collateral" as defined under §363 of the Bankruptcy Code. In connection with any such orders, Borrower shall not contend or allege in any pleading or petition that Lender does not have sufficient grounds for relief from the automatic stay. Any bankruptcy petition or other action taken by Borrower to stay, condition, or inhibit Lender from exercising its remedies are hereby admitted by Borrower to be in bad faith and Borrower further admits that Lender would have just cause for relief from the automatic stay in order to take such actions authorized by state law.

42. 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

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failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

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

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

45. Headings, Etc. The headings and captions of various paragraphs 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.

46. Counterparts. This Security Instrument may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same Security Instrument.

47. Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument (including pronouns) shall include the corresponding masculine, feminine or neuter forms, and the singular form such words shall include the plural and vice versa. The word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Mortgaged Property or any part thereof or any interest therein"; the word "Lender" shall mean "Lender and any subsequent holder of the Notes"; the word "Notes" shall mean "the Notes and any other evidence of indebtedness secured by this Security Instrument"; the word "person" shall include an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, trust, unincorporated association, government, governmental authority and any other entity; and the words "Mortgaged Property" shall include any portion of the Mortgaged Property and any interest therein. Additionally, the word "Indemnitor" shall mean any person or entity guaranteeing or indemnifying payment of the Debt or any portion thereof or performance by Borrower of any of the terms of this Security Instrument, the Notes or the Other Security Documents, including, without limitation, any person or entity executing the Non-Recourse Indemnification Agreement or the Environmental Indemnity Agreement delivered to Lender in connection with the Loan.

The parties hereto acknowledge that the defined term "Borrower" has been defined to collectively include each individual Borrower. It is the intent of the parties hereto in making any determination under the Notes, this Security Instrument or any Other Security Document, including, without limitation, in determining whether (a) a breach of a representation, warranty or a covenant has occurred, (b) there has occurred a "Change in Ownership"; (c) there has occurred a default or Event of Default, or (d) an event has occurred which would create recourse obligations under Section 12 of the Notes,

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that any such breach, occurrence or event with respect to any individual Borrower shall be deemed to be such a breach, occurrence or event with respect to all Borrowers and that all Borrowers need not have been involved with such breach, occurrence or event in order for the same to be deemed such a breach, occurrence or event with respect to every Borrower.

48. Homestead. Borrower hereby waives and renounces all homestead and exemption rights provided by the constitution and the laws of the United States and of any state, in and to the Mortgaged Property as against the collection of the Debt, or any part hereof.

49. Assignments. Lender shall have the right to assign or transfer its rights under this Security Instrument without limitation. Any assignee or transferee shall be entitled to all the benefits afforded Lender under this Security Instrument.

50. Exculpation. Notwithstanding anything to the contrary contained in this Security Instrument, the liability of Borrower for the payment of the Debt and for the performance of the other agreements, covenants and obligations contained herein, in the Notes or in any of the Other Security Documents shall be limited as set forth in Paragraph 12 of the Notes.

51. Integration. This Security Instrument, the Notes and the Other Security Documents embody the entire agreement by and between Borrower and Lender with respect to the Loan, and any and all prior correspondence, discussions or negotiations are deemed merged therein; provided, however, that except to the extent inconsistent with the specific terms and provisions of this Security Instrument, the Notes and the Other Security Documents, all representations, warranties, statements, covenants and agreements of Borrower contained in any loan commitment and/or loan application executed in connection with the Loan shall survive the funding of the Loan, any termination, satisfaction, or assignment of this Security Instrument and the exercise by Lender of any of its rights or remedies hereunder, including but not limited to, the acquisition of the Mortgaged Property by foreclosure or a conveyance in lieu of foreclosure.

52. Applicable Law; Jurisdiction. This Security Instrument shall be governed and construed in accordance with the laws of the state in which the Premises and Improvements encumbered by this Security Instrument are located. Borrower hereby submits to personal jurisdiction in the state courts located in said state and the federal courts of the United States of America located in said state for the enforcement of Borrower's obligations hereunder and waives any and all personal rights under the law of any other state to object to jurisdiction within such state for the purposes of any action, suit, proceeding or litigation to enforce such obligations of Borrower.

53. Single Purpose Entity.

(a) Until the Debt has been paid in full to Lender, Borrower's organizational documents will provide that Borrower's sole business purpose shall be the acquisition, ownership and operation of the Mortgaged Property. Borrower shall at all times during the term of the Notes conduct its business affairs in compliance with such organizational documents. In addition, Borrower represents and warrants to, and covenants and agrees with Lender that Borrower has not and shall not: (i) engage in any business or activity other than the ownership, operation and maintenance of the Mortgaged Property, and activities incidental thereto;

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(ii) acquire or own any material assets other than (A) the Mortgaged Property, and (B) such incidental personal property as may be necessary for the operation of the Mortgaged Property; (iii) merge into or consolidate with any person or entity or dissolve, terminate or liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure, without in each case Lender's prior written consent; (iv) fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation, or without the prior written consent of Lender, amend, modify, terminate or fail to comply with the provisions of Borrower's partnership agreement, articles or certificate of incorporation, articles of organization, operating agreement, or similar organizational documents, as the case may be, as same may be further amended or supplemented, if such amendment, modification, termination or failure to comply would adversely affect the ability of Borrower to perform its obligations hereunder, under the Notes or under the Other Security Documents; (v) own any subsidiary or make any investment in, any person or entity without the prior written consent of Lender; (vi) commingle its assets with the assets of any of its general partners, managing members, shareholders, affiliates, principals or any other person or entity; (vii) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Debt, excepting trade payables (which must be paid when due but in all events within 60 days) incurred by Borrower in the ordinary course of its business of owning and operating the Mortgaged Property, which are not represented by a note and which, in the aggregate, do not exceed one percent (1.0%) of the original principal amount of the Loan (collectively the "Permitted Indebtedness"); (viii) fail to maintain its records, books of account and bank accounts separate and apart from those of the general partner, managing members, shareholders, principals and affiliates of Borrower, the affiliates of a general partner or managing member of Borrower, and any other person or entity; (ix) enter into any contract or agreement with any general partner, managing member, shareholder, principal or affiliate of Borrower, any Indemnitor or any indemnitor, or any general partner, managing member, shareholder, principal or affiliate thereof, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any general partner, managing member, shareholder, principal or affiliate of Borrower, any Indemnitor or any indemnitor, or any general partner, managing member, shareholder, principal or affiliate thereof; (x) seek the dissolution or winding up in whole, or in part, of Borrower; (xi) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any general partner, managing member, shareholder, principal or affiliate of Borrower, or any general partner, managing member, shareholder, principal or affiliate thereof or any other person; (xii) hold itself out to be responsible for the debts of another person; (xiii) make any loans to any third party; (xiv) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or person or to conduct its business solely in its own name in order not (A) to mislead others as to the identity with which such other party is transacting business, or (B) to suggest that Borrower is responsible for the debts of any third party (including any general partner, managing member, shareholder, principal or affiliate of Borrower, or any general partner, managing member, shareholder, principal or affiliate thereof); (xv) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; (1) fail to pay its own liabilities out of its own funds; (2) fail to pay the salaries of its own employees, if any; (3) fail to allocate fairly and reasonably any overhead for shared office space; (4) fail to use

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separate stationery, invoices and checks; (5) pledge its assets for the benefit of any other person or entity; (6) fail to correct any known misunderstanding regarding its separate identity; (7) fail to cause the Sole Member to keep minutes of any meetings or fail to observe any other Delaware limited liability company formalities; (8) guarantee any obligation of any person, including any Affiliate; (9) engage in any dissolution, liquidation, consolidation, merger, asset sale or transfer of ownership interests other than such activities as are expressly permitted pursuant to the terms of this Security Instrument and subject to obtaining any approvals required under this Security Instrument.

(b) In addition to the foregoing, if Borrower or its Controlling Entity is a single member limited liability company, it must be organized under the laws of Delaware, its organizational documents must also contain continuation of existence provisions acceptable to Lender, it must cause an acceptable Delaware counsel to deliver acceptable non dissolution opinions to Lender, and it must satisfy any other requirements imposed by Lender; provided, however, if Borrower is a Delaware limited liability company, then the foregoing provision shall not apply to Borrower's Controlling Entity.

(c) If the original principal amount of the Loan was \$20,000,000.00 or more, then, in addition to the foregoing:

(i) Borrower's organizational documents shall require unanimous consent of all shareholders, members, partners or other owners of an equity ownership interest in Borrower prior to the filing of petition in bankruptcy, or for the dissolution, liquidation, consolidation, merger or sale of all or substantially all of Borrower's assets, and Borrower must cause a counsel acceptable to Lender to deliver a substantive non consolidation opinion satisfactory to Lender.

Borrower must have (A) at least two Independent Controlling Persons (hereinafter defined), and (B) organizational documents requiring the unanimous consent of all directors, members, partners or other persons having similar decision-making authority with respect to Borrower (each, a "Controlling Person") prior to taking any "Material Action". "Material Action" means to consolidate or merge Borrower with or into any person or entity, or sell all or substantially all of the assets of Borrower, or to institute proceedings to have Borrower be adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against Borrower or file a petition seeking, or consent to, reorganization or relief with respect to Borrower under any applicable federal or state law relating to bankruptcy, or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of Borrower or a substantial part of its property, or make any assignment for the benefit of creditors of Borrower, or admit in writing Borrower's inability to pay its debts generally as they become due, or take action in furtherance of any such action, or, to the fullest extent permitted by law, dissolve or liquidate Borrower. The term "Independent Controlling Person" shall mean a Controlling Person approved by Lender who shall at no time during the term of the Loan be, or have been within the 5 years immediately preceding becoming an Independent Controlling Person, (1) an employee, director, member, stockholder, partner or employee of Borrower or of any of its Affiliates (hereinafter defined), (2) a customer of or supplier to (including any attorney, accountant, broker or banker) to Borrower or any of its Affiliates, or (3) an immediate family member of any such employee, director, member,

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stockholder, partner, customer or supplier. The term "Affiliate" means, with respect to any Person, any other Person directly or indirectly Controlling or Controlled by or under direct or indirect common Control with such Person. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of voting securities or general partnership or managing member interests, by contract or otherwise. "Controlling" and "Controlled" shall have correlative meanings. Without limiting the generality of the foregoing, a person or entity shall be deemed to Control any other person or entity in which it owns, directly or indirectly, a majority of the ownership interests.

(ii) Borrower agrees that its Controlling Entity shall also be subject to all of the requirements contained in this section, except that its organizational documents shall prohibit it from engaging in any business or activity other than the operation and maintenance of the Mortgaged Property, and activities incidental thereto, or acquiring or owning any material assets other than its interest in Borrower.

54. Fixture Filing. This Security Instrument shall be deemed a fixture filing within the meaning of any applicable uniform commercial code, and for such purpose, the following information is given:

Debtor's Name and Organizational ID Number:	Oakwood Chicago Associates, LLC: 4473393 Elmwood Chicago Associates, LLC: 4473396 Landings Chicago Associates, LLC: 4473389 Wallkill Chicago Associates, LLC: 4473381
Debtor's Address:	c/o Kushner Companies 18 Columbia Turnpike Florham Park, New Jersey 07932
Debtor's State of Organization:	Delaware
Name and address of Secured Party	PNC Bank, National Association 10851 Mastin, Suite 300 Overland Park, Kansas 66210
Description of the type (or items) of property:	See the Recitals herein.

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Description of real estate to which the collateral is attached or upon which it is or will be located: See Exhibit B hereto.

Some of the above described collateral is or is to become fixtures upon the above-described real estate, and this fixture filing is to be filed for record in the public real estate records.

55. Compliance with Illinois Mortgage Foreclosure Law.

(a) If any provision in this Security Instrument is inconsistent with any provision of the Illinois Mortgage Foreclosure Law (the "Act"), the provisions of the Act take precedence over the provisions of this Security Instrument, but will not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Act.

(b) If any provision of this Security Instrument grants to Lender (including Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Paragraph 19 of this Security Instrument any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such receiver under the Act in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Lender which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Security Instrument, may be added to the Debt and/or by the judgment of foreclosure.

56. Tenant in Common Covenants.

(a) Each Borrower shall (i) diligently perform and observe all of the terms, covenants and conditions set forth in the TIC Agreement on the part of each such Borrower to be performed thereunder, and (ii) promptly deliver to Lender any notice given or received by any Borrower under the TIC Agreement;

(b) No Borrower shall seek any partition of the Mortgaged Property during the term of the Loan and each Borrower hereby expressly waives any and all right to do so.

(c) For so long as the Loan is outstanding, each Borrower hereby agrees (x) that any rights of any Borrower as a tenant in common, and the TIC Agreement and the rights thereunder (including any rights of indemnity, options to purchase and rights of first refusal, if any) and any liens created thereby are subordinate to the lien and the terms of this Security Instrument and the Other Security Documents, (y) not to permit payments to any Borrower pursuant to the terms of the TIC Agreement without Lender's prior written consent and (z) not to enforce any rights or remedies under the TIC Agreement until the Loan has been paid in full.

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(d) The TIC Agreement shall not be modified, changed, supplemented, altered or amended in any respect without the prior written consent of Lender, and any such termination, cancellation, modification, change, supplement, alteration or amendment of the TIC Agreement without the prior written consent of Lender shall be void and of no further force and effect.

(e) For so long as the Loan is outstanding, Borrower shall not assign or terminate the TIC Agreement without the prior written consent of Lender, which may be granted or denied in Lender's sole discretion.

(f) Each Borrower hereby waives any rights it may have (whether by operation of law or pursuant to the terms of the TIC Agreement), during the term of the Loan, to create or suffer to exist any lien on all or any portion of any other tenant-in-common interest held by any other Borrower pursuant to the terms of the TIC Agreement, and, during the term of the Loan, no Borrower shall place a lien on all or any portion of any other tenant-in-common interest held by any other Borrower pursuant to the terms of the TIC Agreement;

(g) Each Borrower hereby appoints Oakwood Chicago Associates, LLC as its agent and attorney in fact (the "Agent") to exercise decision making authority with respect to each Borrower's interest in the Mortgaged Property, and agrees that such Agent's authority shall include, without limitation, the authority to: (i) hire, terminate (subject to the provisions hereof), oversee and otherwise deal with the property manager, if any, for the Mortgaged Property, (ii) otherwise oversee the operation and management of the Mortgaged Property, and (iii) make decisions and otherwise interact and deal with Lender with respect to the Loan. Each Borrower warrants and covenants that it will not amend, modify, rescind or terminate its appointment of the Agent without Borrower's appointment of a new agent and Borrower's notification to the Lender of such new agent. Until a new agent is appointed and the Lender is so notified, Lender shall deal with the most recently appointed agent.

57. Mezzanine Financing. Anything herein to the contrary notwithstanding, the owners of membership interests in Borrower may incur mezzanine financing (the "Mezzanine Loan") from Greenwich Capital Financial Products, Inc., or any Qualified Transferee (as defined in the Intercreditor Agreement), or other mezzanine lender approved by Lender (the "Mezzanine Lender"), which Mezzanine Loan shall be secured by the ownership interests in Borrower. The Mezzanine Loan must, however, satisfy the following conditions and requirements:

(a) The documents evidencing the Mezzanine Loan are subject to the review and approval of Lender;

(b) The Mezzanine Loan must be a fully amortizing loan with debt service payments equal to that amount by which "Base Rent" payable under the ATT Lease exceeds debt service payable under the Loan, with no principal balloon payment scheduled to become due earlier than the Maturity Date for the Loan, and the combined loan to value ratio (taking into effect the Loan and the Mezzanine Loan) shall not exceed 90% as determined by Lender in accordance with Lender's Underwriting Criteria;

(c) The Mezzanine Loan shall be nonrecourse as to principal and interest and shall not be secured by a lien against the Mortgaged Property;

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(d) The Mezzanine Loan shall only be payable out of Borrower's net cash flow available after all current obligations then due and owing with respect to the Loan have been paid, all current operating expenses satisfied, and all reserves funded current;

(e) The Mezzanine Lender shall execute an intercreditor agreement (the "Intercreditor Agreement") in form and substance satisfactory to Lender.

(f) The managing member or sole member of Borrower shall not pledge its membership interest in Borrower unless one of the following conditions is satisfied: (1) Borrower is a Delaware limited liability company; or (2) the intercreditor agreement specifically provides that, as a condition to the exercise by the Mezzanine Lender of any of its remedies that the Mezzanine Lender will either convert the borrowing entity to a Delaware limited liability company, or will exercise its remedies in a manner to cause the borrowing entity to have at least two members.

(g) As a condition to the closing of any Mezzanine Loan, Borrower shall have reimbursed Lender for reasonable legal fees and all reasonable expenses incurred by Lender in negotiating and documenting the Mezzanine Loan.

58. Special Provisions Modifying or Affecting This Security Instrument by Reason of the State in Which the Mortgaged Property is Located. By virtue of the fact that the Mortgaged Property is located in the State of Illinois, the provisions set forth below shall be applicable to this Security Instrument, and to the extent applicable, shall modify, affect and supplement the other provisions hereof.

(a) Benefits of Act. Borrower and Lender shall have the benefit of all of the provisions of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101) (the "Act"), including all amendments thereto which may become effective from time to time after the date hereof. If any provision of the Act which is specifically referred to herein is repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference. In the event that any provision in this Security Instrument shall be inconsistent with any provision of 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 default of Borrower 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 to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Security Instrument, shall be added to the indebtedness secured by this Security Instrument or by the judgment of foreclosure.

(b) Protective Advances. All advances, disbursements and expenditures made by Lender before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related

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proceedings, for the following purposes, in addition to those otherwise authorized by this Security Instrument or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:

(a) all advances by Lender in accordance with the terms of this Security Instrument to: (1) preserve or maintain, repair, restore or rebuild the improvements upon the Mortgaged Property; (2) preserve, the lien of this Security Instrument or the priority thereof; or (3) enforce this Security Instrument, as referred to in Subsection (b)(5) of Section 5/15-1302 of the Act;

(b) payments by Lender of: (1) when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (2) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Mortgaged Property or any part thereof; (3) other obligations authorized by this Security Instrument; or (4) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the Act;

(c) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(d) attorneys' fees and other costs incurred: (1) in connection with the foreclosure of this Security Instrument as referred to in Sections 1504(d)(2) and 5/15-1510 of the Act; (2) in connection with any action, suit or proceeding brought by or against the Lender for the enforcement of this Security Instrument or arising from the interest of the Lender hereunder; or (3) in the preparation for the commencement or defense of any such foreclosure or other action related to this Security Instrument or the Mortgaged Property;

(e) Lender's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 5/15-1508 of the Act;

(f) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 5/15-1512 of the Act;

(g) expenses incurred and expenditures made by Lender for any one or more of the following: (1) if the Mortgaged Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof which are required to be paid; (2) if Borrower's interest in the Mortgaged Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (3) premiums for casualty and liability insurance paid by Lender whether or not Lender or a receiver is in possession, if reasonably

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required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or Lender takes possession of the Mortgaged Property imposed by Subsection (c)(1) of Section 5/15-1704 of the Act; (4) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (5) payments required or deemed by Lender to be for the benefit of the Mortgaged Property or required to be made by the owner of the Mortgaged Property under any grant or declaration of easement, easement agreement, agreement with any adjoining Mortgaged Property owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Property; (6) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Property is a member in any way affecting the Mortgaged Property; (7) if the loan secured hereby is a construction loan, costs incurred by Lender for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; and (8) pursuant to any lease or other agreement for occupancy of the Mortgaged Property for amounts required to be paid by Borrower.

All Protective Advances shall be so much additional indebtedness secured by this Security Instrument, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after a default under the terms of the Notes.

This Security Instrument shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Security Instrument is recorded pursuant to Subsection (b)(1) of Section 5/15-1302 of the Act.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in:

- (i) determination of the amount of indebtedness secured by this Security Instrument at any time;
- (ii) the indebtedness found due and owing to the Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (iii) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Act;
- (iv) application of income in the hands of any receiver or Lender in possession; and
- (v) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Sections 5/15-1511 of the Act.

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(c) Mortgagee in Possession. In addition to any provision of this Security Instrument authorizing the Lender to take or be placed in possession of the Mortgaged Property, or for the appointment of a receiver, Lender shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Mortgaged Property or at its request to have a receiver appointed, and such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Security Instrument, all powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1703 of the Act.

(d) Waiver of Redemption. Pursuant to Section 5/15-1601(b) of the Act, Borrower hereby waives any and all right to redemption.

(e) Business Loan Recital: Statutory Exemptions

(x) Borrower acknowledges and agrees that (i) the proceeds of the loans will be used in conformance with subparagraph (L)(1) of Section 4 of the Interest Act (815 ILCS 205/0.01 et seq.); (ii) that the indebtedness secured hereby constitutes a business loan which comes within the purview of subparagraph (1)(C) of said Section 4; and (iii) that the loans are exempt transactions under the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 et seq.

(y) Borrower acknowledges and agrees 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).

(z) Borrower acknowledges and agrees that the Mortgaged Property does not fall within the categories of real property covered by the Illinois Responsible Property Transfer Act, 765 ILCS 90/3 et seq., as amended.

(f) Lender's Lien for Service Charge and Expenses; Maximum Security Instrument Obligations Secured. At all times, regardless of whether any loan proceeds have been disbursed, this Security Instrument secures (in addition to the Debt disbursed from time to time) the payment of any Protective Advances and all other expenses and advances due to or incurred by Lender in connection with the Debt and which are to be reimbursed by Borrower under the terms of this Security Instrument, the Notes or the Other Security Documents; provided however, that in no event shall the total amount of the Debt plus such additional amounts exceed 200% of the original principal amount of the Notes.

(g) Future Advances, Construction Advances and Revolving Credit Advances. This Security Instrument also secures all future advances, construction advances, revolving credit advances and letters of credit made within twenty (20) years from the date hereof made or to be made under the Notes, which future advances, construction advances, revolving credit advances and letters of credit shall have the same priority as if all such future advances, construction advances, revolving credit advances and letters of credit were made or issued on the date of execution hereof. Nothing in this section or in any other provision of this Security Instrument shall be deemed either (i) an obligation on the part of Lender to make any future advances, revolving credit advances or to issue any letters of credit other than in accordance with the terms and provisions of the Notes, this Security Instrument or the Other Security Documents or (ii) an

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agreement on the part of Security Instrument or any lender to increase the amount of the Loan or the aggregate principal amount of the Notes, taken together, to any amount in excess of that set forth in the Notes, this Security Instrument or the Other Security Documents.

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IN WITNESS WHEREOF, Borrower has executed this Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing to be effective as of the day and year first above written.

BORROWER:


Oakwood Chicago Associates, LLC, a Delaware limited liability company

By:  _____
Name: Brian Kemper
Title: Manager

Property of Cook County Clerk's Office

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Elmwood Chicago Associates, LLC, a Delaware limited liability company

By: 
Name: Brian Kemper
Title: Manager

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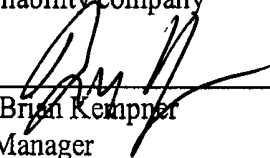
Landings Chicago Associates, LLC, a
Delaware limited liability company

By: 
Name: Brian Kempner
Title: Manager

Property of Cook County Clerk's Office

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Walkill Chicago Associates, LLC, a
Delaware limited liability company

By:  _____
Name: Brian Kempner
Title: Manager

Property of Cook County Clerk's Office

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STATE OF Illinois)
)ss
COUNTY OF Cook)

On this 27th day of December, 2007, before me, appeared Brian Kempner, to me personally known, who being by me duly sworn did say that he is the Manager of Oakwood Chicago Associates, LLC, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said Brian Kempner acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Janice Lee Glonek
Notary Public in and for
said County and State

Print Notary's Name: Janice Lee Glonek

My Commission Expires:

7-28-09



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STATE OF ILLINOIS)
)ss
COUNTY OF COOK)

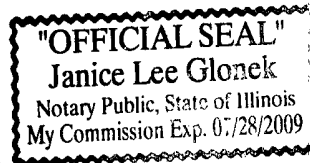
On this 27th day of December, 2007, before me, appeared Brian Kempner, to me personally known, who being by me duly sworn did say that he is the Manager of Elmwood Chicago Associates, LLC, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said Brian Kempner acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Janice Lee Glonek
Notary Public in and for
said County and State

Print Notary's Name: Janice Lee Glonek

My Commission Expires: 7-28-09



UNOFFICIAL COPY

STATE OF ILLINOIS)
)ss
COUNTY OF COOK)

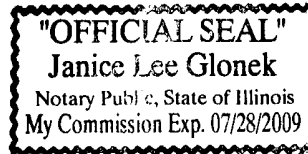
On this 27th day of December, 2007, before me, appeared Brian Kempner, to me personally known, who being by me duly sworn did say that he is the Manager of Landings Chicago Associates, LLC, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said Brian Kempner acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Janice Lee Glonek
Notary Public in and for
said County and State

Print Notary's Name: Janice Lee Glonek

My Commission Expires: 7-28-09



UNOFFICIAL COPY

STATE OF ILLINOIS)
)ss
COUNTY OF COOK)

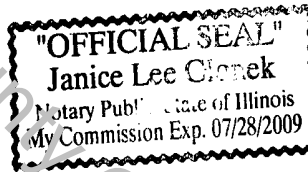
On this 27th day of December, 2007, before me, appeared Brian Kempner, to me personally known, who being by me duly sworn did say that he is the Manager of Walkkill Chicago Associates, LLC, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said Brian Kempner acknowledged said instrument to be the free act and deed of said limited liability company

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Janice Lee Glonek
Notary Public in and for
said County and State

Print Notary's Name: Janice Lee Glonek

My Commission Expires: 7-28-09



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOTS 2, 3 AND 4 (EXCEPT THAT PART OF LOT 2 DEDICATED FOR PUBLIC ALLEY BY PLAT OF DEDICATION RECORDED AS DOCUMENT NUMBER 18928994) IN BLOCK 41 IN ORIGINAL TOWN OF CHICAGO IN TH SOUTHEAST $\frac{1}{4}$ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF VACATED WEST COURT PLACE LYING SOUTH OF AND ADJOINING TH SOUTH LINE OF LOTS 2, 3 AND 4 AND LYING NORTH OF AND ADJOINING THE NORTH LINE OF LOT 6, ALL IN BLOCK 41 IN ORIGINAL TOWN OF CHICAGO AFORESAID; LYING NORTH OF AND ADJOINING THE NORTH LINE OF SUB-LOT 1 OF LOT 5 AND THE NORTH LINE OF SUB-LOTS 1, 2 AND 3 OF LOT 7, AND LYING WEST OF AND ADJOINING THE EAST LINE OF SAID SUB-LOT 3 OF LOT 7 PRODUCED NORTH 18 FEET, ALL IN BLOCK 41 IN ORIGINAL TOWN OF CHICAGO AFORESAID, ALL IN COOK COUNTY, ILLINOIS.

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EXHIBIT B-1

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Loan No. 94-0954251

PROMISSORY NOTE

\$5,820,727.87

Illinois
December 27, 2007

FOR VALUE RECEIVED, Elmwood Chicago Associates, LLC, a Delaware limited liability company ("Borrower"), having its principal place of business at c/o Kushner Companies, 18 Columbia Turnpike, Florham Park, New Jersey 07932, promises to pay to the order of PNC Bank, National Association ("Lender"), at the following address: 10851 Mastin, Suite 300, Overland Park, Kansas 66210, or such other place as the holder hereof may from time to time designate in writing, the principal sum of FIVE MILLION EIGHT HUNDRED TWENTY THOUSAND SEVEN HUNDRED TWENTY SEVEN DOLLARS AND 87/100TH DOLLARS (\$5,820,727.87) in lawful money of the United States of America, with interest thereon to be computed from the date of disbursement under this Promissory Note (the "Note") at the Applicable Interest Rate (hereinafter defined), and to be paid in installments as follows:

- A. A payment, on the date of disbursement, representing interest from the date of disbursement through the last day of the calendar month in which such disbursement is made;
- B. A payment of interest only, on the first day of February, 2008 and on the first day of each calendar month thereafter up to and including the first day of January, 2013;
- C. A constant payment of \$36,733.56 (the "Monthly Debt Service Payment Amount") (based upon an amortization schedule assuming a 360 day year consisting of 12 months of 30 days each) on the first day of February, 2013 and on the first day of each calendar month thereafter up to and including the first day of December, 2017; and
- D. The balance of said principal sum, all unpaid interest thereon and all other amounts owed pursuant to this Note, the Security Instrument (hereinafter defined), the Other Security Documents (hereinafter defined), or otherwise in connection with the loan evidenced by this Note shall be due and payable on the first day of January, 2018 (the "Maturity Date").
- E. Anything herein to the contrary notwithstanding, if Lender determines, in its sole discretion, at any time during the calendar month immediately preceding the Maturity Date that this Note will not be paid as required on the Maturity Date, Lender shall have the option to forbear from exercising its rights under this Note, the Security Instrument and the Other Security Documents to foreclose upon the Mortgaged Property (an "Optional Lender Forbearance"). In such event, Lender shall notify Borrower of such decision and the following shall occur:

(1) On the first day of the month immediately following the Maturity Date and on the first day of each calendar month thereafter, Borrower

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shall pay to Lender the amounts required by the Security Agreement and Lockbox Agreement (the "Cash Management Agreement") executed contemporaneously herewith) by Borrower in favor of Lender..

(2) Each payment made by Borrower following the Maturity Date pursuant to subsection (1) above shall be applied in accordance with the Cash Management Agreement. Interest accrued at the Adjusted Interest Rate and not paid shall be deferred and added to the indebtedness evidenced by this Note.

(3) Lender's decision to forbear from exercising its rights under this Note, the Security Instrument and the Other Security Documents shall be revocable at any time by Lender without notice to Borrower. Upon any such revocation, Lender shall be entitled to pursue any and all remedies available to it under this Note, the Security Instrument, the Other Security Documents, at law or in equity.

(4) Anything herein to the contrary notwithstanding, Borrower shall have the right to pay the Note in full after the Early Payment Date without any prepayment premium or charge.

All payments to be made by Borrower to Lender shall be deemed received by Lender only upon Lender's actual receipt of same.

2. Applicable Interest Rate. Interest accruing on the principal sum of this Note shall be calculated based upon a per annum interest rate divided by 360 days resulting in a per diem interest amount that will accrue for each calendar day in a year of 365 days (366 days in a leap year). The term "Applicable Interest Rate" as used in this Note shall mean, from the date of this Note through and including the Maturity Date, a rate of six and 485/1000th percent (6.485%) per annum (the "Initial Interest Rate"). In the case of an Optional Lender Forbearance as provided herein, the term "Applicable Interest Rate" shall mean the Adjusted Interest Rate from and after the Maturity Date through and including the date this Note is paid in full. The term "Adjusted Interest Rate" shall mean the greater of (x) the Initial Interest Rate plus four percent (4.0%); or (y) the Yield Rate on the then-current on-the-run 10-year U.S. Treasury Obligation (the "Specified U.S. Treasury Security") plus four percent (4.0%). The term "Yield Rate" shall mean the yield rate for the Specified U.S. Treasury Security as such yield rate is reported in the Wall Street Journal on the fifth (5th) business day preceding the Maturity Date. In the event that no such yield rate is published for the Specified U.S. Treasury Security, then the nearest equivalent U.S. Treasury Security shall be selected at Lender's sole discretion, and the yield rate therefor shall be the "Yield Rate". If the publication of such yield rates in the Wall Street Journal is discontinued, Lender shall determine such yield rates from another source selected by Lender.

3. Application. Except as set forth in the Cash Management Agreement, all payments on this Note shall be applied at any time and from time to time in the following order: (i) the payment or reimbursement of any expenses (including but not limited to late charges), costs or obligations (other than the principal hereof and interest hereon) for which Borrower shall be obligated or Lender entitled pursuant to the provisions hereof or of the Security Instrument or the Other Security Documents, (ii) the payment of accrued but unpaid interest thereon, (iii) the

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payment of unpaid escrow amounts required herein, in the Security Instrument or in the Other Security Documents, and (iv) the payment of all or any portion of the principal balance then outstanding hereunder, in either the direct or inverse order of maturity, at Lender's option.

4. Late Charge. If any payment due under this Note is not actually received by Lender by close of business on the fifth (5th) day after the date on which it was due, Borrower shall pay to Lender an amount (the "Late Charge") equal to the lesser of five percent (5%) of such unpaid portion of the missed payment or the maximum amount permitted by applicable law, to defray the expenses incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. All such Late Charges shall be automatically due and payable without notice or demand and shall be secured by the Security Instrument and the Other Security Documents.

5. Security; Defined Terms; Incorporation by Reference. This Note, together with the Other Notes, is secured by the Security Instrument and the Other Security Documents. The term "Security Instrument" as used in this Note shall mean the Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, executed and delivered by Borrower and each of the Other Borrowers contemporaneously with this Note and which secures the Debt. The term "Other Notes" as used in this Note shall mean the "Notes" (as defined in the Security Instrument), other than this Note. The term "Other Borrowers" as used in this Note shall mean each "Borrower" (as defined in the Security Instrument), other than the Borrower executing this Note. The term "Other Security Documents" means all documents other than this Note or the Security Instrument now or hereafter executed and/or delivered by Borrower, the Other Borrowers, and/or others and to or in favor of Lender, which wholly or partially secure, evidence or guarantee payment of the Debt or any portion thereof, provide for any indemnity in favor of or payment to Lender related to the Debt, this Note, the Other Notes or the Mortgaged Property (as defined in the Security Instrument), provide for any escrow/holdback arrangements or for any actions to be completed by Borrower or any of the Other Borrowers subsequent to the date hereof, or are otherwise related to the loan evidenced by this Note and the Other Notes. All amounts due and payable under this Note and the Other Notes, together with all sums due under the Security Instrument and the Other Security Documents, including any applicable Prepayment Consideration (hereinafter defined) and all applicable attorney fees and costs, are collectively referred to herein as the "Debt." Where appropriate, the singular number shall include the plural, the plural shall include the singular, and the words "Lender" and "Borrower" shall include their respective successors, assigns, heirs, personal representatives, executors and administrators.

6. Prepayment/Defeasance.

(a) When Permitted. Prior to November 1, 2017 (the "Early Payment Date"), Borrower shall not have the right to prepay all or any portion of this Note at any time during the term of this Note (except for any prepayment permitted under the Security Instrument in the event of a casualty or condemnation). No Prepayment Consideration (hereinafter defined) will be due from any prepayment of this Note (in whole but not in part) on or after the Early Payment Date. Notwithstanding the foregoing or anything else to the contrary herein, upon the completion of a defeasance as set forth below, Borrower shall have no further right to prepay all or any portion of this Note. In the event of a prepayment on or after the Early Payment Date Borrower shall pay, together with the amount of such prepayment, an amount equal to (i) all accrued and

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unpaid interest, and (ii) any other sums due under this Note, the Security Instrument or any Other Security Document. Additionally, any such prepayment not actually received by Lender before 5:00 p.m., central time, on the 5th day of any calendar month must also include the interest which would have accrued on the amount of such prepayment during the entire calendar month in which the prepayment is made. Additionally, any prepayment of this Note by Borrower must be made simultaneously with a prepayment by each of the Other Borrowers of each of the Other Notes pursuant to the terms of such other Notes.

(b) Notice. Borrower may give written notice to Lender specifying the date, which date must be on or after the Early Payment Date, on which a full prepayment of the Debt is to be made by Borrower and each of the Other Borrowers (the date of any prepayment hereunder, whether pursuant to such notice or not, and whether voluntary or involuntary, being herein called the "Prepayment Date"). Lender shall receive this notice not more than sixty (60) days and not less than thirty (30) days prior to the Prepayment Date. If any such notice of prepayment is given, the entire Debt, including any applicable Prepayment Consideration (as defined below), shall be due and payable on the Prepayment Date.

(c) Prepayment After Event of Default. If following the occurrence of any Event of Default, Borrower shall tender payment of an amount sufficient to satisfy the Debt at any time prior to or after a sale of the Mortgaged Property, either through foreclosure or the exercise of the other remedies available to Lender under the Security Instrument or the Other Security Documents, such tender by Borrower shall be deemed to be a voluntary prepayment under this Note in the amount tendered and in such case Borrower shall also pay to Lender, with respect to the amount tendered, the applicable Prepayment Consideration set forth in this Note, which Prepayment Consideration shall be immediately due and payable. Lender shall not be obligated to accept any such prepayment of this Note unless it is accompanied by an amount (the "Prepayment Consideration") equal to the greater of: (x) one percent (1%) of the outstanding principal balance of this Note at the time of prepayment; or (y) the Yield Maintenance Amount (hereinafter defined).

Lender shall not be obligated to accept any such tender unless it is accompanied by all Prepayment Consideration due in connection therewith. Additionally, Lender shall not be obligated to accept any such tender unless it is accompanied by a simultaneous tender by each of the Other Borrowers under each of the Other Notes pursuant to the terms of such other Notes. Borrower acknowledges that the Prepayment Consideration is a bargained for consideration and not a penalty, and Borrower recognizes that Lender would incur substantial additional costs and expenses in the event of a prepayment of the Debt and that the Prepayment Consideration compensates Lender for such costs and expenses (including without limitation, the loss of Lender's investment opportunity during the period from the date such tender is accepted until the Maturity Date). Borrower agrees that Lender shall not, as a condition to receiving the Prepayment Consideration, be obligated to actually reinvest the amount prepaid in any treasury obligation or in any other manner whatsoever. Except as otherwise set forth in the Security Instrument, no Prepayment Consideration will be due for involuntary prepayments resulting from any Casualty (as defined in the Security Instrument) or Condemnation (as defined in the Security Instrument).

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Yield Maintenance Amount. The "Yield Maintenance Amount" shall mean the present value, as of the Prepayment Date, of the remaining scheduled payments of principal and interest from the Prepayment Date through the Maturity Date (including any balloon payment) determined by discounting such payments at the Discount Rate (hereinafter defined), less the amount of principal being prepaid. The term "Discount Rate" shall mean the rate which, when compounded monthly, is equivalent to the Treasury Rate (hereinafter defined) when compounded semi-annually. The term "Treasury Rate" shall mean the yield calculated by the linear interpolation of the yields, as reported in Federal Reserve Statistical Release H.15-Selected Interest Rates under the heading U.S. Government Securities/Treasury Constant Maturities for the week ending prior to the Prepayment Date, of U.S. Treasury constant maturities with maturity dates (one longer and one shorter) most nearly approximating the Maturity Date. (In the event Release H.15 is no longer published, Lender shall select a comparable publication to determine the Treasury Rate.) Lender shall notify Borrower of the amount and the basis of determination of the required Prepayment Consideration.

(d) Defeasance. Any provision hereof to the contrary notwithstanding, at any time during the Defeasance Period (as defined below), Borrower and the Other Borrowers may obtain a release of the Mortgaged Property from the lien of the Security Instrument only upon the satisfaction of the following conditions:

(i) not less than thirty (30) days prior written notice shall be given to Lender specifying a date (the "Defeasance Date") on which the Defeasance Collateral (as defined below) is to be delivered by Borrower pursuant to this Note (and by each of the Other Borrowers pursuant to the terms of each of the Other Notes simultaneously);

(ii) all accrued and unpaid interest and all other sums due under this Note, the Security Instrument and the Other Security Documents up to the Defeasance Date, including, without limitation, all reasonable costs and expenses incurred by Lender or its agents in connection with such defeasance, including, without limitation, any legal fees and expenses incurred in connection with obtaining and reviewing the Defeasance Collateral, the preparation of the Defeasance Security Agreement (as defined below) and related documentation, accountant fees, and investment advisor fees shall be paid in full on or prior to the Defeasance Date;

(iii) no Event of Default, and no event or condition that, with the giving of notice or passage of time or both, would constitute an Event of Default, shall exist either at the time Borrower gives notice of the Defeasance Date to Lender or on the Defeasance Date;

(iv) Borrower shall deliver to Lender on or before the Defeasance Date non-redeemable securities evidencing an obligation to timely pay principal and/or interest in a full and timely manner that are (a) direct obligations of the United States of America for the full and timely payment of which its full faith and credit is pledged, or (b) to the extent acceptable to the Rating Agencies, other "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, as amended, such securities in such form and amount that provide for the payments prior, but as close as possible, to all successive regularly scheduled monthly payment dates, including the

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Maturity Date, with such payments being equal to or greater than the amount of the corresponding monthly payment required to be paid under this Note (hereafter, "Scheduled Defeasance Payments") for the balance of the term hereof and the amount required to be paid on the Maturity Date (such obligations are collectively and singularly referred to herein as "Defeasance Collateral") each of which shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance wholly satisfactory to Lender (including, without limitation, such instrument as may be required by the depository institution holding such securities or the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect a first priority security interest in such Defeasance Collateral in favor of Lender. The Defeasance Collateral may be purchased by Lender on Borrower's behalf, in which case Borrower shall deposit with Lender at least three days before the Defeasance Date a sum sufficient, in Lender's sole and absolute discretion, to purchase the Defeasance Collateral. Any sums in excess of the amount necessary to purchase the Defeasance Collateral shall be remitted to Borrower upon release of the Mortgaged Property.

(v) Borrower shall deliver the following to Lender, at Borrower's cost, on or prior to the Defeasance Date:

(A) a pledge and security agreement, in form and substance satisfactory to Lender in its sole discretion, creating a first priority security interest in favor of Lender in the Defeasance Collateral (the "Defeasance Security Agreement");

(B) a certificate of Borrower certifying that all of the requirements hereunder for a defeasance have been satisfied;

(C) an opinion of counsel that is standard in commercial lending transactions and subject only to customary qualifications, assumptions and exceptions, in form and substance and delivered by counsel satisfactory to Lender in its sole discretion stating, among other things, (x) that Lender has a perfected first priority security interest in the Defeasance Collateral, (y) that the Defeasance Security Agreement is enforceable against Borrower in accordance with its terms and (z) if a Securitization (as defined in the Security Instrument) has occurred, that the defeasance will not cause the REMIC trust formed pursuant to such Securitization to fail to qualify as a "real estate mortgage investment conduit" (a "REMIC"), within the meaning of Section 860D of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code");

(D) an opinion of an independent certified public accountant acceptable to Lender representing and warranting to Lender that the Defeasance Collateral will generate monthly amounts equal to or greater than the Scheduled Defeasance Payments including the amount required to be paid on the Maturity Date of this Note, and such other approvals required by Lender;

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(E) if required by any Rating Agency, evidence in writing from each of the Rating Agencies to the effect that such release will not result in a qualification, downgrade or withdrawal of any rating in effect immediately prior to the Defeasance Date for any securities or "Pass-Through Certificates" issued pursuant to the terms of a trust and servicing agreement in the event that this Note or any interest therein is included in a REMIC or other Securitization vehicle;

(F) such other certificates, opinions, documents or instruments as Lender may reasonably require; and

(G) upon approval by Lender of the schedule of Defeasance Collateral to be delivered to Lender, Borrower shall (i) pay Lender a nonrefundable fee, in an amount reasonably determined by Lender, as compensation for the review, analysis and processing of the defeasance request; and (ii) if required by Lender, deposit with Lender an amount estimated by Lender to be sufficient to fund all other fees, costs and expenses related to the defeasance, including Lender's reasonable attorneys' fees and expenses and rating agency fees, if any and expenses together with all expenses and costs associated with the release of the lien on the Mortgaged Property. Borrower shall be responsible for all fees, costs and expenses associated with the defeasance which, if not covered by the above deposit, shall be paid to Lender no later than the Defeasance Date.

Upon compliance with the foregoing requirements relating to the delivery of the Defeasance Collateral, together with the simultaneous compliance with the requirements for Defeasance contained in each of the Other Notes, the Mortgaged Property shall be released from the lien of the Security Instrument and the Defeasance Collateral shall be the sole source of collateral which shall secure this Note.

The "Defeasance Period" shall mean the period of time: (1) commencing on the date which is the later to occur of: (A) two (2) years after the "start-up day", within the meaning of Section 860(G)(a)(9) of the Code, of the REMIC that holds this Note, and (B) thirty-six (36) months after the date of the first regularly scheduled monthly payment due hereunder, and (2) ending on the Early Payment Date. The "Rating Agencies" shall mean, collectively, Standard and Poor's Ratings Services, Moody's Investors Service, Inc., and Fitch, Inc., and their respective successors and assigns, to the extent each of the foregoing performed credit rating services for the REMIC or other Securitization vehicle which owns this Note.

(e) Successor Borrower. In connection with a defeasance under this Section, Borrower shall establish or designate a successor entity (the "Successor Borrower") which shall be a single purpose entity approved by Lender in its sole discretion. Borrower shall transfer and assign all obligations, rights and duties under and to this Note together with the Defeasance Collateral to such Successor Borrower. Such Successor Borrower shall assume the obligations of Borrower under this Note and the Security Instrument and Borrower shall be relieved of its obligations under such documents except for any such representations that specifically survive the defeasance. Borrower shall pay \$1,000 to any such Successor Borrower as consideration for assuming the obligations under this Note and the Security Instrument. Borrower shall pay all

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costs and expenses incurred by Lender, including Lender's reasonable attorneys' fees and expenses, incurred in connection with establishment of the Successor Borrower.

(f) Defeasance Collateral Account. All cash from interest and principal payments paid on the Defeasance Collateral shall be paid over to Lender for each Scheduled Defeasance Payment and applied first to accrued and unpaid interest and then to principal. Any cash from interest and principal paid on the Defeasance Collateral not needed to pay accrued and unpaid interest or principal shall be retained in a designated account established by Borrower or Successor Borrower as the case may be, (the "Defeasance Collateral Account") which shall constitute additional collateral for the loan evidenced hereby. The Defeasance Collateral Account shall contain only cash from interest and principal paid on the Defeasance Collateral. Borrower or Successor Borrower, as applicable, shall be the owner of the Defeasance Collateral Account and shall report all income accrued thereon for federal, state and local income tax purposes and shall pay all costs and expenses associated with opening and maintaining the account and may pay all costs and expenses associated with maintaining the Successor Borrower from such account. Lender shall have no responsibility to fund any Scheduled Defeasance Payments and shall not be liable in any way by reason of any insufficiency in the Defeasance Collateral Account. Upon an assumption by Successor Borrower acceptable to Lender, Borrower shall be relieved of its obligations under this Note and the Defeasance Security Agreement and, to the extent such documents relate to the Mortgaged Property, the Other Security Documents.

(g) Release of Security Instrument Following Defeasance. Upon compliance with the requirements hereunder for a defeasance and the simultaneous compliance with the requirements for Defeasance contained in each of the Other Notes, the Mortgaged Property shall be released from the lien of the Security Instrument and the Other Security Documents, and the Defeasance Collateral shall be the sole source of collateral securing this Note. Lender will, at Borrower's expense, execute and deliver any agreements reasonably requested by Borrower to release the lien of the Security Instrument from the Mortgaged Property.

(h) Purchase of Defeasance Collateral. In the event of purchase by Lender of the Defeasance Collateral, such purchase may, in Lender's sole and absolute discretion be through an affiliate of Lender or a third party entity. Borrower shall be responsible for the payment of any brokerage or other transaction fees in connection with such purchase.

7. Default. An "Event of Default" shall occur if:

(a) Borrower fails to make the full and punctual payment of any amount payable hereunder or under the Security Instrument or Other Security Documents, which failure is not cured on or before the fifth (5th) day after the date of written notice from Lender to Borrower of such failure;

(b) Borrower fails to pay the entire outstanding principal balance hereunder, together with all accrued and unpaid interest, on the date when due, whether on the Maturity Date, upon acceleration or prepayment or otherwise;

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(c) an Event of Default (as defined in the Security Instrument or any of the Other Security Documents) has occurred under the Security Instrument, or under the Security Instrument and/or Other Security Documents; or

(d) an Event of Default has occurred under any of the Other Notes.

8. Acceleration. The whole of the Debt, including without limitation, the principal sum of this Note, all accrued interest and all other sums due under this Note, the Security Instrument and the Other Security Documents, together with any applicable Prepayment Consideration, shall become immediately due and payable at the option of Lender, without notice, at any time following the occurrence of an Event of Default.

9. Default Interest. Upon the occurrence of an Event of Default (including without limitation, the failure of Borrower to pay this Note in full on the Maturity Date), Lender shall be entitled to receive and Borrower shall pay interest on the entire unpaid principal balance of this Note at the rate (the "Default Rate") equal to the greater of: (a) four percent (4%) above the Applicable Interest Rate; or (b) four percent (4%) above the Prime Rate (hereinafter defined) in effect at the time of the occurrence of the Event of Default; provided, however, that notwithstanding the foregoing, in no event shall the Default Rate exceed the Maximum Rate (hereinafter defined). The term "Prime Rate" shall mean the prime rate reported in the Money Rates section of The Wall Street Journal for the date (the "Default Rate Calculation Date") upon which the Event of Default occurred, or if no publication occurs upon such date, then the date of publication immediately preceding the date of the Event of Default. In the event that The Wall Street Journal should cease or temporarily interrupt publication, the term "Prime Rate" shall mean the daily average prime rate published upon the Default Rate Calculation Date in another business newspaper, or business section of a newspaper, of national standing chosen by Lender. In the event that a prime rate is no longer generally published or is limited, regulated or administered by a governmental or quasi-governmental body then Lender shall select a comparable interest rate index which is readily available and verifiable to Borrower but is beyond Lender's control. The Default Rate shall be computed from the occurrence of the Event of Default until the actual payment in full of the Debt. This charge shall be added to the Debt, and shall be deemed secured by the Security Instrument. This clause, however, shall not be construed as an agreement or privilege to extend the Maturity Date, nor as a waiver of any other right or remedy accruing to Lender by reason of the occurrence of any Event of Default.

10. Attorney Fees. In the event that Lender employs attorney(s) to collect the Debt, to enforce the provisions of this Note or to protect or foreclose the security herefor, Borrower agrees to pay Lender's reasonable attorney fees and disbursements, whether or not suit be brought. Such fees shall be immediately due and payable.

11. Limit of Validity. This Note is subject to the express condition that at no time shall Borrower be obligated or required to pay interest or other charges on the Debt at a rate which may subject Lender to civil or criminal liability as a result of such rate exceeding the maximum interest rate which Borrower is permitted to pay by applicable law (the "Maximum Rate"). If by the terms of this Note, Borrower is at any time required or obligated to pay interest or other charges on the Debt at a rate in excess of the Maximum Rate, the rate of interest due under this Note shall be deemed to be immediately reduced to the Maximum Rate and any

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previous payments in excess of the Maximum Rate shall be deemed to have been payments in reduction of principal and not on account of the interest due hereunder.

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

13. Exculpation. Subject to the provisions of this Section, Borrower's liability under this Note, the Security Instrument or the Other Security Documents shall only extend to the Mortgaged Property and other collateral given to secure the Debt, and Lender shall not enforce such liability against any other asset, property or funds of Borrower; provided, however, the foregoing shall not:

(a) impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor (as defined in the Security Instrument) relating to any losses (including reasonable attorney's fees and court costs) sustained by Lender in connection with any fraud, intentional misrepresentation, waste (except during such time as ATT Tenant is responsible to maintain the Mortgaged Property in accordance with the terms of the ATT Lease), or misappropriation of tenant security deposits or rents collected more than one (1) month in advance by Borrower (except for Base Rent for January, 2008 which was prepaid to Borrower on the date hereof);

(b) impair the right of Lender to name, and obtain a judgment against Borrower or Indemnitor to the extent required by law to either obtain a judgment of specific performance with respect to any of the provisions of this Note, the Security Instrument or any of the Other Security Documents, or to foreclose the Security Instrument and obtain title to the Mortgaged Property and other collateral given to secure the Debt;

(c) affect the validity or enforceability of, or impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor to enforce any guaranty, indemnity or release of liability made by such person or entity (whether made in this Note, the Security Instrument, any of the Other Security Documents or in any other separate agreement);

(d) impair the right of Lender to obtain the appointment of a receiver; or

(e) impair the enforcement of the Assignment of Leases and Rents executed in connection herewith; or

(f) affect the validity or enforceability of, or impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor relating to any actual losses sustained by Lender in connection with (i) the failure of Borrower to maintain insurance over any of the Mortgaged Property, if Borrower is required to do so pursuant to the Security Instrument, or (ii) the misapplication by Borrower of any insurance proceeds or condemnation awards which are received by Borrower and which are to be paid to Lender in accordance with the Security Instrument; or

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(g) affect the validity or enforceability of, or impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitator relating to any actual losses sustained by Lender in connection with if Borrower, any Indemnitator or any affiliate of either brings or consents to any action or proceeding for partition of the Mortgaged Property or any portion thereof or interest therein; or

(h) impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitator relating to any actual losses sustained by Lender in connection with if Borrower suffers or permits the occurrence of any Transfer or Change in Ownership in violation of the Security Instrument;

(i) impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitator for the full amount of the Debt if the Mortgaged Property or any part thereof shall become an asset in: (i) a voluntary bankruptcy or insolvency proceeding, or (ii) an involuntary bankruptcy or insolvency proceeding: (A) which is commenced by any person or entity controlling, controlled by or under common control with Borrower (the "Borrowing Group") or (B) in which any member of the Borrowing Group objects to a motion by Lender for relief from any stay or injunction from the foreclosure of the Security Instrument or any other remedial action permitted under this Note, the Security Instrument or any of the Other Security Documents.

Items (a) through (i) above are collectively the "Non-Recourse Exceptions." To the extent Borrower is a general partnership and Lender is required under applicable law to pursue its remedies against the persons or entities constituting Borrower, each reference to the phrase "(including Borrower)" in the Non-Recourse Exceptions shall be deemed to read "(including Borrower or any person or entity constituting Borrower)". Borrower's liability under the Non-Recourse Exceptions, excepting item (i), shall be limited to the amount of any actual losses or damages sustained by Lender in connection with such Non-Recourse Exceptions. Nothing herein shall be deemed to be a waiver of any right which Lender may have under Sections 506(a), 506(b), 1111(b) or any other provisions of the U.S. Bankruptcy Code to file a claim for the full amount of the Debt secured by the Security Instrument or to require that all of the Mortgaged Property and other collateral given to secure the Debt shall continue to secure all of the Debt.

14. Assignment. Lender, and its successors, endorsees and assigns, may freely transfer and assign this Note. Borrower's right to transfer its rights and obligations with respect to the Debt, and to be released from liability under this Note, shall be governed by the Security Instrument.

15. Applicable Law; Jurisdiction. This Note shall be governed and construed in accordance with the laws of the state in which the real property encumbered by the Security Instrument is located. Borrower hereby submits to personal jurisdiction in the state courts located in said state and the federal courts of the United States of America located in said state for the enforcement of Borrower's obligations hereunder and waives any and all personal rights under the law of any other state to object to jurisdiction within such state for the purposes of any action, suit, proceeding or litigation to enforce such obligations of Borrower.

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16. Joint and Several Liability. If Borrower consists of more than one person or entity, the obligations and liabilities of each such person or entity shall be joint and several.

17. Waiver of Presentment, Etc. Borrower and all others who may become liable for the payment of all or any part of the Debt do hereby severally waive presentment and demand for payment, notice of dishonor, protest, notice of protest, and notice of intent to accelerate the maturity hereof (and of such acceleration), except to the extent that specific notices are required by this Note, the Security Instrument or the Other Security Documents.

18. No Waiver. Any failure by Lender to insist upon strict performance by Borrower of any of the provisions of this Note, the Security Instrument or the Other Security Documents shall not be deemed to be a waiver of any of the terms or provisions of this Note, the Security Instrument or the Other Security Documents, and Lender shall have the right thereafter to insist upon strict performance by Borrower of any and all of the terms and provisions of this Note, the Security Instrument or the Other Security Documents.

19. Notices. Except as otherwise specified herein, any notice, consent, request or other communication required or permitted to be given hereunder shall be in writing, addressed to the other party as set forth below (or to such other address or person as either party or person entitled to notice may by notice to the other party specify), and shall be: (a) personally delivered; (b) delivered by Federal Express or other comparable overnight delivery service; or (c) transmitted by United States certified mail, return receipt requested with postage prepaid; to:

Lender: PNC Bank, National Association
10851 Mastin, Suite 300
Overland Park, Kansas 66210

Borrower: Elmwood Chicago Associates, LLC
c/o Oakwood Chicago Associates, LLC
18 Columbia Turnpike
Florham Park, New Jersey 07932

with a courtesy
copy to: WolfBlock Brach Eichler
101 Eisenhower Parkway
Roseland, New Jersey 07068
Attention: Allen Popowitz, Esq.

with a courtesy
copy to: Fred Wolf II, Esq.
Ballard Spahr Andrews & Ingersoll
300 East Lombard Street, 19th Floor
Baltimore, MD 21202

The failure of Lender to deliver any courtesy copy shall have no effect upon the validity of any Notice given to Borrower. Unless otherwise specified, all notices and other communications shall be deemed to have been duly given on the first to occur of actual receipt of the same or: (i) the date of delivery if personally delivered; (ii) one (1) business day after depositing the same with the delivery service if by overnight delivery service; and (iii) three (3) days following

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posting if transmitted by mail. Borrower must prominently display Lender's Loan Number (as set forth on page 1 of this Note) on all notices or communications to Lender.

20. Severability. If any term, covenant or condition of this Note is held to be invalid, illegal or unenforceable in any respect, this Note shall be construed without such provision.

21. Time of the Essence. Time shall be of the essence in the performance of all obligations of Borrower hereunder.

BORROWER AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY, OR THEIR RESPECTIVE SUCCESSORS OR ASSIGNS, MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THE LOAN EVIDENCED BY THIS NOTE OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE SECURITY INSTRUMENT OR ANY OF THE OTHER SECURITY DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTION OF BORROWER OR LENDER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER'S MAKING OF THE LOAN SECURED BY THE SECURITY INSTRUMENT AND THE OTHER SECURITY DOCUMENTS.

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IN WITNESS WHEREOF, Borrower has duly executed this Promissory Note to be effective the day and year first above written.

BORROWER:

Elmwood Chicago Associates, LLC, a Delaware limited liability company

By: _____

Name: Brian Kempner

Title: Manager

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STATE OF _____)
)ss
COUNTY OF _____)

On this _____ day of December, 2007, before me, appeared Brian Kempner, to me personally known, who being by me duly sworn did say that he is the Manager of Elmwood Chicago Associates, LLC, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said Brian Kempner acknowledged said instrument to be the free act and deed of said limited liability company

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Notary Public in and for
said County and State

Print Notary's Name: _____

My Commission Expires:

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This Endorsement forms a part of that certain Promissory Note in the stated principal amount of FIVE MILLION EIGHT HUNDRED TWENTY THOUSAND SEVEN HUNDRED TWENTY SEVEN AND 87/100TH DOLLARS (5,820,727.87) dated December 27, 2007, made by Elmwood Chicago Associates, LLC, a Delaware limited liability company, to PNC Bank, National Association.

Pay to the order of _____
_____, without recourse.

PNC Bank, National Association

By: _____
Jeannette Butler, Vice President

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EXHIBIT B-2

Property of Cook County Clerk's Office

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Loan No. 94-0954251

PROMISSORY NOTE

\$84,243,162.20

Illinois
December 27, 2007

FOR VALUE RECEIVED, Oakwood Chicago Associates, LLC, a Delaware limited liability company ("Borrower"), having its principal place of business at c/o Kushner Companies, 18 Columbia Turnpike, Florham Park, New Jersey 07932, promises to pay to the order of PNC Bank, National Association ("Lender"), at the following address: 10851 Mastin, Suite 300, Overland Park, Kansas 66210, or such other place as the holder hereof may from time to time designate in writing, the principal sum of EIGHTY FOUR MILLION TWO HUNDRED FORTY THREE THOUSAND ONE HUNDRED SIXTY TWO AND 20/100TH DOLLARS (\$84,243,162.20) in lawful money of the United States of America, with interest thereon to be computed from the date of disbursement under this Promissory Note (the "Note") at the Applicable Interest Rate (hereinafter defined), and to be paid in installments as follows:

- A. A payment, on the date of disbursement, representing interest from the date of disbursement through the last day of the calendar month in which such disbursement is made;
- B. A payment of interest only, on the first day of February, 2008 and on the first day of each calendar month thereafter up to and including the first day of January, 2013;
- C. A constant payment of \$531,643.32 (the "Monthly Debt Service Payment Amount") (based upon an amortization schedule assuming a 360 day year consisting of 12 months of 30 days each) on the first day of February, 2013 and on the first day of each calendar month thereafter up to and including the first day of December, 2017; and
- D. The balance of said principal sum, all unpaid interest thereon and all other amounts owed pursuant to this Note, the Security Instrument (hereinafter defined), the Other Security Documents (hereinafter defined), or otherwise in connection with the loan evidenced by this Note shall be due and payable on the first day of January, 2018 (the "Maturity Date").
- E. Anything herein to the contrary notwithstanding, if Lender determines, in its sole discretion, at any time during the calendar month immediately preceding the Maturity Date that this Note will not be paid as required on the Maturity Date, Lender shall have the option to forbear from exercising its rights under this Note, the Security Instrument and the Other Security Documents to foreclose upon the Mortgaged Property (an "Optional Lender Forbearance"). In such event, Lender shall notify Borrower of such decision and the following shall occur:

(1) On the first day of the month immediately following the Maturity Date and on the first day of each calendar month thereafter, Borrower

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shall pay to Lender the amounts required by the Security Agreement and Lockbox Agreement (the "Cash Management Agreement") executed contemporaneously herewith) by Borrower in favor of Lender..

(2) Each payment made by Borrower following the Maturity Date pursuant to subsection (1) above shall be applied in accordance with the Cash Management Agreement. Interest accrued at the Adjusted Interest Rate and not paid shall be deferred and added to the indebtedness evidenced by this Note.

(3) Lender's decision to forbear from exercising its rights under this Note, the Security Instrument and the Other Security Documents shall be revocable at any time by Lender without notice to Borrower. Upon any such revocation, Lender shall be entitled to pursue any and all remedies available to it under this Note, the Security Instrument, the Other Security Documents, at law or in equity.

(4) Anything herein to the contrary notwithstanding, Borrower shall have the right to pay the Note in full after the Early Payment Date without any prepayment premium or charge.

All payments to be made by Borrower to Lender shall be deemed received by Lender only upon Lender's actual receipt of same.

1. Applicable Interest Rate. Interest accruing on the principal sum of this Note shall be calculated based upon a per annum interest rate divided by 360 days resulting in a per diem interest amount that will accrue for each calendar day in a year of 365 days (366 days in a leap year). The term "Applicable Interest Rate" as used in this Note shall mean, from the date of this Note through and including the Maturity Date, a rate of six and 485/1000th percent (6.485%) per annum (the "Initial Interest Rate"). In the case of an Optional Lender Forbearance as provided herein, the term "Applicable Interest Rate" shall mean the Adjusted Interest Rate from and after the Maturity Date through and including the date this Note is paid in full. The term "Adjusted Interest Rate" shall mean the greater of (x) the Initial Interest Rate plus four percent (4.0%); or (y) the Yield Rate on the then-current on-the-run 10-year U.S. Treasury Obligation (the "Specified U.S. Treasury Security") plus four percent (4.0%). The term "Yield Rate" shall mean the yield rate for the Specified U.S. Treasury Security as such yield rate is reported in the Wall Street Journal on the fifth (5th) business day preceding the Maturity Date. In the event that no such yield rate is published for the Specified U.S. Treasury Security, then the nearest equivalent U.S. Treasury Security shall be selected at Lender's sole discretion, and the yield rate therefor shall be the "Yield Rate". If the publication of such yield rates in the Wall Street Journal is discontinued, Lender shall determine such yield rates from another source selected by Lender.

2. Application. Except as set forth in the Cash Management Agreement, all payments on this Note shall be applied at any time and from time to time in the following order: (i) the payment or reimbursement of any expenses (including but not limited to late charges), costs or obligations (other than the principal hereof and interest hereon) for which Borrower shall be obligated or Lender entitled pursuant to the provisions hereof or of the Security Instrument or the Other Security Documents, (ii) the payment of accrued but unpaid interest thereon, (iii) the

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payment of unpaid escrow amounts required herein, in the Security Instrument or in the Other Security Documents, and (iv) the payment of all or any portion of the principal balance then outstanding hereunder, in either the direct or inverse order of maturity, at Lender's option.

3. Late Charge. If any payment due under this Note is not actually received by Lender by close of business on the fifth (5th) day after the date on which it was due, Borrower shall pay to Lender an amount (the "Late Charge") equal to the lesser of five percent (5%) of such unpaid portion of the missed payment or the maximum amount permitted by applicable law, to defray the expenses incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. All such Late Charges shall be automatically due and payable without notice or demand and shall be secured by the Security Instrument and the Other Security Documents.

4. Security; Defined Terms; Incorporation by Reference. This Note, together with the Other Notes, is secured by the Security Instrument and the Other Security Documents. The term "Security Instrument" as used in this Note shall mean the Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, executed and delivered by Borrower and each of the Other Borrowers contemporaneously with this Note and which secures the Debt. The term "Other Notes" as used in this Note shall mean the "Notes" (as defined in the Security Instrument), other than this Note. The term "Other Borrowers" as used in this Note shall mean each "Borrower" (as defined in the Security Instrument), other than the Borrower executing this Note. The term "Other Security Documents" means all documents other than this Note or the Security Instrument now or hereafter executed and/or delivered by Borrower, the Other Borrowers, and/or others and to or in favor of Lender, which wholly or partially secure, evidence or guarantee payment of the Debt or any portion thereof, provide for any indemnity in favor of or payment to Lender related to the Debt, this Note, the Other Notes or the Mortgaged Property (as defined in the Security Instrument), provide for any escrow/holdback arrangements or for any actions to be completed by Borrower or any of the Other Borrowers subsequent to the date hereof, or are otherwise related to the loan evidenced by this Note and the Other Notes. All amounts due and payable under this Note and the Other Notes, together with all sums due under the Security Instrument and the Other Security Documents, including any applicable Prepayment Consideration (hereinafter defined) and all applicable attorney fees and costs, are collectively referred to herein as the "Debt." Where appropriate, the singular number shall include the plural, the plural shall include the singular, and the words "Lender" and "Borrower" shall include their respective successors, assigns, heirs, personal representatives, executors and administrators.

5. Prepayment/Defeasance.

(a) When Permitted. Prior to November 1, 2017 (the "Early Payment Date"), Borrower shall not have the right to prepay all or any portion of this Note at any time during the term of this Note (except for any prepayment permitted under the Security Instrument in the event of a casualty or condemnation). No Prepayment Consideration (hereinafter defined) will be due from any prepayment of this Note (in whole but not in part) on or after the Early Payment Date. Notwithstanding the foregoing or anything else to the contrary herein, upon the completion of a defeasance as set forth below, Borrower shall have no further right to prepay all or any portion of this Note. In the event of a prepayment on or after the Early Payment Date Borrower shall pay, together with the amount of such prepayment, an amount equal to (i) all accrued and

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unpaid interest, and (ii) any other sums due under this Note, the Security Instrument or any Other Security Document. Additionally, any such prepayment not actually received by Lender before 5:00 p.m., central time, on the 5th day of any calendar month must also include the interest which would have accrued on the amount of such prepayment during the entire calendar month in which the prepayment is made. Additionally, any prepayment of this Note by Borrower must be made simultaneously with a prepayment by each of the Other Borrowers of each of the Other Notes pursuant to the terms of such other Notes.

(b) Notice. Borrower may give written notice to Lender specifying the date, which date must be on or after the Early Payment Date, on which a full prepayment of the Debt is to be made by Borrower and each of the Other Borrowers (the date of any prepayment hereunder, whether pursuant to such notice or not, and whether voluntary or involuntary, being herein called the "Prepayment Date"). Lender shall receive this notice not more than sixty (60) days and not less than thirty (30) days prior to the Prepayment Date. If any such notice of prepayment is given, the entire Debt, including any applicable Prepayment Consideration (as defined below), shall be due and payable on the Prepayment Date.

(c) Prepayment After Event of Default. If following the occurrence of any Event of Default, Borrower shall tender payment of an amount sufficient to satisfy the Debt at any time prior to or after a sale of the Mortgaged Property, either through foreclosure or the exercise of the other remedies available to Lender under the Security Instrument or the Other Security Documents, such tender by Borrower shall be deemed to be a voluntary prepayment under this Note in the amount tendered and in such case Borrower shall also pay to Lender, with respect to the amount tendered, the applicable Prepayment Consideration set forth in this Note, which Prepayment Consideration shall be immediately due and payable. Lender shall not be obligated to accept any such prepayment of this Note unless it is accompanied by an amount (the "Prepayment Consideration") equal to the greater of: (x) one percent (1%) of the outstanding principal balance of this Note at the time of prepayment; or (y) the Yield Maintenance Amount (hereinafter defined).

Lender shall not be obligated to accept any such tender unless it is accompanied by all Prepayment Consideration due in connection therewith. Additionally, Lender shall not be obligated to accept any such tender unless it is accompanied by a simultaneous tender by each of the Other Borrowers under each of the Other Notes pursuant to the terms of such other Notes. Borrower acknowledges that the Prepayment Consideration is a bargained for consideration and not a penalty, and Borrower recognizes that Lender would incur substantial additional costs and expenses in the event of a prepayment of the Debt and that the Prepayment Consideration compensates Lender for such costs and expenses (including without limitation, the loss of Lender's investment opportunity during the period from the date such tender is accepted until the Maturity Date). Borrower agrees that Lender shall not, as a condition to receiving the Prepayment Consideration, be obligated to actually reinvest the amount prepaid in any treasury obligation or in any other manner whatsoever. Except as otherwise set forth in the Security Instrument, no Prepayment Consideration will be due for involuntary prepayments resulting from any Casualty (as defined in the Security Instrument) or Condemnation (as defined in the Security Instrument).

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Yield Maintenance Amount. The "Yield Maintenance Amount" shall mean the present value, as of the Prepayment Date, of the remaining scheduled payments of principal and interest from the Prepayment Date through the Maturity Date (including any balloon payment) determined by discounting such payments at the Discount Rate (hereinafter defined), less the amount of principal being prepaid. The term "Discount Rate" shall mean the rate which, when compounded monthly, is equivalent to the Treasury Rate (hereinafter defined) when compounded semi-annually. The term "Treasury Rate" shall mean the yield calculated by the linear interpolation of the yields, as reported in Federal Reserve Statistical Release H.15-Selected Interest Rates under the heading U.S. Government Securities/Treasury Constant Maturities for the week ending prior to the Prepayment Date, of U.S. Treasury constant maturities with maturity dates (one longer and one shorter) most nearly approximating the Maturity Date. (In the event Release H.15 is no longer published, Lender shall select a comparable publication to determine the Treasury Rate.) Lender shall notify Borrower of the amount and the basis of determination of the required Prepayment Consideration.

(d) Defeasance. Any provision hereof to the contrary notwithstanding, at any time during the Defeasance Period (as defined below), Borrower and the Other Borrowers may obtain a release of the Mortgaged Property from the lien of the Security Instrument only upon the satisfaction of the following conditions:

(i) not less than ninety (90) days prior written notice shall be given to Lender specifying a date (the "Defeasance Date") on which the Defeasance Collateral (as defined below) is to be delivered by Borrower pursuant to this Note (and by each of the Other Borrowers pursuant to the terms of each of the Other Notes simultaneously);

(ii) all accrued and unpaid interest and all other sums due under this Note, the Security Instrument and the Other Security Documents up to the Defeasance Date, including, without limitation, all reasonable costs and expenses incurred by Lender or its agents in connection with such defeasance, including, without limitation, any legal fees and expenses incurred in connection with obtaining and reviewing the Defeasance Collateral, the preparation of the Defeasance Security Agreement (as defined below) and related documentation, accountant fees, and investment advisor fees shall be paid in full on or prior to the Defeasance Date;

(iii) no Event of Default, and no event or condition that, with the giving of notice or passage of time or both, would constitute an Event of Default, shall exist either at the time Borrower gives notice of the Defeasance Date to Lender or on the Defeasance Date;

(iv) Borrower shall deliver to Lender on or before the Defeasance Date non-redeemable securities evidencing an obligation to timely pay principal and/or interest in a full and timely manner that are (a) direct obligations of the United States of America for the full and timely payment of which its full faith and credit is pledged, or (b) to the extent acceptable to the Rating Agencies, other "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, as amended, such securities in such form and amount that provide for the payments prior, but as close as possible, to all successive regularly scheduled monthly payment dates, including the

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Maturity Date, with such payments being equal to or greater than the amount of the corresponding monthly payment required to be paid under this Note (hereafter, "Scheduled Defeasance Payments") for the balance of the term hereof and the amount required to be paid on the Maturity Date (such obligations are collectively and singularly referred to herein as "Defeasance Collateral") each of which shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance wholly satisfactory to Lender (including, without limitation, such instrument as may be required by the depository institution holding such securities or the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect a first priority security interest in such Defeasance Collateral in favor of Lender. The Defeasance Collateral may be purchased by Lender on Borrower's behalf, in which case Borrower shall deposit with Lender at least three days before the Defeasance Date a sum sufficient in Lender's sole and absolute discretion, to purchase the Defeasance Collateral. Any sums in excess of the amount necessary to purchase the Defeasance Collateral shall be remitted to Borrower upon release of the Mortgaged Property.

(v) Borrower shall deliver the following to Lender, at Borrower's cost, on or prior to the Defeasance Date:

(A) a pledge and security agreement, in form and substance satisfactory to Lender in its sole discretion, creating a first priority security interest in favor of Lender in the Defeasance Collateral (the "Defeasance Security Agreement");

(B) a certificate of Borrower certifying that all of the requirements hereunder for a defeasance have been satisfied;

(C) an opinion of counsel that is standard in commercial lending transactions and subject only to customary qualifications, assumptions and exceptions, in form and substance and delivered by counsel satisfactory to Lender in its sole discretion stating, among other things, (x) that Lender has a perfected first priority security interest in the Defeasance Collateral, (y) that the Defeasance Security Agreement is enforceable against Borrower in accordance with its terms and (z) if a Securitization (as defined in the Security Instrument) has occurred, that the defeasance will not cause the REMIC trust formed pursuant to such Securitization to fail to qualify as a "real estate mortgage investment conduit" (a "REMIC"), within the meaning of Section 860D of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code");

(D) an opinion of an independent certified public accountant acceptable to Lender representing and warranting to Lender that the Defeasance Collateral will generate monthly amounts equal to or greater than the Scheduled Defeasance Payments including the amount required to be paid on the Maturity Date of this Note, and such other approvals required by Lender;

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(E) if required by any Rating Agency, evidence in writing from each of the Rating Agencies to the effect that such release will not result in a qualification, downgrade or withdrawal of any rating in effect immediately prior to the Defeasance Date for any securities or "Pass-Through Certificates" issued pursuant to the terms of a trust and servicing agreement in the event that this Note or any interest therein is included in a REMIC or other Securitization vehicle;

(F) such other certificates, opinions, documents or instruments as Lender may reasonably require; and

(G) upon approval by Lender of the schedule of Defeasance Collateral to be delivered to Lender, Borrower shall (i) pay Lender a nonrefundable fee, in an amount reasonably determined by Lender, as compensation for the review, analysis and processing of the defeasance request; and (ii) if required by Lender, deposit with Lender an amount estimated by Lender to be sufficient to fund all other fees, costs and expenses related to the defeasance, including Lender's reasonable attorneys' fees and expenses and rating agency fees, if any and expenses together with all expenses and costs associated with the release of the lien on the Mortgaged Property. Borrower shall be responsible for all fees, costs and expenses associated with the defeasance which, if not covered by the above deposit, shall be paid to Lender no later than the Defeasance Date.

Upon compliance with the foregoing requirements relating to the delivery of the Defeasance Collateral, together with the simultaneous compliance with the requirements for Defeasance contained in each of the Other Notes, the Mortgaged Property shall be released from the lien of the Security Instrument and the Defeasance Collateral shall be the sole source of collateral which shall secure this Note.

The "Defeasance Period" shall mean the period of time: (1) commencing on the date which is the later to occur of: (A) two (2) years after the "start-up day", within the meaning of Section 860(G)(a)(9) of the Code, of the REMIC that holds this Note; and (B) thirty-six (36) months after the date of the first regularly scheduled monthly payment due hereunder, and (2) ending on the Early Payment Date. The "Rating Agencies" shall mean, collectively, Standard and Poor's Ratings Services, Moody's Investors Service, Inc., and Fitch, Inc., and their respective successors and assigns, to the extent each of the foregoing performed credit rating services for the REMIC or other Securitization vehicle which owns this Note.

(e) Successor Borrower. In connection with a defeasance under this Section, Borrower shall establish or designate a successor entity (the "Successor Borrower") which shall be a single purpose entity approved by Lender in its sole discretion. Borrower shall transfer and assign all obligations, rights and duties under and to this Note together with the Defeasance Collateral to such Successor Borrower. Such Successor Borrower shall assume the obligations of Borrower under this Note and the Security Instrument and Borrower shall be relieved of its obligations under such documents except for any such representations that specifically survive the defeasance. Borrower shall pay \$1,000 to any such Successor Borrower as consideration for assuming the obligations under this Note and the Security Instrument. Borrower shall pay all

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costs and expenses incurred by Lender, including Lender's reasonable attorneys' fees and expenses, incurred in connection with establishment of the Successor Borrower.

(f) Defeasance Collateral Account. All cash from interest and principal payments paid on the Defeasance Collateral shall be paid over to Lender for each Scheduled Defeasance Payment and applied first to accrued and unpaid interest and then to principal. Any cash from interest and principal paid on the Defeasance Collateral not needed to pay accrued and unpaid interest or principal shall be retained in a designated account established by Borrower or Successor Borrower as the case may be, (the "Defeasance Collateral Account") which shall constitute additional collateral for the loan evidenced hereby. The Defeasance Collateral Account shall contain only cash from interest and principal paid on the Defeasance Collateral. Borrower or Successor Borrower, as applicable, shall be the owner of the Defeasance Collateral Account and shall report all income accrued thereon for federal, state and local income tax purposes and shall pay all costs and expenses associated with opening and maintaining the account and may pay all costs and expenses associated with maintaining the Successor Borrower from such account. Lender shall have no responsibility to fund any Scheduled Defeasance Payments and shall not be liable in any way by reason of any insufficiency in the Defeasance Collateral Account. Upon an assumption by Successor Borrower acceptable to Lender, Borrower shall be relieved of its obligations under this Note and the Defeasance Security Agreement and, to the extent such documents relate to the Mortgaged Property, the Other Security Documents.

(g) Release of Security Instrument Following Defeasance. Upon compliance with the requirements hereunder for a defeasance and the simultaneous compliance with the requirements for Defeasance contained in each of the Other Notes, the Mortgaged Property shall be released from the lien of the Security Instrument and the Other Security Documents, and the Defeasance Collateral shall be the sole source of collateral securing this Note. Lender will, at Borrower's expense, execute and deliver any agreements reasonably requested by Borrower to release the lien of the Security Instrument from the Mortgaged Property.

(h) Purchase of Defeasance Collateral. In the event of purchase by Lender of the Defeasance Collateral, such purchase may, in Lender's sole and absolute discretion be through an affiliate of Lender or a third party entity. Borrower shall be responsible for the payment of any brokerage or other transaction fees in connection with such purchase.

6. Default. An "Event of Default" shall occur if:

(a) Borrower fails to make the full and punctual payment of any amount payable hereunder or under the Security Instrument or Other Security Documents, which failure is not cured on or before the fifth (5th) day after the date of written notice from Lender to Borrower of such failure;

(b) Borrower fails to pay the entire outstanding principal balance hereunder, together with all accrued and unpaid interest, on the date when due, whether on the Maturity Date, upon acceleration or prepayment or otherwise;

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(c) an Event of Default (as defined in the Security Instrument or any of the Other Security Documents) has occurred under the Security Instrument, or under the Security Instrument and/or Other Security Documents; or

(d) an Event of Default has occurred under any of the Other Notes.

7. Acceleration. The whole of the Debt, including without limitation, the principal sum of this Note, all accrued interest and all other sums due under this Note, the Security Instrument and the Other Security Documents, together with any applicable Prepayment Consideration, shall become immediately due and payable at the option of Lender, without notice, at any time following the occurrence of an Event of Default.

8. Default Interest. Upon the occurrence of an Event of Default (including without limitation, the failure of Borrower to pay this Note in full on the Maturity Date), Lender shall be entitled to receive and Borrower shall pay interest on the entire unpaid principal balance of this Note at the rate (the "Default Rate") equal to the greater of: (a) four percent (4%) above the Applicable Interest Rate; or (b) four percent (4%) above the Prime Rate (hereinafter defined) in effect at the time of the occurrence of the Event of Default; provided, however, that notwithstanding the foregoing, in no event shall the Default Rate exceed the Maximum Rate (hereinafter defined). The term "Prime Rate" shall mean the prime rate reported in the Money Rates section of The Wall Street Journal for the date (the "Default Rate Calculation Date") upon which the Event of Default occurred, or if no publication occurs upon such date, then the date of publication immediately preceding the date of the Event of Default. In the event that The Wall Street Journal should cease or temporarily interrupt publication, the term "Prime Rate" shall mean the daily average prime rate published upon the Default Rate Calculation Date in another business newspaper, or business section of a newspaper, of national standing chosen by Lender. In the event that a prime rate is no longer generally published or is limited, regulated or administered by a governmental or quasi-governmental body, then Lender shall select a comparable interest rate index which is readily available and verifiable to Borrower but is beyond Lender's control. The Default Rate shall be computed from the occurrence of the Event of Default until the actual payment in full of the Debt. This charge shall be added to the Debt, and shall be deemed secured by the Security Instrument. This clause, however, shall not be construed as an agreement or privilege to extend the Maturity Date, nor as a waiver of any other right or remedy accruing to Lender by reason of the occurrence of any Event of Default.

9. Attorney Fees. In the event that Lender employs attorney(s) to collect the Debt, to enforce the provisions of this Note or to protect or foreclose the security herefor, Borrower agrees to pay Lender's reasonable attorney fees and disbursements, whether or not suit be brought. Such fees shall be immediately due and payable.

10. Limit of Validity. This Note is subject to the express condition that at no time shall Borrower be obligated or required to pay interest or other charges on the Debt at a rate which may subject Lender to civil or criminal liability as a result of such rate exceeding the maximum interest rate which Borrower is permitted to pay by applicable law (the "Maximum Rate"). If by the terms of this Note, Borrower is at any time required or obligated to pay interest or other charges on the Debt at a rate in excess of the Maximum Rate, the rate of interest due under this Note shall be deemed to be immediately reduced to the Maximum Rate and any

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previous payments in excess of the Maximum Rate shall be deemed to have been payments in reduction of principal and not on account of the interest due hereunder.

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

12. Exculpation. Subject to the provisions of this Section, Borrower's liability under this Note, the Security Instrument or the Other Security Documents shall only extend to the Mortgaged Property and other collateral given to secure the Debt, and Lender shall not enforce such liability against any other asset, property or funds of Borrower; provided, however, the foregoing shall not:

(a) impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor (as defined in the Security Instrument) relating to any losses (including reasonable attorney's fees and court costs) sustained by Lender in connection with any fraud, intentional misrepresentation, waste (except during such time as ATT Tenant is responsible to maintain the Mortgaged Property in accordance with the terms of the ATT Lease), or misappropriation of tenant security deposits or rents collected more than one (1) month in advance by Borrower (except for Base Rent for January, 2008 which was prepaid to Borrower on the date hereof);

(b) impair the right of Lender to name and obtain a judgment against Borrower or Indemnitor to the extent required by law to either obtain a judgment of specific performance with respect to any of the provisions of this Note, the Security Instrument or any of the Other Security Documents, or to foreclose the Security Instrument and obtain title to the Mortgaged Property and other collateral given to secure the Debt;

(c) affect the validity or enforceability of, or impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor to enforce any guaranty, indemnity or release of liability made by such person or entity (whether made in this Note, the Security Instrument, any of the Other Security Documents or in any other separate agreement);

(d) impair the right of Lender to obtain the appointment of a receiver; or

(e) impair the enforcement of the Assignment of Leases and Rents executed in connection herewith; or

(f) affect the validity or enforceability of, or impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor relating to any actual losses sustained by Lender in connection with (i) the failure of Borrower to maintain insurance over any of the Mortgaged Property, if Borrower is required to do so pursuant to the Security Instrument, or (ii) the misapplication by Borrower of any insurance proceeds or condemnation awards which are received by Borrower and which are to be paid to Lender in accordance with the Security Instrument; or

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(g) affect the validity or enforceability of, or impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor relating to any actual losses sustained by Lender in connection with if Borrower, any Indemnitor or any affiliate of either brings or consents to any action or proceeding for partition of the Mortgaged Property or any portion thereof or interest therein; or

(h) impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor relating to any actual losses sustained by Lender in connection with if Borrower suffers or permits the occurrence of any Transfer or Change in Ownership in violation of the Security Instrument;

(i) impair the right of Lender to bring suit and obtain personal, recourse judgments against Borrower or Indemnitor for the full amount of the Debt if the Mortgaged Property or any part thereof shall become an asset in: (i) a voluntary bankruptcy or insolvency proceeding, or (ii) an involuntary bankruptcy or insolvency proceeding: (A) which is commenced by any person or entity controlling, controlled by or under common control with Borrower (the "Borrowing Group") or (B) in which any member of the Borrowing Group objects to a motion by Lender for relief from any stay or injunction from the foreclosure of the Security Instrument or any other remedial action permitted under this Note, the Security Instrument or any of the Other Security Documents.

Items (a) through (i) above are collectively the "Non-Recourse Exceptions." To the extent Borrower is a general partnership and Lender is required under applicable law to pursue its remedies against the persons or entities constituting Borrower, each reference to the phrase "(including Borrower)" in the Non-Recourse Exceptions shall be deemed to read "(including Borrower or any person or entity constituting Borrower)". Borrower's liability under the Non-Recourse Exceptions, excepting item (i), shall be limited to the amount of any actual losses or damages sustained by Lender in connection with such Non-Recourse Exceptions. Nothing herein shall be deemed to be a waiver of any right which Lender may have under Sections 506(a), 506(b), 1111(b) or any other provisions of the U.S. Bankruptcy Code to file a claim for the full amount of the Debt secured by the Security Instrument or to require that all of the Mortgaged Property and other collateral given to secure the Debt shall continue to secure all of the Debt.

13. Assignment. Lender, and its successors, endorsees and assigns, may freely transfer and assign this Note. Borrower's right to transfer its rights and obligations with respect to the Debt, and to be released from liability under this Note, shall be governed by the Security Instrument.

14. Applicable Law; Jurisdiction. This Note shall be governed and construed in accordance with the laws of the state in which the real property encumbered by the Security Instrument is located. Borrower hereby submits to personal jurisdiction in the state courts located in said state and the federal courts of the United States of America located in said state for the enforcement of Borrower's obligations hereunder and waives any and all personal rights under the law of any other state to object to jurisdiction within such state for the purposes of any action, suit, proceeding or litigation to enforce such obligations of Borrower.

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15. Joint and Several Liability. If Borrower consists of more than one person or entity, the obligations and liabilities of each such person or entity shall be joint and several.

16. Waiver of Presentment, Etc. Borrower and all others who may become liable for the payment of all or any part of the Debt do hereby severally waive presentment and demand for payment, notice of dishonor, protest, notice of protest, and notice of intent to accelerate the maturity hereof (and of such acceleration), except to the extent that specific notices are required by this Note, the Security Instrument or the Other Security Documents.

17. No Waiver. Any failure by Lender to insist upon strict performance by Borrower of any of the provisions of this Note, the Security Instrument or the Other Security Documents shall not be deemed to be a waiver of any of the terms or provisions of this Note, the Security Instrument or the Other Security Documents, and Lender shall have the right thereafter to insist upon strict performance by Borrower of any and all of the terms and provisions of this Note, the Security Instrument or the Other Security Documents.

18. Notices. Except as otherwise specified herein, any notice, consent, request or other communication required or permitted to be given hereunder shall be in writing, addressed to the other party as set forth below (or to such other address or person as either party or person entitled to notice may by notice to the other party specify), and shall be: (a) personally delivered; (b) delivered by Federal Express or other comparable overnight delivery service; or (c) transmitted by United States certified mail, return receipt requested with postage prepaid; to:

Lender: PNC Bank, National Association
10851 Mastin, Suite 300
Overland Park, Kansas 66210

Borrower: Oakwood Chicago Associates, LLC
c/o Oakwood Chicago Associates, LLC
18 Columbia Turnpike
Florham Park, New Jersey 07932

with a courtesy
copy to: WolfBlock Brach Eichler
101 Eisenhower Parkway
Roseland, New Jersey 07068
Attention: Allen Popowitz, Esq.

with a courtesy
copy to: Fred Wolf II, Esq.
Ballard Spahr Andrews & Ingersoll
300 East Lombard Street, 19th Floor
Baltimore, MD 21202

The failure of Lender to deliver any courtesy copy shall have no effect upon the validity of any Notice given to Borrower. Unless otherwise specified, all notices and other communications shall be deemed to have been duly given on the first to occur of actual receipt of the same or: (i) the date of delivery if personally delivered; (ii) one (1) business day after depositing the same with the delivery service if by overnight delivery service; and (iii) three (3) days following

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posting if transmitted by mail. Borrower must prominently display Lender's Loan Number (as set forth on page 1 of this Note) on all notices or communications to Lender.

19. Severability. If any term, covenant or condition of this Note is held to be invalid, illegal or unenforceable in any respect, this Note shall be construed without such provision.

20. Time of the Essence. Time shall be of the essence in the performance of all obligations of Borrower hereunder.

BORROWER AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY, OR THEIR RESPECTIVE SUCCESSORS OR ASSIGNS, MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THE LOAN EVIDENCED BY THIS NOTE OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE SECURITY INSTRUMENT OR ANY OF THE OTHER SECURITY DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTION OF BORROWER OR LENDER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER'S MAKING OF THE LOAN SECURED BY THE SECURITY INSTRUMENT AND THE OTHER SECURITY DOCUMENTS.

Cook County Clerk's Office

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IN WITNESS WHEREOF, Borrower has duly executed this Promissory Note to be effective the day and year first above written.

BORROWER:

Oakwood Chicago Associates, LLC, a
Delaware limited liability company

By: _____

Name: Brian Kempner

Title: Manager

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STATE OF _____)
)ss
COUNTY OF _____)

On this _____ day of December, 2007, before me, appeared Brian Kempner, to me personally known, who being by me duly sworn did say that he is the Manager of Oakwood Chicago Associates, LLC, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said Brian Kempner acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Notary Public in and for
said County and State

Print Notary's Name: _____

My Commission Expires:

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This Endorsement forms a part of that certain Promissory Note in the stated principal amount of EIGHTY FOUR MILLION TWO HUNDRED FORTY THREE THOUSAND ONE HUNDRED SIXTY TWO AND 20/100TH DOLLARS (\$84,243,162.20) dated December 27, 2007, made by Oakwood Chicago Associates, LLC, a Delaware limited liability company, to PNC Bank, National Association.

Pay to the order of _____
_____, without recourse.

PNC Bank, National Association

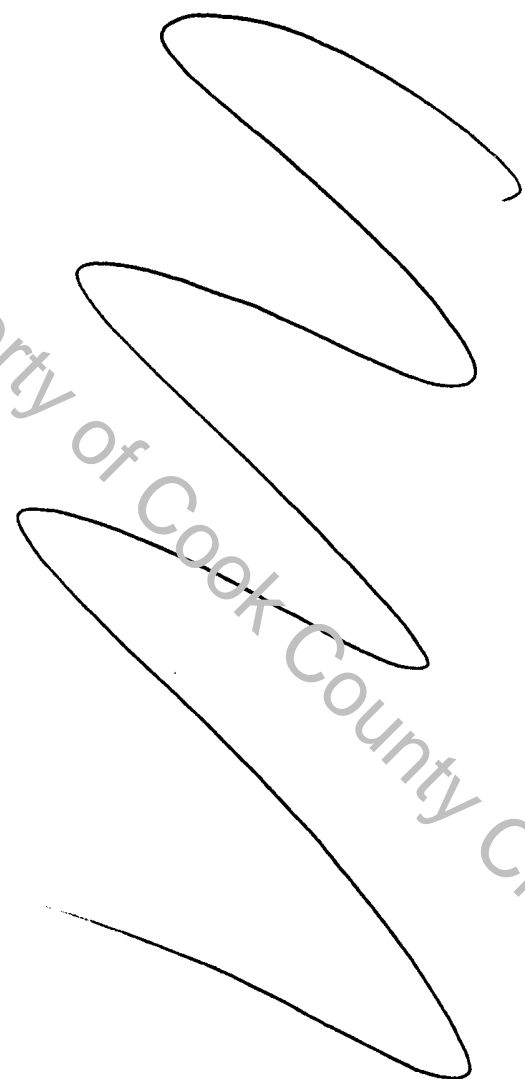
By: _____
Jeannette Butler, Vice President

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EXHIBIT B-3

Property of Cook County Clerk's Office



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Loan No. 94-0954251

PROMISSORY NOTE

\$18,165,623.99

Illinois
December 27, 2007

FOR VALUE RECEIVED, Landings Chicago Associates, LLC, a Delaware limited liability company ("Borrower"), having its principal place of business at c/o Kushner Companies, 18 Columbia Turnpike, Florham Park, New Jersey 07932, promises to pay to the order of FNC Bank, National Association ("Lender"), at the following address: 10851 Mastin, Suite 300, Overland Park, Kansas 66210, or such other place as the holder hereof may from time to time designate in writing, the principal sum of EIGHTEEN MILLION ONE HUNDRED SIXTY FIVE THOUSAND SIX HUNDRED TWENTY THREE AND 99/100TH DOLLARS (\$18,165,623.99) in lawful money of the United States of America, with interest thereon to be computed from the date of disbursement under this Promissory Note (the "Note") at the Applicable Interest Rate (hereinafter defined), and to be paid in installments as follows:

- A. A payment, on the date of disbursement, representing interest from the date of disbursement through the last day of the calendar month in which such disbursement is made;
- B. A payment of interest only, on the first day of February, 2008 and on the first day of each calendar month thereafter up to and including the first day of January, 2013;
- C. A constant payment of \$114,639.96 (the "Monthly Debt Service Payment Amount") (based upon an amortization schedule assuming a 360 day year consisting of 12 months of 30 days each) on the first day of February, 2013 and on the first day of each calendar month thereafter up to and including the first day of December, 2017; and
- D. The balance of said principal sum, all unpaid interest thereon and all other amounts owed pursuant to this Note, the Security Instrument (hereinafter defined), the Other Security Documents (hereinafter defined), or otherwise in connection with the loan evidenced by this Note shall be due and payable on the first day of January, 2018 (the "Maturity Date").
- E. Anything herein to the contrary notwithstanding, if Lender determines, in its sole discretion, at any time during the calendar month immediately preceding the Maturity Date that this Note will not be paid as required on the Maturity Date, Lender shall have the option to forbear from exercising its rights under this Note, the Security Instrument and the Other Security Documents to foreclose upon the Mortgaged Property (an "Optional Lender Forbearance"). In such event, Lender shall notify Borrower of such decision and the following shall occur:

(1) On the first day of the month immediately following the Maturity Date and on the first day of each calendar month thereafter, Borrower

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shall pay to Lender the amounts required by the Security Agreement and Lockbox Agreement (the "Cash Management Agreement") executed contemporaneously herewith) by Borrower in favor of Lender..

(2) Each payment made by Borrower following the Maturity Date pursuant to subsection (1) above shall be applied in accordance with the Cash Management Agreement. Interest accrued at the Adjusted Interest Rate and not paid shall be deferred and added to the indebtedness evidenced by this Note.

(3) Lender's decision to forbear from exercising its rights under this Note, the Security Instrument and the Other Security Documents shall be revocable at any time by Lender without notice to Borrower. Upon any such revocation, Lender shall be entitled to pursue any and all remedies available to it under this Note, the Security Instrument, the Other Security Documents, at law or in equity.

(4) Anything herein to the contrary notwithstanding, Borrower shall have the right to pay the Note in full after the Early Payment Date without any prepayment premium or charge.

All payments to be made by Borrower to Lender shall be deemed received by Lender only upon Lender's actual receipt of same.

1. Applicable Interest Rate. Interest accruing on the principal sum of this Note shall be calculated based upon a per annum interest rate divided by 360 days resulting in a per diem interest amount that will accrue for each calendar day in a year of 365 days (366 days in a leap year). The term "Applicable Interest Rate" as used in this Note shall mean, from the date of this Note through and including the Maturity Date, a rate of six and 485/100th percent (6.485%) per annum (the "Initial Interest Rate"). In the case of an Optional Lender Forbearance as provided herein, the term "Applicable Interest Rate" shall mean the Adjusted Interest Rate from and after the Maturity Date through and including the date this Note is paid in full. The term "Adjusted Interest Rate" shall mean the greater of (x) the Initial Interest Rate plus four percent (4.0%); or (y) the Yield Rate on the then-current on-the-run 10-year U.S. Treasury Obligation (the "Specified U.S. Treasury Security") plus four percent (4.0%). The term "Yield Rate" shall mean the yield rate for the Specified U.S. Treasury Security as such yield rate is reported in the Wall Street Journal on the fifth (5th) business day preceding the Maturity Date. In the event that no such yield rate is published for the Specified U.S. Treasury Security, then the nearest equivalent U.S. Treasury Security shall be selected at Lender's sole discretion, and the yield rate therefor shall be the "Yield Rate". If the publication of such yield rates in the Wall Street Journal is discontinued, Lender shall determine such yield rates from another source selected by Lender.

2. Application. Except as set forth in the Cash Management Agreement, all payments on this Note shall be applied at any time and from time to time in the following order: (i) the payment or reimbursement of any expenses (including but not limited to late charges), costs or obligations (other than the principal hereof and interest hereon) for which Borrower shall be obligated or Lender entitled pursuant to the provisions hereof or of the Security Instrument or the Other Security Documents, (ii) the payment of accrued but unpaid interest thereon, (iii) the

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payment of unpaid escrow amounts required herein, in the Security Instrument or in the Other Security Documents, and (iv) the payment of all or any portion of the principal balance then outstanding hereunder, in either the direct or inverse order of maturity, at Lender's option.

3. Late Charge. If any payment due under this Note is not actually received by Lender by close of business on the fifth (5th) day after the date on which it was due, Borrower shall pay to Lender an amount (the "Late Charge") equal to the lesser of five percent (5%) of such unpaid portion of the missed payment or the maximum amount permitted by applicable law, to defray the expenses incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. All such Late Charges shall be automatically due and payable without notice or demand and shall be secured by the Security Instrument and the Other Security Documents.

4. Security; Defined Terms; Incorporation by Reference. This Note, together with the Other Notes, is secured by the Security Instrument and the Other Security Documents. The term "Security Instrument" as used in this Note shall mean the Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, executed and delivered by Borrower and each of the Other Borrowers contemporaneously with this Note and which secures the Debt. The term "Other Notes" as used in this Note shall mean the "Notes" (as defined in the Security Instrument), other than this Note. The term "Other Borrowers" as used in this Note shall mean each "Borrower" (as defined in the Security Instrument), other than the Borrower executing this Note. The term "Other Security Documents" means all documents other than this Note or the Security Instrument now or hereafter executed and/or delivered by Borrower, the Other Borrowers, and/or others and to or in favor of Lender which wholly or partially secure, evidence or guarantee payment of the Debt or any portion thereof, provide for any indemnity in favor of or payment to Lender related to the Debt, this Note, the Other Notes or the Mortgaged Property (as defined in the Security Instrument), provide for any escrow/holdback arrangements or for any actions to be completed by Borrower or any of the Other Borrowers subsequent to the date hereof, or are otherwise related to the loan evidenced by this Note and the Other Notes. All amounts due and payable under this Note and the Other Notes, together with all sums due under the Security Instrument and the Other Security Documents, including any applicable Prepayment Consideration (hereinafter defined) and all applicable attorney fees and costs, are collectively referred to herein as the "Debt." Where appropriate, the singular number shall include the plural, the plural shall include the singular, and the words "Lender" and "Borrower" shall include their respective successors, assigns, heirs, personal representatives, executors and administrators.

5. Prepayment/Defeasance.

(a) When Permitted. Prior to November 1, 2017 (the "Early Payment Date"), Borrower shall not have the right to prepay all or any portion of this Note at any time during the term of this Note (except for any prepayment permitted under the Security Instrument in the event of a casualty or condemnation). No Prepayment Consideration (hereinafter defined) will be due from any prepayment of this Note (in whole but not in part) on or after the Early Payment Date. Notwithstanding the foregoing or anything else to the contrary herein, upon the completion of a defeasance as set forth below, Borrower shall have no further right to prepay all or any portion of this Note. In the event of a prepayment on or after the Early Payment Date Borrower shall pay, together with the amount of such prepayment, an amount equal to (i) all accrued and

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unpaid interest, and (ii) any other sums due under this Note, the Security Instrument or any Other Security Document. Additionally, any such prepayment not actually received by Lender before 5:00 p.m., central time, on the 5th day of any calendar month must also include the interest which would have accrued on the amount of such prepayment during the entire calendar month in which the prepayment is made. Additionally, any prepayment of this Note by Borrower must be made simultaneously with a prepayment by each of the Other Borrowers of each of the Other Notes pursuant to the terms of such other Notes.

(b) Notice. Borrower may give written notice to Lender specifying the date, which date must be on or after the Early Payment Date, on which a full prepayment of the Debt is to be made by Borrower and each of the Other Borrowers (the date of any prepayment hereunder, whether pursuant to such notice or not, and whether voluntary or involuntary, being herein called the "Prepayment Date"). Lender shall receive this notice not more than sixty (60) days and not less than thirty (30) days prior to the Prepayment Date. If any such notice of prepayment is given, the entire Debt, including any applicable Prepayment Consideration (as defined below), shall be due and payable on the Prepayment Date.

(c) Prepayment After Event of Default. If following the occurrence of any Event of Default, Borrower shall tender payment of an amount sufficient to satisfy the Debt at any time prior to or after a sale of the Mortgaged Property, either through foreclosure or the exercise of the other remedies available to Lender under the Security Instrument or the Other Security Documents, such tender by Borrower shall be deemed to be a voluntary prepayment under this Note in the amount tendered and in such case Borrower shall also pay to Lender, with respect to the amount tendered, the applicable Prepayment Consideration set forth in this Note, which Prepayment Consideration shall be immediately due and payable. Lender shall not be obligated to accept any such prepayment of this Note unless it is accompanied by an amount (the "Prepayment Consideration") equal to the greater of: (x) one percent (1%) of the outstanding principal balance of this Note at the time of prepayment; or (y) the Yield Maintenance Amount (hereinafter defined).

Lender shall not be obligated to accept any such tender unless it is accompanied by all Prepayment Consideration due in connection therewith. Additionally, Lender shall not be obligated to accept any such tender unless it is accompanied by a simultaneous tender by each of the Other Borrowers under each of the Other Notes pursuant to the terms of such other Notes. Borrower acknowledges that the Prepayment Consideration is a bargained for consideration and not a penalty, and Borrower recognizes that Lender would incur substantial additional costs and expenses in the event of a prepayment of the Debt and that the Prepayment Consideration compensates Lender for such costs and expenses (including without limitation, the loss of Lender's investment opportunity during the period from the date such tender is accepted until the Maturity Date). Borrower agrees that Lender shall not, as a condition to receiving the Prepayment Consideration, be obligated to actually reinvest the amount prepaid in any treasury obligation or in any other manner whatsoever. Except as otherwise set forth in the Security Instrument, no Prepayment Consideration will be due for involuntary prepayments resulting from any Casualty (as defined in the Security Instrument) or Condemnation (as defined in the Security Instrument).

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Yield Maintenance Amount. The "Yield Maintenance Amount" shall mean the present value, as of the Prepayment Date, of the remaining scheduled payments of principal and interest from the Prepayment Date through the Maturity Date (including any balloon payment) determined by discounting such payments at the Discount Rate (hereinafter defined), less the amount of principal being prepaid. The term "Discount Rate" shall mean the rate which, when compounded monthly, is equivalent to the Treasury Rate (hereinafter defined) when compounded semi-annually. The term "Treasury Rate" shall mean the yield calculated by the linear interpolation of the yields, as reported in Federal Reserve Statistical Release H.15-Selected Interest Rates under the heading U.S. Government Securities/Treasury Constant Maturities for the week ending prior to the Prepayment Date, of U.S. Treasury constant maturities with maturity dates (one longer and one shorter) most nearly approximating the Maturity Date. (In the event Release H.15 is no longer published, Lender shall select a comparable publication to determine the Treasury Rate.) Lender shall notify Borrower of the amount and the basis of determination of the required Prepayment Consideration.

(d) Defeasance. Any provision hereof to the contrary notwithstanding, at any time during the Defeasance Period (as defined below), Borrower and the Other Borrowers may obtain a release of the Mortgaged Property from the lien of the Security Instrument only upon the satisfaction of the following conditions:

(i) not less than thirty (30) days prior written notice shall be given to Lender specifying a date (the "Defeasance Date") on which the Defeasance Collateral (as defined below) is to be delivered by Borrower pursuant to this Note (and by each of the Other Borrowers pursuant to the terms of each of the Other Notes simultaneously);

(ii) all accrued and unpaid interest and all other sums due under this Note, the Security Instrument and the Other Security Documents up to the Defeasance Date, including, without limitation, all reasonable costs and expenses incurred by Lender or its agents in connection with such defeasance, including, without limitation, any legal fees and expenses incurred in connection with obtaining and reviewing the Defeasance Collateral, the preparation of the Defeasance Security Agreement (as defined below) and related documentation, accountant fees, and investment advisor fees shall be paid in full on or prior to the Defeasance Date;

(iii) no Event of Default, and no event or condition that, with the giving of notice or passage of time or both, would constitute an Event of Default, shall exist either at the time Borrower gives notice of the Defeasance Date to Lender or on the Defeasance Date;

(iv) Borrower shall deliver to Lender on or before the Defeasance Date non-redeemable securities evidencing an obligation to timely pay principal and/or interest in a full and timely manner that are (a) direct obligations of the United States of America for the full and timely payment of which its full faith and credit is pledged, or (b) to the extent acceptable to the Rating Agencies, other "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, as amended, such securities in such form and amount that provide for the payments prior, but as close as possible, to all successive regularly scheduled monthly payment dates, including the

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Maturity Date, with such payments being equal to or greater than the amount of the corresponding monthly payment required to be paid under this Note (hereafter, "Scheduled Defeasance Payments") for the balance of the term hereof and the amount required to be paid on the Maturity Date (such obligations are collectively and singularly referred to herein as "Defeasance Collateral") each of which shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance wholly satisfactory to Lender (including, without limitation, such instrument as may be required by the depository institution holding such securities or the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect a first priority security interest in such Defeasance Collateral in favor of Lender. The Defeasance Collateral may be purchased by Lender on Borrower's behalf, in which case Borrower shall deposit with Lender at least three days before the Defeasance Date a sum sufficient, in Lender's sole and absolute discretion, to purchase the Defeasance Collateral. Any sums in excess of the amount necessary to purchase the Defeasance Collateral shall be remitted to Borrower upon release of the Mortgaged Property.

(v) Borrower shall deliver the following to Lender, at Borrower's cost, on or prior to the Defeasance Date:

(A) a pledge and security agreement, in form and substance satisfactory to Lender in its sole discretion, creating a first priority security interest in favor of Lender in the Defeasance Collateral (the "Defeasance Security Agreement");

(B) a certificate of Borrower certifying that all of the requirements hereunder for a defeasance have been satisfied;

(C) an opinion of counsel that is standard in commercial lending transactions and subject only to customary qualifications, assumptions and exceptions, in form and substance and delivered by counsel satisfactory to Lender in its sole discretion stating, among other things, (x) that Lender has a perfected first priority security interest in the Defeasance Collateral, (y) that the Defeasance Security Agreement is enforceable against Borrower in accordance with its terms and (z) if a Securitization (as defined in the Security Instrument) has occurred, that the defeasance will not cause the REMIC trust formed pursuant to such Securitization to fail to qualify as a "real estate mortgage investment conduit" (a "REMIC"), within the meaning of Section 860D of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code");

(D) an opinion of an independent certified public accountant acceptable to Lender representing and warranting to Lender that the Defeasance Collateral will generate monthly amounts equal to or greater than the Scheduled Defeasance Payments including the amount required to be paid on the Maturity Date of this Note, and such other approvals required by Lender;

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(E) if required by any Rating Agency, evidence in writing from each of the Rating Agencies to the effect that such release will not result in a qualification, downgrade or withdrawal of any rating in effect immediately prior to the Defeasance Date for any securities or "Pass-Through Certificates" issued pursuant to the terms of a trust and servicing agreement in the event that this Note or any interest therein is included in a REMIC or other Securitization vehicle;

(F) such other certificates, opinions, documents or instruments as Lender may reasonably require; and

(G) upon approval by Lender of the schedule of Defeasance Collateral to be delivered to Lender, Borrower shall (i) pay Lender a nonrefundable fee, in an amount reasonably determined by Lender, as compensation for the review, analysis and processing of the defeasance request; and (ii) if required by Lender, deposit with Lender an amount estimated by Lender to be sufficient to fund all other fees, costs and expenses related to the defeasance, including Lender's reasonable attorneys' fees and expenses and rating agency fees, if any and expenses together with all expenses and costs associated with the release of the lien on the Mortgaged Property. Borrower shall be responsible for all fees, costs and expenses associated with the defeasance which, if not covered by the above deposit, shall be paid to Lender no later than the Defeasance Date.

Upon compliance with the foregoing requirements relating to the delivery of the Defeasance Collateral, together with the simultaneous compliance with the requirements for Defeasance contained in each of the Other Notes, the Mortgaged Property shall be released from the lien of the Security Instrument and the Defeasance Collateral shall be the sole source of collateral which shall secure this Note.

The "Defeasance Period" shall mean the period of time: (1) commencing on the date which is the later to occur of: (A) two (2) years after the "start-up day", within the meaning of Section 860(G)(a)(9) of the Code, of the REMIC that holds this Note; and (B) thirty-six (36) months after the date of the first regularly scheduled monthly payment due hereunder, and (2) ending on the Early Payment Date. The "Rating Agencies" shall mean, collectively, Standard and Poor's Ratings Services, Moody's Investors Service, Inc., and Fitch, Inc., and their respective successors and assigns, to the extent each of the foregoing performed credit rating services for the REMIC or other Securitization vehicle which owns this Note.

(e) Successor Borrower. In connection with a defeasance under this Section, Borrower shall establish or designate a successor entity (the "Successor Borrower") which shall be a single purpose entity approved by Lender in its sole discretion. Borrower shall transfer and assign all obligations, rights and duties under and to this Note together with the Defeasance Collateral to such Successor Borrower. Such Successor Borrower shall assume the obligations of Borrower under this Note and the Security Instrument and Borrower shall be relieved of its obligations under such documents except for any such representations that specifically survive the defeasance. Borrower shall pay \$1,000 to any such Successor Borrower as consideration for assuming the obligations under this Note and the Security Instrument. Borrower shall pay all

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costs and expenses incurred by Lender, including Lender's reasonable attorneys' fees and expenses, incurred in connection with establishment of the Successor Borrower.

(f) Defeasance Collateral Account. All cash from interest and principal payments paid on the Defeasance Collateral shall be paid over to Lender for each Scheduled Defeasance Payment and applied first to accrued and unpaid interest and then to principal. Any cash from interest and principal paid on the Defeasance Collateral not needed to pay accrued and unpaid interest or principal shall be retained in a designated account established by Borrower or Successor Borrower as the case may be, (the "Defeasance Collateral Account") which shall constitute additional collateral for the loan evidenced hereby. The Defeasance Collateral Account shall contain only cash from interest and principal paid on the Defeasance Collateral. Borrower or Successor Borrower, as applicable, shall be the owner of the Defeasance Collateral Account and shall report all income accrued thereon for federal, state and local income tax purposes and shall pay all costs and expenses associated with opening and maintaining the account and may pay all costs and expenses associated with maintaining the Successor Borrower from such account. Lender shall have no responsibility to fund any Scheduled Defeasance Payments and shall not be liable in any way by reason of any insufficiency in the Defeasance Collateral Account. Upon an assumption by Successor Borrower acceptable to Lender, Borrower shall be relieved of its obligations under this Note and the Defeasance Security Agreement and, to the extent such documents relate to the Mortgaged Property, the Other Security Documents.

(g) Release of Security Instrument Following Defeasance. Upon compliance with the requirements hereunder for a defeasance and the simultaneous compliance with the requirements for Defeasance contained in each of the Other Notes, the Mortgaged Property shall be released from the lien of the Security Instrument and the Other Security Documents, and the Defeasance Collateral shall be the sole source of collateral securing this Note. Lender will, at Borrower's expense, execute and deliver any agreements reasonably requested by Borrower to release the lien of the Security Instrument from the Mortgaged Property.

(h) Purchase of Defeasance Collateral. In the event of purchase by Lender of the Defeasance Collateral, such purchase may, in Lender's sole and absolute discretion be through an affiliate of Lender or a third party entity. Borrower shall be responsible for the payment of any brokerage or other transaction fees in connection with such purchase.

6. Default. An "Event of Default" shall occur if:

(a) Borrower fails to make the full and punctual payment of any amount payable hereunder or under the Security Instrument or Other Security Documents, which failure is not cured on or before the fifth (5th) day after the date of written notice from Lender to Borrower of such failure;

(b) Borrower fails to pay the entire outstanding principal balance hereunder, together with all accrued and unpaid interest, on the date when due, whether on the Maturity Date, upon acceleration or prepayment or otherwise;

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(c) an Event of Default (as defined in the Security Instrument or any of the Other Security Documents) has occurred under the Security Instrument, or under the Security Instrument and/or Other Security Documents; or

(d) an Event of Default has occurred under any of the Other Notes.

7. Acceleration. The whole of the Debt, including without limitation, the principal sum of this Note, all accrued interest and all other sums due under this Note, the Security Instrument and the Other Security Documents, together with any applicable Prepayment Consideration, shall become immediately due and payable at the option of Lender, without notice, at any time following the occurrence of an Event of Default.

8. Default Interest. Upon the occurrence of an Event of Default (including without limitation, the failure of Borrower to pay this Note in full on the Maturity Date), Lender shall be entitled to receive and Borrower shall pay interest on the entire unpaid principal balance of this Note at the rate (the "Default Rate") equal to the greater of: (a) four percent (4%) above the Applicable Interest Rate; or (b) four percent (4%) above the Prime Rate (hereinafter defined) in effect at the time of the occurrence of the Event of Default; provided, however, that notwithstanding the foregoing, in no event shall the Default Rate exceed the Maximum Rate (hereinafter defined). The term "Prime Rate" shall mean the prime rate reported in the Money Rates section of The Wall Street Journal for the date (the "Default Rate Calculation Date") upon which the Event of Default occurred, or if no publication occurs upon such date, then the date of publication immediately preceding the date of the Event of Default. In the event that The Wall Street Journal should cease or temporarily interrupt publication, the term "Prime Rate" shall mean the daily average prime rate published upon the Default Rate Calculation Date in another business newspaper, or business section of a newspaper, of national standing chosen by Lender. In the event that a prime rate is no longer generally published or is limited, regulated or administered by a governmental or quasi-governmental body, then Lender shall select a comparable interest rate index which is readily available and verifiable to Borrower but is beyond Lender's control. The Default Rate shall be computed from the occurrence of the Event of Default until the actual payment in full of the Debt. This charge shall be added to the Debt, and shall be deemed secured by the Security Instrument. This clause, however, shall not be construed as an agreement or privilege to extend the Maturity Date, nor as a waiver of any other right or remedy accruing to Lender by reason of the occurrence of any Event of Default.

9. Attorney Fees. In the event that Lender employs attorney(s) to collect the Debt, to enforce the provisions of this Note or to protect or foreclose the security herefor, Borrower agrees to pay Lender's reasonable attorney fees and disbursements, whether or not suit be brought. Such fees shall be immediately due and payable.

10. Limit of Validity. This Note is subject to the express condition that at no time shall Borrower be obligated or required to pay interest or other charges on the Debt at a rate which may subject Lender to civil or criminal liability as a result of such rate exceeding the maximum interest rate which Borrower is permitted to pay by applicable law (the "Maximum Rate"). If by the terms of this Note, Borrower is at any time required or obligated to pay interest or other charges on the Debt at a rate in excess of the Maximum Rate, the rate of interest due under this Note shall be deemed to be immediately reduced to the Maximum Rate and any