



08072520

TIC Loan No. 206768-0

WHEN RECORDED, RETURN TO:

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**MORTGAGE,
SECURITY AGREEMENT AND ASSIGNMENT OF RENTS**

"NOTICE TO MORTGAGOR: THIS DOCUMENT SECURES A VARIABLE RATE PROMISSORY NOTE CONTAINING PROVISIONS FOR INCREASES UNDER CERTAIN CIRCUMSTANCES IN THE INTEREST AND INCREASES UNDER CERTAIN CIRCUMSTANCES IN THE PRINCIPAL BALANCE OF THE INDEBTEDNESS SECURED HEREBY."

THIS MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS (this "Mortgage") is made as of November 23, 1998, by and among WINDY POINT OF SCHAUMBURG, LLC ("Mortgagor"), whose address is c/o Field Realty Corp., 20 North Wacker Drive Suite 3200, Chicago, Illinois, 60606, and THE TRAVELERS INSURANCE COMPANY, a Connecticut corporation ("Mortgagee"), whose address is 205 Columbus Boulevard, One Tower Square 9 PB, Hartford, Connecticut 06183-2030

WITNESSETH:

WHEREAS, Mortgagor is the owner of the fee simple interest in the Real Estate (hereinafter defined); and

WHEREAS, in order to finance the construction of certain improvements on the Real Estate, Mortgagor and Mortgagee have entered into that certain Loan Agreement of even date herewith (as the same may be amended or supplemented from time to time, hereinafter, the "Loan Agreement") pursuant to which Mortgagee has agreed to lend and Mortgagor has agreed to borrow Eighteen Million Four Hundred Thousand and No/100 Dollars (\$18,400,000.00) (the "Loan"), or so much thereof as may be advanced pursuant to the terms and conditions of the Loan

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Agreement; and

WHEREAS, the Loan is evidenced by that certain promissory note of even date herewith (as the same may be amended or supplemented from time to time, hereinafter, the "Note"), in the principal amount of the Loan, with interest thereon at a variable rate as provided therein and having a maturity date of the earlier of (a) the date which is forty-eight (48) months after the Construction Start Date (as defined in the Loan Agreement) but which may be extended pursuant to Section 2.4 of the Loan Agreement for two (2) additional periods of twelve (12) months each or (b) the date on which the Note is accelerated and declared due as a result of an Event of Default ("Maturity Date"), made by Mortgagor to Mortgagee; and

WHEREAS, Mortgagor desires to secure the prompt payment of the indebtedness evidenced by the Note, the repayment of any advances made pursuant to the Note, the Loan Agreement, this Mortgage and/or any other document or instrument heretofore or hereafter having reference to, arising out of, securing, evidencing, guaranteeing or in any way pertaining to the indebtedness evidenced by the Note (the Note, this Mortgage, the Loan Agreement and such other documents and instruments, including but not limited to, the Guaranty of even date herewith executed and delivered by the Guarantors [as defined in the Loan Agreement] to Mortgagee [the "Guaranty"], the Environmental Certification and Indemnity Agreement of even date herewith executed and delivered by the Guarantors and Mortgagor to Mortgagee [the "Indemnity Agreement"] as same may be amended or replaced from time to time hereafter, are collectively referred to herein as the "Loan Documents") and the due, prompt and complete observance, performance and discharge of each and every obligation, covenant and agreement contained in the Note, the Loan Agreement, this Mortgage and the other Loan Documents.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND FOR THE PURPOSES HEREIN DESCRIBED, MORTGAGOR HEREBY IRREVOCABLY GRANTS, BARGAINS, SELLS, CONVEYS, MORTGAGES, TRANSFERS AND ASSIGNS TO MORTGAGEE, ITS SUCCESSORS AND ASSIGNS, all of Mortgagor's estate, right, title and interest in, to and under, any and all of the following described property, whether now owned or hereafter acquired (all of the following property which is encumbered by this Mortgage is hereinafter collectively referred to as the "Property"). Further, Mortgagor hereby grants to Mortgagee a security interest in that portion of the Property which is personal property and/or is otherwise covered by the Uniform Commercial Code of the State of Illinois and Mortgagor hereby presently and absolutely assigns to Mortgagee all of Mortgagor's right, title and interest in and to that portion of the Property which is Rents and Profits, as hereinafter defined:

(A) That certain parcel of real property situate in the County of Cook, State of Illinois, more particularly described in Exhibit A attached hereto and incorporated herein by this reference, together with all of the easements, rights, privileges, franchises, tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in any way appertaining (the "Real Estate") and all of the estate, right, title, interest, claim and demand whatsoever of Mortgagor therein or thereto, either at law or in equity, in possession or in expectancy, now or hereafter

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acquired;

(B) All structures, buildings and improvements of every kind and description, if any, now or at any time hereafter located or placed on the Real Estate (the "**Improvements**");

(C) All machinery, appliances, apparatus, equipment, fittings and fixtures (whether actually or constructively attached and including all trade, domestic and ornamental fixtures) now or hereafter located in, upon or under the Real Estate and/or the Improvements, or any part thereof, and/or used or usable in connection with any present or future operation thereof, and all additions thereto and replacements therefor;

(D) All land lying in the bed of any street, road, avenue, alley or public place, opened or proposed, and all easements and rights of way, public or private, tenements, hereditaments, rights and appurtenances, now or hereafter used in connection with, belonging or appertaining to, the Real Estate;

(E) All water, ditches, wells, reservoirs and drains, all water, ditch, well, reservoir and drainage rights, and all stock and interest in irrigation and ditch companies which are appurtenant to, located on, under or above or used in connection with the Real Estate and/or the Improvements, or any part thereof, whether now existing or hereafter created or acquired;

(F) All royalties, minerals, oil and gas rights (if any, held by Mortgagor), crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above the Real Estate;

(G) All articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including, without limitation, all materials and building supplies used or to be used in operation, maintenance, leasing and rehabilitation of the Improvements, equipment, fixtures, appliances, machines, engines, boilers, dynamos, cabinets, awnings, screens, shades, blinds, carpets, draperies, plumbing, heating, air conditioning, lighting, ventilating, refrigerating, disposals and incinerating equipment, furniture and furnishings, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Real Estate and/or the Improvements or any portion thereof;

(H) All leases, licenses, concessions and occupancy agreements burdening or affecting the Real Estate and/or the Improvements now or hereafter entered into, and all the rents, royalties, issues, profits, revenue, lease termination payments, income and other benefits (collectively, the "**Rents and Profits**") of the Real Estate and/or the Improvements, now or hereafter arising from the use or enjoyment of all or any portion thereof or from any such lease, license, concession, occupancy agreement or other agreement pertaining thereto or arising from any of the general intangibles, as hereinafter defined, and all cash or securities deposited to secure performance by tenants, lessees or licensees, as applicable, of their obligations under any such leases, licenses,

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concessions or occupancy agreements, whether said cash or securities are to be held until the expiration of the terms of said leases, licenses, concessions or occupancy agreements or applied to one or more of the installments of rent coming due immediately prior to the expiration of said terms;

(I) All contracts and agreements now or hereafter entered into covering any part of the Real Estate and/or the Improvements, inclusive of contracts for sale and/or purchase (and earnest money deposits) and including, without limitation, any contracts relating to the design of the Improvements, to construction on the Real Estate and/or the Improvements and to the leasing, management or operation of the Real Estate and/or the Improvements;

(J) All present and future monetary deposits given to any public or private utility with respect to utility services furnished to the Real Estate or the Improvements;

(K) All present and future funds, tax refunds, insurance claims or proceeds, accounts, goods, inventory, documents, instruments, accounts receivable, documents, general intangibles (including trademarks, trade names and symbols now or hereafter used in connection with the Real Estate and/or the Improvements) and all notes or chattel paper now or hereafter arising from or by virtue of any transactions related to the Real Estate and/or the Improvements (collectively, the "General Intangibles");

(L) All present and future water taps, sewer taps, permits, licenses, franchises, certificates and other rights and privileges obtained in connection with the Real Estate and/or the Improvements, and all present and future warranties and guaranties relating to the Improvements and to all equipment, fixtures, furniture, furnishings, personal property and components of any of the foregoing now or hereafter located or installed on the Real Estate and/or in the Improvements;

(M) All proceeds (including claims and demands therefor) of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards;

(N) All plats, surveys, soil and engineering data, plans and specifications and development rights associated with the Real Estate;

(O) All presently owned or hereafter acquired rights of Mortgagor with respect to any licenses or permits relating to the Real Estate and the Improvements; and

(P) All other or greater rights and interests of every nature in the Real Estate and/or the Improvements and in the possession or use thereof and income therefrom, whether now owned or hereafter acquired by Mortgagor.

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FOR THE PURPOSE OF SECURING:

- (1) prompt payment of the indebtedness evidenced by the Note, with interest thereon, according to the terms thereof, which Note has been delivered to and is payable to the order of Mortgagee, and any and all amendments, modifications, extensions and renewals thereof or notes given in substitution therefor, in whole or in part;
- (2) prompt payment of any and all other indebtedness required to be paid to Mortgagee herein, in the Note, the Loan Agreement or in any of the other Loan Documents;
- (3) prompt payment of all other sums, with interest thereon, advanced by Mortgagee hereunder or under any of the other Loan Documents;
- (4) due, prompt and complete observance, performance and discharge of each and every obligation, covenant and agreement contained herein, in the Note, the Loan Agreement or in any of the other Loan Documents;
- (5) performance of all agreements to pay fees and charges to Mortgagee set forth herein or in any of the other Loan Documents;
- (6) prompt payment of any and all future advances necessary to protect the Property and/or the security interests created hereby and future advances made at the option of the Mortgagee; and
- (7) prompt payment and performance of all other loans now or hereafter made by Mortgagee to Mortgagor.

(All of the sums referred to in paragraphs (1) through (6) above are herein sometimes referred to as the "**Primary Loan Obligations**" and the sums referred to in paragraph (7) above are sometimes referred to as the "**Secondary Obligations**", and collectively the Primary Loan Obligations and the Secondary Obligations are herein sometimes referred to as the "**secured indebtedness**" or the "**indebtedness secured hereby**" and such other sums, together with all other obligations in connection with the Loan as evidenced by the Note and other Loan Documents, are hereinafter sometimes referred to as "**Obligations**").

Provided, however, that, if the principal and interest and all other sums due or to become due under the Note shall have been paid at the time and in the manner stipulated therein and all other sums payable hereunder and all other indebtedness secured hereby shall have been paid, then in such case, the estate, right, title and interest of Mortgagee in the Property shall cease and Mortgagee shall release this Mortgage and the Property shall become wholly free of the liens, security interests, conveyances and assignments secured hereby.

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Article 1

REPRESENTATIONS, WARRANTIES AND COVENANTS OF MORTGAGOR

For the purpose of further securing the indebtedness secured hereby and for the protection of the security of this Mortgage, for so long as the indebtedness secured hereby or any part thereof remains unpaid, Mortgagor covenants and agrees as follows:

1.1 Warranties and Representations and Covenants. Mortgagor, for itself and its heirs, successors and assigns, does hereby represent, warrant and covenant to and with Mortgagee, its successors and assigns, that as of the date hereof:

(a) Mortgagor is a limited liability company duly organized and validly existing in good standing under the laws of the State of Delaware, has the requisite power to own its properties and carry on its business in each jurisdiction in which the nature of its business or property makes such qualification necessary. Mortgagor will continue to maintain its existence as a validly existing limited liability company under the laws of the State of Delaware.

(b) Mortgagor has the full power, capacity and authority to execute and deliver this Mortgage, and to execute and deliver the Note, the Loan Agreement and other Loan Documents and perform its obligations hereunder and thereunder to the extent Mortgagor is a party to such documents;

(c) This Mortgage, the Note, the Loan Agreement and other Loan Documents have been delivered for value by Mortgagor and Guarantors, as applicable, and are valid and binding obligations of Mortgagor and Guarantors, as applicable, and enforceable in accordance with their respective terms;

(d) No action, lawsuit, tax claim, dispute or governmental proceeding is pending against Mortgagor or Guarantors, or to the knowledge of Mortgagor is threatened against Mortgagor or Guarantors;

(e) No part of the proceeds or any borrowings under the Note will be used to purchase or carry margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System);

(f) No consent, approval, authorization or other registration, declaration or filing with any governmental authority is required on the part of Mortgagor or Guarantors in connection with the execution and delivery, as applicable, of this Mortgage, the Note or other Loan Documents (other than filings to perfect security interests), or the performance of or compliance with the terms, provisions and conditions hereof;

(g) The principal office and place of business of Mortgagor is c/o Fifield Realty Corp., 20 North Wacker Drive, Suite 3200, Chicago, Illinois, 60606.

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(h) Grantor has good and marketable title to the Property subject only to those exceptions to title set forth in Exhibit B attached hereto and incorporated herein by this reference (the "**Permitted Exceptions**"), and has full power and lawful authority to grant, bargain, sell, convey, assign, transfer and mortgage their interest in the Property in the manner and form hereby done or intended. Mortgagor shall preserve its interest in and title to the Property and shall forever warrant and defend the same to Mortgagee against any and all claims made by any persons or parties claiming by, through or under Mortgagor, and shall forever warrant and defend the validity and priority of the lien and security interest created herein against the claims of all persons and parties whomsoever claiming by through or under Mortgagor. The foregoing warranty of title shall survive the foreclosure of this Mortgage and shall inure to the benefit of and be enforceable by Mortgagee in the event Mortgagee acquires title to the Property pursuant to any foreclosure;

(i) No bankruptcy or insolvency proceedings are pending or contemplated by Mortgagor or any endorser or Guarantors of the Note.

(j) All reports, certificates, affidavits, statements and other data furnished by Mortgagor to Mortgagee and/or Guarantors or any endorser of the Note in connection with the Loan evidenced by the Note are true and correct in all material respects as of the date thereof and do not omit to state any fact or circumstance necessary to make the statements contained therein not misleading in any material respect;

(k) The execution and delivery of this Mortgage, the Note and all of the other Loan Documents do not contravene, result in a breach of or constitute a default under any contract or agreement to which Mortgagor or Guarantors is a party or by which Mortgagor or Guarantors, or any of their respective properties may be bound, and do not violate or contravene any law, order, decree, rule or regulation to which Mortgagor or Guarantors is subject;

(l) Mortgagor hereby covenants that the Real Estate and the Improvements and the intended use of such Real Estate and Improvements by Mortgagor substantially comply with all applicable restrictive covenants, zoning ordinances, subdivision and building codes, flood disaster laws, applicable health and environmental laws and regulations and all other ordinances, orders or requirements issued by any state, federal or municipal authorities having or claiming jurisdiction over the Property;

(m) There are no judicial or administrative actions, suits or proceedings pending or to the best of Mortgagor's knowledge, threatened against or affecting Mortgagor or the Property which would materially impair either the Property or Mortgagor's ability to perform the covenants or obligations required to be performed under the Loan Documents;

(n) No part of the Real Estate or the Improvements has been taken in condemnation, eminent domain or like proceeding nor to the best of Mortgagor's knowledge is any such proceeding pending or threatened;

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(o) Mortgagor hereby covenants to obtain, keep and constantly maintain in full force and effect during the entire term of this Mortgage, all certificates, licenses and permits necessary to keep the Property operating as a commercial office building, and, except as specifically provided for in this Mortgage, if at all, not to assign, transfer or in any manner change such certificates, licenses or permits without first receiving the written consent of Mortgagee;

(p) Mortgagor hereby covenants to do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers, assurances and other instruments, including security agreements and financing statements, as Mortgagee shall from time to time reasonably require for the purpose of better assuring, conveying, assigning, transferring and confirming unto Mortgagee the Property and rights hereby encumbered, created, conveyed, assigned or intended now or hereafter so to be encumbered, created, conveyed or assigned or which Mortgagor may now be or may hereafter become bound to encumber, create, convey, or assign to Mortgagee, or for the purpose of carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registration, or recording this Mortgage, and to pay all filing, registration, or recording fees and all taxes, costs and other expenses, including reasonable attorneys' fees incident to the preparation, execution, acknowledgment, delivery, and recordation of any of the same.

(q) Mortgagor has filed all federal, state, county and municipal income tax returns required to have been filed by each and have paid all taxes which have become due pursuant to such returns or pursuant to any assessments, and Mortgagor does not know of any basis for additional assessments in respect of such taxes. Further, there are no delinquent or unpaid taxes or assessments (including assessments payable in future installments), or other outstanding charges affecting the Property which are or may become a lien of equal or coordinate or higher priority than the lien of this Mortgage.

(r) To the extent permitted by law, Mortgagor hereby waives the right to assert any defenses, set-offs or counterclaims based on the proposition that Mortgagee, by virtue of its acceptance of this Mortgage and the making of the Loan secured hereby or any action taken pursuant hereto or contemplated hereby or by any of the other Loan Documents (including any approval rights Mortgagee may have herein or therein) shall be deemed to be by such action a mortgagee-in-possession, (within the meaning of Section 101(31) of the Bankruptcy Code) of Mortgagor or any other party. Mortgagor shall indemnify Mortgagee against, shall hold Mortgagee harmless from and against, and shall reimburse Mortgagee for any and all claims, demands, judgments, penalties, fines, liabilities, costs, damages and expenses, including court costs and reasonable attorneys' fees incurred by Mortgagee (whether incurred in connection with nonjudicial action, prior to trial, at trial, or on appeal or review) in any action against or involving Mortgagee resulting from such a construction of the parties and their relationship, and any other professional fees and costs. Any inspection of the Property, any review or approval of any plans, contracts, subcontracts (including environmental reviews, audits, assessments and/or reports relating to the Property), and review or approval of budgets, expenses or obligations or any

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analysis of the Property made by Mortgagee or any of its agents, architects or consultants is intended solely for the benefit of Mortgagee and shall not be deemed to create or form the basis of any warranty, representation, covenant, implied promise or liability to Mortgagor or any of its employees or agents, any guest or invitee upon the Property, or any other person or entity.

(s) Neither Mortgagor nor FRC Windy Point L.L.C. (a member of Mortgagor) is in default of any representations, warranties, covenants or obligations in any agreement or instrument, including any indenture, loan or credit agreement, operating agreement, mortgage, deed of trust, commitment, security interest or other instrument, to which it is a party.

(t) Mortgagor hereby covenants that to Mortgagor's actual knowledge, information and belief, and except as disclosed in that certain ATM Standard E1527-97 Phase I Environmental Site Assessment performed for Fifield Realty Corporation dated 11/18/97, (i) no Hazardous Substances, as hereinafter defined, are now or have ever been used, stored, manufactured, refined, handled, located, produced, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Property in violation of any Environmental Laws, as hereinafter defined; (ii) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Property into the environment, which discharge, release or emission would subject the owner of the Property to any damages, penalties or liabilities under any applicable Environmental Laws; (iii) none of the Property has ever been used as or for a mine, a landfill, a dump or other disposal facility or a gasoline service station; (iv) no underground storage tank is now, has been, or will be located in or on the Property; (v) no violation of any Environmental Law now exists or has ever existed, in, upon, under, over or from the Property, no notice of any such violation or any alleged violation thereof has been issued or given by any Governmental Authority, as hereinafter defined, and there is not now, nor has there ever been, any investigation or report involving the Property by any Governmental Authority which in any way relates to Hazardous Substances; (vi) no person, party or private or Governmental Authority has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (i) above; (vii) there are not now, or has there ever been, any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under, over or from the Property; (viii) the Property is not listed in the United States Environmental Protection Agency's List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and (ix) neither the Property nor any portion thereof is subject to any lien or claim for lien in favor of any Governmental Authority as a result of any release or threatened release of any Hazardous Substance.

For the purpose of this Mortgage and the Loan Documents, the following terms shall have the following meanings:

"Environmental Laws" means any applicable federal, state or local law, whether common

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law, court or administrative decision, statute, ordinance, regulation, rule, court order or decree, or administrative order or any administrative policy or guidelines of a Governmental Authority with jurisdiction over the Property now or hereafter in effect relating to the environment, any Hazardous Substances (including, without limitation, the disposal, generation, manufacture, presence, processing, production, release, storage, transportation, treatment, or use thereof), or the environmental conditions on, under, or about the Property as amended and as in effect from time to time (including, without limitation, the following statutes and all regulations thereunder), as the same are amended and in effect from time to time: the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended; the Superfund Amendments and Reauthorization Act of 1986; the Clean Air Act; the Safe Drinking Water Act; the Solid Waste Disposal Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Federal Water Pollution Control Act; the Toxic Substances Control Act of 1976; the Occupational Safety and Health Act; the Illinois Environmental Protection Act; the Illinois Chemical Safety Act; the Illinois Underground Storage Tank Act and any and all successor statutes and regulations, orders, decrees, guides or pronouncements promulgated thereunder, or of any state or local regulatory agencies, and common law, including without limitation, actions in nuisance, trespass and abnormally dangerous activity.

"Governmental Authority" shall mean (a) the United States of American or any state or political subdivision thereof, (b) the State of Illinois, or any State, or any governmental, municipal or political subdivision thereof, or (c) any branch, department, agency, regulatory authority, board, bureau, commission, instrumentality, or public body, or (d) any court, tribunal, public utility or regulatory authority which constitutes a part or exercises any sovereign power of any of the foregoing, including public and quasi-public corporations with jurisdiction over real property located in the State of Illinois.

"Hazardous Substances" means, collectively, dangerous toxic or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of any Environmental Laws and including without limitation, (a) any petroleum, oil, gasoline, other petroleum product, flammable substance, explosive, radioactive material, friable or non-friable asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, dioxins, radioactive materials, or radon gas; (b) any waste, substance, or material defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "extremely hazardous substances," "restricted hazardous wastes," "toxic substances," "regulated substances," "solid waste," "pollutant" or "contaminant," or words of similar import in any Environmental Law now or hereafter in effect; (c) any other waste, substance or material exposure to which is prohibited, limited or regulated by any Governmental Authority with jurisdiction over the Property or the owners and/or occupants of property adjacent to or surrounding the Property, or any Person (as defined in the Loan Agreement) coming upon or into the Property or adjacent or surrounding property; and (d) any waste, substance, or material that is the subject of any Governmental Authority administrative policy concerning action levels.

(u) To Mortgagor's actual knowledge, Mortgagor has no defenses, rights of

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set-off, counterclaims or other claims against Mortgagee in connection with this Mortgage, any of the other Loan Documents or the indebtedness evidenced and secured hereby or thereby.

(v) The proceeds of the Loan shall be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the entire principal obligation secured hereby constitutes (a) a "business loan" as that term is defined in, and for all purposes of, 815 ILCS 20514, Section 4(1)(c), and (b) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 20514, Section 4(1)(l).

The foregoing representations of Mortgagor shall be deemed continuing representations for the benefit of Mortgagee, and any successors and assigns of Mortgagee, including but not limited to any purchaser at a foreclosure sale, and any subsequent owner of the Property, any transferee of the title of Mortgagee or any other purchaser at a foreclosure sale, and shall survive the satisfaction or release of this Mortgage, any foreclosure of this Mortgage and/or any acquisition of title to the Property or any part thereof by Mortgagee, or anyone claiming by, through or under Mortgagee, by deed in lieu of foreclosure or otherwise.

1.2 Defense of Title. Without limiting or waiving any other rights and remedies of Mortgagee hereunder, if, while this Mortgage is in force, the title to the Property or the interest of Mortgagee therein shall be the subject, directly or indirectly, of any action at law or in equity, or be attached directly or indirectly, or endangered, clouded or adversely affected in any manner, Mortgagor, at Mortgagor's expense, shall take all necessary and proper steps for the defense of said title or interest, including the employment of counsel, the prosecution or defense of litigation, and the compromise or discharge of claims made against said title or interest. Notwithstanding the foregoing, in the event that Mortgagee reasonably determines that Mortgagor is not adequately performing its obligations under this Section, Mortgagee, upon notice to Mortgagor and allowing Mortgagor a ten (10) day period to cure any such inadequate performance, may take such steps with respect thereto as Mortgagee shall deem reasonably necessary or proper, at Mortgagor's expense. If Mortgagor fails to pay any and all reasonable costs and expenses incurred by Mortgagee with respect to any of the foregoing immediately upon demand by Mortgagee therefor, the same shall be an Event of Default hereunder, and such sum shall be added, at the option of Mortgagee, to the principal balance of the Note and shall bear interest from the date incurred by Mortgagee until paid at the Default Interest Rate, as defined in the Note.

1.3 Performance of Obligations. Mortgagor shall pay when due the principal of and the interest on the indebtedness evidenced by the Note. Mortgagor shall pay all charges, fees and other sums required to be paid by Mortgagor as provided in the Loan Documents, and shall observe, perform and discharge all obligations, covenants and agreements to be observed, performed and/or discharged by Mortgagor set forth in the Loan Documents in accordance with their terms. Further, Mortgagor shall promptly and strictly perform and comply with all covenants, conditions, obligations and prohibitions required of Mortgagor in connection with any other document or instrument affecting title to the Property, or any part thereof, regardless of whether such document or instrument is superior or subordinate to this Mortgage.

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1.4 Insurance.

(a) Mortgagor shall, at Mortgagor's expense, maintain or cause to be maintained in force and effect on the Property at all times while this Mortgage continues in effect the following insurance, all of which must name Mortgagee as an additional insured or loss payee, as applicable, thereunder (collectively, the "**Insurance Policies**"):

(1) Insurance against loss or damage to the Property from fire and those hazards as are included in so called "broad form" or "all risk" insurance policies, including fire, sprinkler leakage, windstorms and other risks covered by the so called "extended coverage endorsement" covering the Real Estate, in amounts not less than the replacement cost value of such Real Estate, from time to time on the Property, with ninety percent (90%) co-insurance clause on an "Agreed Value" form in lieu of a co-insurance clause and inflation adjustment endorsement.

(2) Flood insurance if required by Mortgagee, with 90% co-insurance as a minimum. Flood insurance is required by Mortgagee when all or a part of the Property is located in a federal flood hazard area other than Zone C or Zone X as described in the document entitled "Department of Housing and Urban Development, Federal Insurance Administration Special Flood Hazard Area Maps.

(3) All-risk course of construction insurance with standard non-contributing mortgagee clause, a lender's Loss Payable Endorsement naming Mortgagee and/or assigns as loss payee, attached together with a full replacement cost endorsement (provided that in no event, however, may the amount of coverage to be maintained by Mortgagor be less than the amount of coverage necessary to prevent Mortgagor's co-insurance of loss) ("**Builder's Risk Insurance**");

(4) Worker's Compensation Insurance covering all persons engaged in such construction, renovation or alteration;

(5) Commercial general liability insurance, including coverage for elevators against personal injury, bodily injury, death and property damage liability with a combined single limit in an amount not less than Three Million and 00/100 Dollars (\$3,000,000) including a waiver of subrogation clause reasonably acceptable to Mortgagee and naming "The Travelers Corporation, its affiliates, subsidiaries, successors and assigns, ATIMA" as an additional insured;

(6) Excess liability insurance with a limit of not less than Five Million Dollars (\$5,000,000.00) over primary insurance, which policy shall include, but not be limited to, automobile liability and safeguarding of personalty, with coverages, risks insured and waiver of subrogation clauses acceptable to Mortgagee, and naming "The Travelers Corporation its affiliates, subsidiaries, successors, and assigns, ATIMA" as an additional insured;

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(7) Business interruption insurance (including rent loss insurance) for loss of rental income, including Rents and Profits, in an amount equal to twelve (12) months projected gross income from the Property from and after completion of the Building Improvements, as defined in the Loan Agreement;

(8) Boiler and machinery insurance, with ninety percent (90%) co-insurance minimum from and after completion of the Building Improvements;

(9) Earthquake insurance if required by Mortgagee, with 90% co-insurance as a minimum;

(10) The types and amounts of coverage as are customarily required by sophisticated institutional lenders in the Chicago, Illinois metropolitan area in like transactions;

(11) Such other insurance on the Property or on any replacements or substitutions thereof, or additions thereto, as may from time to time be reasonably required by Mortgagee against other insurable hazards or casualties which may become necessary for Mortgagor to obtain due to the cancellation or termination of Mortgagor's existing insurance coverage or due to unavailability of the insurance required by this Mortgage.

(b) All insurance policies shall be in form, with companies and in amounts reasonably satisfactory to Mortgagee from time to time. In no event shall an insurance company be satisfactory unless such insurance company (i) has Best's general policyholder rating of "A" or better and a financial rating of "Class X" or better; (ii) is licensed in the State of Illinois and has been actively in business for at least five (5) years; (iii) if it is a mutual company, is a nonassessable company; (iv) does not provide insurance on any one building in excess of ten percent (10%) of its policyholder's surplus (including capital). All insurance policies required pursuant to subparagraphs(a)(1), (3), (4), (5), (6), (7) and (8) hereof shall include non-contributing mortgagee endorsements in favor of "The Travelers Insurance Company, its affiliates, subsidiaries, successors and assigns, ATIMA," and with loss payable to Mortgagee. In addition, all such insurance policies shall include standard waiver of subrogation endorsements, shall provide that the coverage shall not be terminated or modified, nor a risk changed, without thirty (30) day's advance written notice to Mortgagee and shall provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Mortgagee. A verified copy of all insurance policies shall be delivered to Mortgagee. Blanket coverage limits are acceptable but a certified copy of said policy shall be furnished, together with a certificate indicating that Mortgagee is an additional insured under such policy in the designated amount, it being understood that Mortgagee will be a sole loss payee as of the date hereof and hereafter and with a schedule or locations with the assessed replacement cost for the Property in order to monitor total co-insurance compliance if there is no "Agreed Value" endorsement for the Property. If any portion of any of the insured risks are reinsured, the policies shall contain a "cut-through" endorsement. The requirements of this paragraph shall apply to any separate policies of insurance taken out by Mortgagor concurrent in form or contributing in the event of loss with the insurance

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policies.

(c) In the event Mortgagor fails to maintain insurance in compliance with this Section, Mortgagee may, but shall not be obligated to, obtain such insurance and pay the premium therefor and Mortgagor shall, on demand, reimburse Mortgagee for all sums, advances and expenses incurred in connection therewith, with interest at the Default Interest Rate from the time of payment, and such obligation shall be secured by this Mortgage.

Mortgagor shall deliver copies of all original insurance policies, certified by the insurance company or authorized agent as being true copies, to Mortgagee together with the endorsements thereto required hereunder with premiums prepaid for a period of one (1) year. Mortgagor agrees that not less than thirty (30) days prior to the expiration dates of each insurance policy required of Mortgagor pursuant to this Section, Mortgagor will deliver to Mortgagee a renewal policy or policies marked "premium paid" for at least one (1) year period, or accompanied by other evidence of payment satisfactory to Mortgagee.

Notwithstanding anything to the contrary contained herein or any provision of applicable law of any state or jurisdiction, the proceeds of insurance policies and condemnation awards coming into the possession of Mortgagee shall not be deemed trust funds and Mortgagee shall be entitled to dispose of such proceeds as herein provided. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of Mortgagor's liability for repayment of the indebtedness secured hereby, all right, title and interest of Mortgagor in and to any insurance policies then in force and any condemnation awards, shall pass to the purchaser or grantee. In the event that prior to the extinguishment of Mortgagor's liability for repayment of the indebtedness secured hereby, any claim under any hazard insurance policy or any condemnation awards has not been paid and distributed in accordance with the terms of this Mortgage, and any such claim or condemnation award shall be paid after the extinguishment of Mortgagor's liability for repayment of the indebtedness secured hereby, or the foreclosure of this Mortgage, or other transfer of title to the Property covered hereby, shall have resulted in extinguishing Mortgagor's liability for repayment of the indebtedness secured hereby for an amount less than the total of the outstanding principal balance, together with accrued interest plus costs and disbursements at the time of the extinguishment of Mortgagor's liability for repayment of the indebtedness hereby, then and in that event that portion of the payment in satisfaction of the claim or condemnation awards which is equal to the difference between the total amount above referred to and the amount in extinguishment of Mortgagor's liability for repayment of the indebtedness secured hereby shall be paid to Mortgagee, and Mortgagor hereby assigns, transfers and sets over to Mortgagee all of Mortgagor's right, title and interest in and to said sum. The balance, if any, shall belong to Mortgagor.

(d) In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment in whole or in part of the secured indebtedness, all right, title and interest of Mortgagor in and to such policies then in force concerning the Property and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure, or in

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Mortgagee or other transferee in the event of such other transfer of title. Approval of any insurance by Mortgagee shall not be a representation of the solvency of any insurer or the sufficiency of any amount of insurance. All insurance policies also shall provide that if any such policy or part thereof shall expire or be withdrawn, or become void or subject to cancellation by reason of the breach of any condition thereof, or become void by reason of the failure or impairment of the capital of any company in which the insurance shall be carried, or if for any reason whatsoever the insurance shall be unsatisfactory to Mortgagee in Mortgagee's reasonable discretion, or if Mortgagor fails to provide, maintain, keep in force or deliver and furnish to Mortgagee the policies of insurance required of Mortgagor by this Mortgage Mortgagee may, but shall not be obligated to, procure, at Mortgagor's sole cost and expense, such insurance as it deems necessary to protect Mortgagee's sole interest. Mortgagor will promptly upon demand, and if not paid, the same shall be a default hereunder, reimburse Mortgagee for all premiums and other costs incurred in procuring such insurance and such premiums and costs shall accrue interest at the Default Interest Rate, as defined in the Note, from the date expended by Mortgagee until irrevocably and unconditionally paid in full by Mortgagor and shall constitute additional indebtedness secured hereby. Mortgagee shall not be responsible for nor incur any liability for the insolvency of the insurer, even though Mortgagee has caused the insurance to be placed with the insurer after failure of Mortgagor to furnish such insurance.

1.5 Payment of Taxes and Assessments and Insurance Premiums. Mortgagor shall pay or cause to be paid, except to the extent provision is actually made therefor pursuant to Section 1.6 of this Mortgage, all taxes and assessments which are or may become a lien on the Real Estate or which are assessed against or imposed upon the Property prior to delinquency and all insurance premiums. If payment of taxes, assessments and insurance premiums is not made pursuant to Section 1.6 hereof, Mortgagor shall furnish Mortgagee with receipts showing payment of such taxes, assessments and insurance premiums at least fifteen (15) days prior to the date the same become delinquent or the expiration date of the current policy, Mortgagor may in good faith, by appropriate proceedings, contest, so long as such contest is diligently pursued, the validity, applicability or amount of any asserted tax or assessment. Pending such contest, Mortgagor shall not be deemed in default hereunder by reason of non-payment of such asserted tax or assessment if Mortgagee determines, in its sole and subjective opinion, that non-payment of such tax or assessment will not result in the loss, forfeiture or diminution of the Property, title thereto, or any part thereof or any interest of Mortgagee therein and if, prior to delinquency of the asserted tax or assessment, Mortgagor establishes an escrow with and acceptable to Mortgagee adequate to cover the payment of such tax or assessment and any additional sums, as determined by Mortgagee are needed to cover any assessed interest, costs and penalties. Mortgagor shall promptly cause to be paid any amount adjudged by a court of competent jurisdiction to be due, with all interest, costs and penalties thereon, promptly after such judgment becomes final; provided, however, that, in any event such taxes, assessments, interest, costs and penalties shall be paid prior to the date on which the Property may be sold for delinquent taxes pursuant to any applicable statute or any writ or order. The aforementioned escrow shall be immediately returned to Mortgagor upon settlement of such contest and payment in full of all amounts determined to be owing thereby.

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1.6 Tax, Assessment and Insurance Impound Account.

(a) In order to assure the payment of all ad valorem taxes, other similar charges against the property (collectively "**Impositions**") and of insurance premiums for all insurance policies required under this Mortgage at least fifteen (15) days prior to the date the same shall become due and payable, commencing on the first day of the month following the Building Improvement Completion Date, Mortgagor shall deposit with Mortgagee ("**Impound Account**") on the same day on which the monthly payment of the Note is due, an amount, as estimated by Mortgagee in its sole discretion, equal to:

(i) one-twelfth (1/12) of each Imposition next to become due upon the Property; provided that, in the case of the first such deposit, there shall be deposited in addition an amount equal to one-twelfth (1/12) of such Impositions next to become due on the Property multiplied by the number of months elapsed between the date the Imposition on the Property was last paid to and including the date of deposit; plus

(ii) one-twelfth (1/12) of the annual premiums on each insurance policy upon the Property; provided that, with the first such deposit, there shall be deposited in addition an amount equal to one-twelfth (1/12) of such annual insurance premiums, multiplied by the number of months elapsed between the date premiums on each policy were last paid to and including the date of deposit; and

(iii) such further amounts as Mortgagee may reasonably request as necessary or desirable to ensure the prompt and timely payment of all Impositions and insurance premiums.

(b) The aggregate of the deposits for Impositions and insurance premiums, together with monthly payments of interest and/or principal and interest payable on the Note, shall be paid in a single payment each month on the date on which each payment of principal, or principal and interest, is due under the Note, unless otherwise specified by Mortgagee, to be applied in such order as Mortgagee may determine in the exercise of its sole and absolute discretion.

(c) The Imposition and insurance premiums shall be paid as set forth herein. If the total reserves held by Mortgagee, if any, for Impositions and insurance premiums on hand at any time shall not be sufficient to pay all of the Impositions and insurance premiums when the same shall become due, then Mortgagor shall pay to Mortgagee on demand for deposit with Mortgagee any amount necessary to make up the deficiency. If the total of the reserves held by Mortgagee, if any, for Impositions and insurance premiums exceeds the amount Mortgagee determines to be necessary or desirable to ensure the prompt and timely payment of all Impositions and insurance premiums, such excess shall be held, disbursed or credited as Mortgagee deems appropriate. Mortgagor shall not be entitled to any interest on the funds deposited in the Impound Account pursuant to this Section and such funds may be commingled with other funds of

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Mortgagee. If Mortgagor shall fail to deposit with Mortgagee the full amount of such deficiency as provided above, Mortgagor shall be in default hereunder, and Mortgagee shall have the option but not the obligation to make such deposit and all amounts so deposited by Mortgagee shall be added to the principal balance of the Note and shall bear interest thereafter until paid by Mortgagor at the Default Interest Rate.

(d) Upon an Event of Default, Mortgagee may at its option, without being required so to do, apply any deposits, reserves, or other funds on hand to any of the indebtedness secured hereby in such order and manner as Mortgagee may elect. When the indebtedness secured hereby has been fully, unconditionally and irrevocably paid and the Obligations fully, unconditionally and irrevocably discharged, then any remaining amounts deposited for the payment of Impositions and insurance premiums shall be returned to Mortgagor. Deposits for Impositions and insurance premiums and the Impound Account are hereby pledged to Mortgagee as additional security for the indebtedness secured hereby and the Obligations, and shall not be subject to the direction or control of Mortgagor.

(e) Notwithstanding anything herein to the contrary, Mortgagee shall not be liable for any failure to apply to the payment of Impositions and insurance premiums any amounts deposited pursuant hereto; although Mortgagee shall use its reasonable efforts to use such deposits for such purposes. It is the responsibility of Mortgagor to furnish Mortgagee with bills in sufficient time to pay the Impositions before penalty attaches (and no later than fifteen (15) days prior to the delinquency date thereof) and the insurance premiums no later than fifteen (15) days before the policies lapse.

(f) If Mortgagee so elects at any time, Mortgagor shall provide, at its expense, a tax service contract for the term of the Loan, issued by a tax reporting agency acceptable to Mortgagee.

(g) The provisions of this Mortgage are for the benefit of Mortgagor and Mortgagee alone. No provisions of this Mortgage shall be construed as creating in any party other than Mortgagor and Mortgagee any rights in and to any reserve held for payment of Impositions or insurance premiums or any rights to have any such reserve applied to payment of Impositions or premiums on insurance policies. Mortgagee shall have no obligation or duty to any third party to collect amounts for any reserve for payment of Impositions, insurance premiums or otherwise. Upon assignment of this Mortgage by Mortgagee, any funds in the Impound Account shall be turned over to the assignee and any responsibility of Mortgagee with respect thereto shall terminate.

1.7 Casualty and Condemnation.

(a) Mortgagor shall give Mortgagee prompt written notice of the occurrence of any casualty affecting the Property, or any portion thereof, or the institution of any proceedings for eminent domain or for the condemnation of the Property, or any portion thereof. All of

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Mortgagor's rights with respect to all insurance proceeds on the Property, and all causes of action, claims, compensation, awards and recoveries for any damage, condemnation or taking of all or any part of the Property or for any damage or injury to it or for any loss or diminution in value of the Property, are hereby assigned to and shall be paid to Mortgagee. Mortgagee may participate in any suits or proceedings relating to any such proceeds, causes of action, claims, compensation, awards or recoveries and may join with Mortgagor in adjusting any loss covered by insurance. Mortgagor shall from time to time deliver to Mortgagee any instruments required to permit such participation. Mortgagee shall apply any sums received by it under this Section first to the payment of all of its costs and expenses (including, but not limited to, legal fees and disbursements) incurred in obtaining those sums and then, in Mortgagee's sole and absolute discretion, either: (a) to the payment of the indebtedness secured hereby in whatever order Mortgagee directs in its absolute discretion, with any remainder being paid to Mortgagor and subject to the restrictions set forth in Section 7.7 of the Loan Agreement; or (b) for restoration or repair of the Property, provided that so long as no Event of Default has occurred, Mortgagor shall be entitled to restore or repair the Property as set forth in Section 7.7 of the Loan Agreement. In the event Mortgagee elects to apply the proceeds of insurance policies to the indebtedness secured hereby in accordance with the terms of this paragraph and subject to the restrictions set forth in Section 7.7 of the Loan Agreement, and such proceeds do not discharge the Loan in full, then at Mortgagee's option, the entire indebtedness secured hereby as the Primary Loan Obligations shall become immediately due and payable without prepayment premium thereon. Any insurance proceeds which are to be applied and disbursed by Mortgagee for the repair or restoration of the Property shall be disbursed as set forth in Section 7.7 of the Loan Agreement. Any reduction in the indebtedness secured hereby resulting from Mortgagee's application of any sums received by it hereunder shall take effect only when Mortgagee actually receives such sums and, in any event, the unpaid portion of the indebtedness secured hereby shall remain in full force and effect and Mortgagor shall not be excused in the payment thereof. Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm the foregoing assignment to Mortgagee of any award, damage, insurance proceeds, payment or other compensation. Mortgagee is hereby irrevocably constituted and appointed the attorney-in-fact of Mortgagor (which power of attorney shall be irrevocable, shall be deemed coupled with an interest, shall survive the voluntary or involuntary dissolution of Mortgagor and shall not be affected by any disability or incapacity suffered by Mortgagor subsequent to the date hereof), with full power of substitution, subject to the terms of this Section, to settle for, collect and receive any such awards, damages, insurance proceeds, payments or other compensation from the parties or authorities making the same, to appear in and prosecute any proceedings therefor and to give receipts and acquittances therefor.

(b) Provided the insurance proceeds are made available to Mortgagor, Mortgagor hereby covenants to restore, repair, replace or rebuild the Improvements, to be of at least equal value, and of substantially the same character as prior to such loss or damage, all to be effected in accordance with plans, specifications and procedures to be first submitted to and approved by Mortgagee as set forth in Section 7.7 of the Loan Agreement, and Mortgagor shall pay all costs of such restoring, repairing, replacing or rebuilding whether or not insurance

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proceeds are sufficient to pay such costs.

(c) Any surplus which may remain out of insurance proceeds after such disbursements as Mortgagee makes pursuant to the provisions of this Section 1.7 and Section 7.7 of the Loan Agreement to restore the Property may, at Mortgagee's option, be applied to payment of the indebtedness secured hereby unless, without limiting any other of the foregoing enumerated conditions precedent and subsequent set forth in this Section 1.7 and Section 7.7 below, Mortgagor shall have demonstrated to the reasonable satisfaction of Mortgagee that the Improvements, following such restoration, shall generate substantially the same revenue from Leases in place and shall have substantially the same quality tenant mix following such restoration as existed prior to such loss or damage in which event said surplus shall be paid to Mortgagee. Mortgagee further reserves the right to apply said proceeds to the payment of the Loan in accordance with the provisions of the Loan Documents in the event any of the foregoing enumerated conditions precedent and subsequent are not fulfilled to the sole satisfaction of Mortgagee. If there is an Event of Default while Mortgagee is holding funds for repairs or restoration, Mortgagee may at its sole option apply such funds against the indebtedness secured hereby, in such order or manner as Mortgagee may elect.

1.8 Mechanics' Liens. Mortgagor shall pay when due all claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered for the Real Estate and/or the Improvements; provided, however, that Mortgagor shall have the right to contest in good faith any such claim or demand provided that it does so diligently and without prejudice to Mortgagee. In the event Mortgagor shall contest any such claim or demand, Mortgagor shall, upon Mortgagee's request, promptly provide a bond, cash deposit or other security satisfactory to Mortgagee to protect Mortgagee's interest and security should the contest be unsuccessful. If Mortgagor shall fail to immediately discharge or provide security against any such claim or demand as aforesaid, Mortgagee may do so and any and all expenses incurred by Mortgagee shall be reimbursed by Mortgagor promptly after notice thereof from Mortgagee and, if not so reimbursed, Mortgagor shall be in default hereunder, such sums shall be added to the principal balance of the Note and shall bear interest thereafter at the Default Interest Rate. In all events, such lien shall be released from the Property within sixty (60) days of the date it is first recorded.

1.9 Rents and Profits. As additional and collateral security for the payment of the indebtedness secured hereby and cumulative of any and all rights and remedies herein provided for, Mortgagor hereby absolutely and presently assigns to Mortgagee all existing and future Rents and Profits. With respect to said existing and future Rents and Profits, Mortgagor hereby grants to Mortgagee the sole, exclusive and immediate right at any time and from time to time after the occurrence of an Event of Default hereunder or under the other Loan Documents, without taking possession of the Property, to demand, collect (by suit or otherwise), receive and give valid and sufficient receipts for any and all of said Rents and Profits. In connection with the foregoing Mortgagor does hereby irrevocably make, constitute and appoint Mortgagee its attorney-in-fact with full power to appoint substitutes or a trustee to accomplish such purpose (which power of

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attorney shall be irrevocable, shall be deemed to be coupled with an interest, shall survive the voluntary or involuntary dissolution of Mortgagor and shall not be affected by any disability or incapacity suffered by Mortgagor subsequent to the date hereof); it being understood that Mortgagee shall be without liability for any loss which may arise from uncollectible Rents and Profits. Mortgagor irrevocably consents that the respective payors of the Rents and Profits shall, upon demand and notice from Mortgagee of an Event of Default hereunder or under the Loan Documents, pay said Rents and Profits to Mortgagee without liability to such payor for the determination of the actual existence of any default claimed by Mortgagee. However, until there shall exist an Event of Default under this Mortgage or under the other Loan Documents, Mortgagor shall have a license to collect and receive the Rents and Profits. Upon any Event of Default, Mortgagor's license shall automatically terminate without notice to Mortgagor and Mortgagee may thereafter, without taking possession of the Property, collect the Rents and Profits itself or by an agent or receiver. From and after such termination, Mortgagor shall be the agent of Mortgagee in collection of the Rents and Profits and any of same so collected by Mortgagor shall be held in trust by Mortgagor for the sole and exclusive benefit of Mortgagee and Mortgagor shall, promptly after receipt of any Rents and Profits, pay the same to Mortgagee to be applied by Mortgagee as hereinafter set forth. All Rents and Profits received by Mortgagee shall be applied first to pay all expenses of collection and then to the payment of all costs of operation and management of the Property, and then to the payment of the indebtedness secured hereby in whatever order Mortgagee directs in its absolute discretion and without regard to the adequacy of its security. The assignment of Rents and Profits hereinabove granted shall continue in full force and effect during any period of foreclosure and/or redemption with respect to the Property. Mortgagor has executed an Assignment of Rents and Leases and Other Income dated of even date herewith (the "Assignment") in favor of Mortgagee covering all of the right, title and interest of Mortgagor, as landlord, lessor or licensor, in and to any leases, licenses and occupancy agreements relating to all or portions of the Property. All rights and remedies granted to Mortgagee under the Assignment shall be in addition to and cumulative of all rights and remedies granted to Mortgagee hereunder.

1.10 Prohibition Against Alienation and Further Encumbrances.

(a) In the event that, without Mortgagee's prior written consent which may be granted or withheld in Mortgagee's sole discretion, the Property or any part thereof or interest therein shall be conveyed, transferred, leased (except as otherwise provided herein or in the Loan Agreement), further encumbered, mortgaged or otherwise transferred or if Mortgagor shall be divested of its title to the Property or any interest therein, in any manner or way, whether voluntarily or involuntarily, then the same shall be an Event of Default hereunder and the Maturity Date of the Note may, at Mortgagee's option, be accelerated and thereupon the entire indebtedness secured hereby, together with all accrued and unpaid interest thereon, shall be immediately due and payable. Mortgagor is a limited liability company and the sale, conveyance, transfer, encumbering, hypothecation, pledging or other disposition, whether voluntary or involuntary, by operation of law or otherwise, of any interest in Mortgagor or its members shall be deemed a transfer of an interest in the Property for purposes of this Section 1.10(a). Notwithstanding the

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foregoing, any transfer of (i) an interest in Mortgagor by a member of Mortgagor which complies with the terms of Section 7.4 of the Governing Documents as defined in the Loan Agreement, shall not be a violation of this paragraph; or (ii) a Disposition of a portion of the Real Property (except any portion of the Real Property which is part of the Project, as defined in the Governing Documents) which complies with the provisions of Section 2.8 of the Loan Agreement shall constitute a permitted transfer hereunder.

(b) In the event that Mortgagee shall consent, without in any way implying any obligation on the part of Mortgagee to so consent, to a further encumbrance of the Property, the document creating such encumbrance shall be subject to the prior approval of Mortgagee and shall expressly provide, in addition to any other items required by Mortgagee, that (i) it is subordinate, secondary, junior and inferior in all respects to the lien of this Mortgage and to the security provided by the other Loan Documents, including, without limitation, the rights of Mortgagee set forth herein with respect to any insurance proceeds and condemnation awards which are a part of the Property; and (ii) it shall remain subordinate, secondary, junior and inferior to any amendments, modifications or changes in this Mortgage and/or the other Loan Documents thereafter entered into by Mortgagee and Mortgagor of any of the indebtedness secured hereby.

1.11 Payment of Utilities, Assessments, Charges, Etc. Mortgagor shall pay when due all utility charges which are incurred by Mortgagor or which may become a charge or lien against any portion of the Property for gas, electricity, water and sewer services furnished to the Real Estate and/or the Improvements and all other assessments or charges of a similar nature, or assessments payable pursuant to any restrictive covenants, whether public or private, affecting the Real Estate and/or the Improvements or any portion thereof, whether or not such assessments or charges are or may become liens thereon.

1.12 Access Privileges and Inspections. Upon reasonable notice, representatives of Mortgagee shall have full and free access to the Real Estate and the Improvements and any other location where books and records concerning the Property are kept, at all reasonable times for the purposes of inspecting the Property and of examining the books and records of Mortgagor relating to the Property. Mortgagor shall lend assistance to all such representatives of Mortgagee.

1.13 Waste; Alteration and Construction of Improvements. Mortgagor shall not commit, suffer or permit any waste on the Property nor take any actions that might invalidate any insurance carried on the Property. Mortgagor shall maintain the Property in good condition and repair, ordinary wear and tear excepted.

1.14 Zoning. Without the prior written consent of Mortgagee, Mortgagor shall not seek, make, suffer or consent to or acquiesce in any change in the zoning or conditions of use of the Real Estate or the Improvements. Mortgagor shall comply with and make all payments required under the provisions of any covenants, conditions or restrictions affecting the Real Estate or the Improvements. Mortgagor shall comply with all existing and future requirements of all governmental authorities having jurisdiction over the Property. If, under applicable zoning

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provisions, the use of all or any part of the Real Estate is or becomes a nonconforming use, Mortgagor shall not cause or permit such use to be discontinued or abandoned without the prior written consent of Mortgagee.

1.15 Intentionally Omitted.

1.16 Notice of Default by Mortgagor; Further Documentation. Further, Mortgagor shall, on the request of Mortgagee and at the expense of Mortgagor: (a) promptly correct, or cause to be corrected, any defect, error or omission which may be discovered in the contents of this Mortgage or in the contents of any of the other Loan Documents; (b) execute, acknowledge, deliver and record or file such further instruments (including, without limitation, further deeds of trust, security agreements, financing statements, continuation statements and assignments of rents or leases) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of this Mortgage and the other Loan Documents and to subject to the liens and security interest hereof and thereof any property intended by the terms hereof and thereof to be covered hereby and thereby, including specifically, but without limitation, any renewals, additions, substitutions, replacements or appurtenances to the Property; (c) execute, acknowledge, deliver, procure and record or file any document or instrument (including specifically any financing statement) deemed advisable by Mortgagee to protect the lien or the security interest hereunder against the rights or interests of third persons; and (d) promptly furnish to Mortgagee, upon Mortgagee's request, a duly acknowledged written statement supplied by Mortgagee setting forth all amounts due on the indebtedness secured by this Mortgage and stating whether any offsets or defenses exist with respect thereto, and containing such other matters as Mortgagee may reasonably require. Mortgagee shall promptly furnish, on the request of Mortgagor, a duly acknowledged written statement supplied by Mortgagor setting forth all amounts due on the indebtedness secured by this Mortgage and stating whether any offsets or defenses exist with respect thereto, and containing such other matters as Mortgagor may reasonably require.

1.17 Defense of Actions. Mortgagor shall, at its own expense, appear in and defend any action or proceeding that might affect Mortgagee's security or the rights or powers of Mortgagee or that purports to affect any of the Property.

1.18 Payment of Costs; Reimbursement to Mortgagee. Mortgagor shall pay, or cause to be paid, all costs and expenses of every character attributable or chargeable to Mortgagor as owner of the Property, including, without limitation, recording fees, mortgagee title policy fees and escrow fees, and Mortgagor shall, within ten (10) days after notice thereof from Mortgagee, reimburse Mortgagee for all such costs and expenses incurred or paid by Mortgagee if Mortgagor has failed to pay the same. Any of such costs and expenses not so reimbursed by Mortgagor within the aforementioned ten (10) day period shall be a default hereunder, may be added to the principal balance of the Note and shall thereafter bear interest at the Default Interest Rate. Further, Mortgagor shall promptly notify Mortgagee in writing of any litigation or threatened litigation affecting the Property, or any other demand or claim which, if enforced, could impair

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or threaten to impair Mortgagee's security hereunder. Without limiting or waiving any other rights and remedies of Mortgagee hereunder, if Mortgagor fails to perform any of its covenants or agreements contained in this Mortgage or in any of the other Loan Documents, or if any action or proceeding of any kind (including, but not limited to, any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding) is commenced against Mortgagor, then Mortgagee may, at its option and, with notice to Mortgagor, make any appearances, disburse any sums, make any payments and take any actions as may be necessary or desirable to protect or enforce the security of this Mortgage or to remedy the failure of Mortgagor to perform its covenants and agreements contained in this Mortgage or in any of the other Loan Documents (without, however, waiving any default of Mortgagor). Mortgagor agrees to pay, all out-of-pocket expenses of Mortgagee incurred with respect to the foregoing (including, but not limited to, reasonable fees and disbursements of counsel), together with, if such expenses are not paid upon demand by Mortgagee, interest thereon at the Default Interest Rate from and after the date of Mortgagee's incurring such expenses. Any such expenses so incurred by Mortgagee and not paid by Mortgagor as required above, together with interest thereon as provided above, shall be an advance hereunder and may be added to the principal balance of the Note. Mortgagor shall indemnify and hold Mortgagee harmless from and against all loss, cost and expenses with respect to any default hereof, any liens, charges and encumbrances filed against the Property, and from any claims and demands for damages or injury, including claims for property damage, personal injury or wrongful death, arising out of or in connection with any accident or fire or other casualty on the Real Estate and/or the Improvements or any nuisance made or suffered thereon, including, in any case, attorneys fees, costs and expenses as aforesaid, whether at pretrial, trial or appellate level. This Section shall not be construed to require Mortgagee to incur any expenses, make any appearances or take any actions. In addition to the payment of the foregoing costs, Mortgagor agrees that if Mortgagee any time during the term hereof desires to obtain an appraisal of the Property, Mortgagee may obtain such appraisal and Mortgagor shall reimburse Mortgagee for the cost thereof within ten (10) days of demand.

1.19 Personal Property. All equipment, fixtures furniture, appliances and other personal property used in connection with the Improvements shall be owned by Mortgagor, and no leasing or installment sales or other financing in connection therewith, shall be permitted without the prior written approval of Mortgagee. This Mortgage also is intended to encumber and create a security interest in any and all of the Property which is personal property owned by Mortgagor and now or hereafter located on and/or used in connection with the Real Estate and/or the Improvements, including, but not limited to, all fixtures, equipment, furniture, appliances, machinery, engines, boilers, dynamos, cabinets, awnings, screens, shades, blinds, carpets, draperies, plumbing, heating, air conditioning, lighting, ventilating, refrigerating and incinerating equipment, and such other goods and chattels owned by Mortgagor as are now or hereafter used in operating, maintaining, leasing and repairing the Improvements, and all renewals or replacements thereof or articles in substitution therefor, whether or not same shall be attached to the Improvements in any manner, as well as all building materials and equipment hereafter situate on or about the Real Estate and/or the Improvements. It is hereby agreed that to the extent permitted by law, all of the foregoing property and fixtures are to be deemed and held to be a part of and affixed to the

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Improvements. The foregoing security interest shall also cover Mortgagor's leasehold interest in any of the foregoing items which are leased by Mortgagor under leases, whether or not approved by Mortgagee as provided above. Mortgagor shall, from time to time upon the request of Mortgagee, supply Mortgagee with a current inventory of all of the personal property in which Mortgagee is granted a security interest hereunder, in such detail as Mortgagee may reasonably require. Mortgagor shall promptly replace all worn-out or obsolete items of personal property covered by this Mortgage with fixtures or personal property comparable to the replaced fixtures or personal property when new, and will not, without the prior written consent of Mortgagee, remove from the Real Estate or Improvements any fixtures or personal property covered by this Mortgage except such as are replaced by Mortgagor by an article of equal suitability and value, owned by Mortgagor, free and clear of any lien or security interest (except that created by this Mortgage).

1.20 Security Agreement. This Mortgage constitutes a Security Agreement between Mortgagor and Mortgagee with respect to all personal property in which Mortgagee is granted a security interest hereunder, and, cumulative of all other rights and remedies of Mortgagee hereunder, Mortgagee shall have all of the rights and remedies of a secured party under the Illinois Uniform Commercial Code. Mortgagor hereby agrees to execute and deliver on demand and hereby irrevocably constitutes and appoints Mortgagee the attorney-in-fact of Mortgagor to execute and deliver and, if appropriate, to file with the appropriate filing officer or office such security agreements, financing statements, continuation statements or other instruments as Mortgagee may request or require in order to impose, perfect or continue the perfection of the lien or security interest created hereby. Upon the occurrence of any Event of Default, (or any event which with the lapse of time or with notice and the lapse of time will become an Event of Default) Mortgagee shall have the right to cause any of the property which are fixtures or personal property and subject to the security interest of Mortgagee hereunder to be sold at any one or more public or private sales as permitted by applicable law, including at a sale held in conjunction with the sale of the Real Estate and the Improvements as provided for in this Mortgage, and Mortgagee shall further have all other rights and remedies, whether at law, in equity or by statute, as are available to secured creditors under applicable law. Any such disposition may be conducted by an employee or agent of Mortgagee. Any person, including Mortgagee, shall be eligible to purchase any part or all of such property at any such disposition. Expenses of retaking, holding, preparing for sale, selling or the like shall be borne by Mortgagor and shall include Mortgagee's attorneys' fees and legal expenses. If such expenses are not paid by Mortgagor on demand by Mortgagee, the same shall be an Event of Default hereunder and shall be added to the principal balance of the Note and shall bear interest thereafter, until paid at the Default Interest Rate. Mortgagee shall have the right to enter upon the Real Estate and the Improvements or any real property where any personal property which is the subject of the security interest granted herein is located to take possession of, assemble and collect such personal property or to render it unusable; or, Mortgagor, upon demand of Mortgagee, shall assemble such personal property and make it available to Mortgagee at the Real Estate, a place which is hereby deemed to be reasonably convenient to Mortgagee and Mortgagor. If notice is required by law, Mortgagee shall give Mortgagor at least ten (10) days' prior written notice of the time and place of any public or private

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sale or other disposition of such property or of the time of or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Mortgagor, as the same is provided for the mailing of notices herein, it is hereby deemed that such notice shall be and is commercially reasonable notice to Mortgagor. Any sale made pursuant to the provisions of this Section shall be deemed to have been a sale conducted in a commercially reasonable manner if held contemporaneously with the sale as provided in Section 4.1 herein upon giving the same notice with respect to the sale of the personal property hereunder as is required under said Section 4.1.

Furthermore, in conjunction with, in addition to or in substitution for the rights and remedies available to Mortgagee pursuant to the Illinois Uniform Commercial Code:

(a) In the event of a foreclosure sale, the Property may, at the option of Mortgagee, be sold as a whole; and

(b) It shall not be necessary that Mortgagee take possession of the aforementioned personal property or any part thereof prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that said personal property or any part thereof be present at the location of such sale; and

(c) Any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to non-payment of the indebtedness secured hereby or as to the occurrence of any default, or as to Mortgagee having declared all of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given by Mortgagee, shall be taken as prima facie evidence of the truth of the facts so stated and recited; and

(d) Mortgagee may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Mortgagee, including the sending of notices and the conduct of the sale, but in the name and on behalf of Mortgagee.

1.21 Easements and Rights-of-Way. Mortgagor shall not grant any easement or right-of-way with respect to all or any portion of the Real Estate and/or the Improvements without the prior written consent of Mortgagee.

1.22 Compliance with Laws. Mortgagor shall at all times comply with all statutes, ordinances, regulations and other governmental or quasi-governmental requirements and private covenants relating to the ownership, development, use, maintenance, or operation of the Real Estate and/or the Improvements; provided, however, that, so long as there does not otherwise exist an Event of Default, or an event which, with the lapse of time or with notice and the lapse of time, shall become an Event of Default hereunder, Mortgagor may, upon providing Mortgagee with security satisfactory to Mortgagee, proceed diligently and in good faith to contest the validity or applicability of any such statute, ordinance, regulation or requirement. Mortgagor shall not

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use or occupy, or allow the use or occupancy of, the Real Estate or the Improvements in any manner which violates any applicable law, rule, regulation or order, including laws pertaining to the protection of the environment, or which constitutes a public or private nuisance or which makes void, voidable or cancelable, or increases the premium of, any insurance then in force with respect thereto.

1.23 Additional Taxes. In the event of the enactment after this date of any law of the United States, the State of Illinois or of any other governmental entity imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of deeds of trust or mortgages or security agreements or debts secured by deeds of trust or mortgages or security agreements or the interest of the mortgagee or secured party in the property covered thereby, or the manner of collection of such taxes, Mortgagor, upon demand by Mortgagee, shall pay, or cause to be paid, such taxes, assessments, charges or liens, or reimburse Mortgagee therefor; provided, however, that if in the opinion of counsel for Mortgagee it is unlawful to require Mortgagor to make such payment, then Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable in full ninety (90) days from the giving of such notice. Mortgagor may in good faith, contest the validity of or applicability of such law in accordance with the provisions of Section 1.5 of this Mortgage.

1.24 Secured Indebtedness. It is understood and agreed that this Mortgage shall secure payment of not only the indebtedness evidenced by the Note but also any and all substitutions, replacements, renewals, modifications and extensions of any or all of said Note, any and all indebtedness and obligations arising pursuant to the terms hereof, and any and all indebtedness and obligations arising pursuant to the terms of any of the other Loan Documents.

1.25 Mortgagor's Waivers. To the full extent permitted by law, Mortgagor agrees that Mortgagor shall not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, moratorium or extension. Mortgagor, for Mortgagor and Mortgagor's heirs, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Property, to the extent permitted by law, hereby knowingly, intentionally and voluntarily with and upon the advice of competent counsel: (a) waives, releases, relinquishes and forever forgoes all rights of valuation, appraisal, and stay of execution (except as otherwise expressly provided herein), and (b) waives, releases, relinquishes and forever forgoes all rights to a marshalling of the assets of Mortgagor, including the Property, to a sale in the inverse order of alienation, or to direct the order in which any of the Property shall be sold in the event of foreclosure of the liens and security interests hereby created and agrees that any court having jurisdiction to foreclose such liens and security interests may order the Property sold as an entirety. Mortgagor shall not have or assert any right under any statute or rule of law pertaining to exemption of homestead or other exemption under any federal, state or local law now or hereafter in effect, the administration of estates of decedents or other matters whatever which would defeat, reduce or affect the right of

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Mortgagee under the terms of this Mortgage to a sale of the Property for the collection of the secured indebtedness without any prior or different resort for collection, or the right of Mortgagee under the terms of this Mortgage to the payment of the indebtedness secured hereby out of the proceeds of sale of the Property in preference to every other claimant whatever.

1.26 Property Manager. The exclusive manager of the Property shall be Fifield Realty Corp., a Delaware corporation or such other manager as may be first approved in writing by Mortgagee. Mortgagor shall cause the Property to be managed in a competent and professional manner in accordance with the management standards for comparable competitive office buildings. Any leasing agent of the Property, if other than the foregoing party, shall be first approved in writing by Mortgagee. The management and leasing contracts shall be terminable on thirty (30) days' notice without fee or penalty and shall be subordinated to this Mortgage by such manager or agent executing Mortgagee's form subordination. Upon default in either of these requirements, not cured within the applicable cure period, then the whole of the indebtedness hereby secured shall, at the election of Mortgagee, become immediately due and payable, and Mortgagee shall be entitled to exercise any or all remedies provided for or referenced in this Mortgage.

1.27 Service and Supplier's Contracts. Mortgagor shall not, and shall not permit any property manager or any other agent of Mortgagor on behalf of Mortgagor to, enter into any service contracts, supplier's contracts and similar agreements or arrangements unless such contracts or agreements: (a) are entered into in the ordinary course of Mortgagor's business; (b) include provisions for attornment in favor of Mortgagee or its designee following the occurrence of an Event of Default; and (c) provide for termination without penalty or fee upon not more than thirty (30) days' prior written notice from Mortgagor, Manager on behalf of Mortgagor or Mortgagee. Mortgagor shall furnish to Mortgagee a list of all service and supplier's contracts then in effect with respect to the Property, which list shall include a current address for notice purposes for each party, other than Mortgagor, to such service or supplier's contracts. At any time and from time to time, upon reasonable request by Mortgagee, Mortgagor shall provide Mortgagee with true and correct copies of any and all service or supplier's contracts then in effect with respect to the Property.

1.28 Environmental Protection. Mortgagor covenants and agrees that it shall comply with and shall use its best efforts to cause (i) all tenants under any lease or occupancy agreement affecting any portion of the Property; and (ii) all other Persons occupying the Property or that portion thereof owned or controlled by Mortgagor on the date compliance is required, to comply with all Environmental Laws. Without limiting the generality of the foregoing, Mortgagor covenants and agrees that it shall not, nor shall Mortgagor permit any other Person to use, store, manufacture, refine, handle, locate, produce, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance in, upon, under, over or from the Property, or to escape therein, thereupon, thereunder, thereover or therefrom (except for the use or ordinary and customary cleaning and office supplies which are used and stored in compliance with applicable Environmental Laws and De Minimus Amounts, as defined in the Indemnity Agreement, and shall comply with all Environmental Laws which are applicable to the Property.

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At any time, and from time to time, but not more frequently than annually except in the event of an emergency, if Mortgagee so requests, Mortgagor shall have any environmental review, audit, assessment and/or report relating to the Property heretofore provided to Mortgagee updated, at Mortgagor's sole cost and expense, by an engineer or scientist reasonably acceptable to Mortgagee (the engineer or scientist who originally prepared the report shall be deemed acceptable), or shall have such a review, audit, assessment and/or report prepared for Mortgagee, if none has previously been so provided. Mortgagor shall protect, defend and indemnify the Indemnified Parties (as defined in the Indemnity) and shall observe and perform all of the covenants and requirements in the Indemnity which are incorporated herein by reference.

The foregoing indemnification and covenants of this Section 1.28 (and the indemnification and covenants contained in the Indemnity) shall be deemed continuing covenants for the benefit of Mortgagee, and any successors and assigns of Mortgagee, including but not limited to any purchaser at a foreclosure sale, any transferee of the title of Mortgagee or any other purchaser at a foreclosure sale, and any subsequent owner of the Property, and shall survive the satisfaction or release of this Mortgage, any foreclosure of this Mortgage and/or any acquisition of title to the Property or any part thereof by Mortgagee, or anyone claiming by, through or under Mortgagee, by deed in lieu of foreclosure or otherwise. Any amounts covered by the foregoing indemnification shall be additional Indebtedness secured hereby and shall bear interest from the date incurred at the Default Interest Rate, be payable on demand.

1.29 Conveyance of Mineral Rights Prohibited. Mortgagor agrees that the making of any oil, gas or mineral lease or the sale or conveyance of any mineral interest or right to explore for minerals under, through or upon the Property would impair the value of the Property securing the Note; and that Mortgagor shall have no right, power or authority to lease the Property, or any part thereof, for oil, gas or other mineral purposes, or to grant, assign or convey any mineral interest of any nature, or the right to explore for oil, gas and other minerals, without first obtaining from Mortgagee express written permission therefor, which permission shall not be valid until recorded among the real property records of the County of Cook, Illinois. Mortgagor further agrees that if Mortgagor shall make, execute or enter into any such lease or attempt to grant any such mineral rights without such prior written permission of Mortgagee then Mortgagee shall have the option, without notice, to declare the same to be a default hereunder and to declare the indebtedness hereby secured immediately due and payable. Whether or not Mortgagee shall consent to such lease or grant of mineral rights, Mortgagee shall receive the entire consideration to be paid for such lease or grant of mineral rights, with the same to be applied to the indebtedness hereby secured, notwithstanding the fact that the amount owing thereon may not then be due and payable or the said indebtedness is otherwise adequately secured; provided, however, that the acceptance of such consideration shall in no way impair the lien of this Mortgage on the Property.

1.30 Leases. Mortgagor expressly covenants that, without the prior written consent of Mortgagee, Mortgagor will not cancel, terminate or surrender, or consent to or accept any such cancellation, termination or surrender, or amend, or modify any Lease or Occupancy Agreement. In the event of default under any lease by reason of failure of the Mortgagor to keep or perform

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one or more of the covenants, agreements or conditions thereof, Mortgagee is hereby authorized and empowered, and may, at its sole option, remedy, remove or cure any such default, and further, Mortgagee may, at its sole option and in its sole discretion, but without obligation to do so, pay any sum of money deemed necessary by it for the performance of said covenants, agreements and conditions, or for the curing or removal of such default, and incur all expenses and obligations which it may consider necessary or reasonable in connection therewith, and Mortgagor shall pay on demand all such sums so paid or advanced by Mortgagee together with interest thereon at the Default Interest Rate set forth in the Note. Neither the right nor the exercise of the right herein granted unto Mortgagee to keep or perform any such covenants, agreements or conditions as aforesaid shall preclude Mortgagee from exercising its option to cause the whole indebtedness secured hereby to become immediately due and payable by reason of Mortgagor's default in keeping or performing any such covenants, agreements or conditions as hereinabove required. Mortgagor must obtain Mortgagee's approval of the terms and conditions of any and all leases, as well as the form of the lease.

1.31 ERISA. Mortgagor: (a) will take no action which would cause it to become an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended from time to time and including the regulations promulgated thereunder ("ERISA"), or a "governmental plan" as defined in Section 3(32) of ERISA, or its assets to become "plan assets" as defined in 29 C.F.R. §2510.3-101, or "assets of a governmental plan" subject to regulation under state statutes; and (b) will not sell, assign or transfer the Property, or any portion thereof or interest therein, to any transferee which does not execute and deliver to Mortgagee its written assumption of the obligations of this covenant (no consent by Mortgagee to such sale, assignment, transfer or transferee being hereby implied). Mortgagor further covenants and agrees to protect, defend, indemnify and hold Mortgagee harmless from and against all loss, cost, damage and expense including all reasonable attorneys' fees (whether incurred in connection with nonjudicial action, prior to trial, at trial or on appeal or review), other professional fees and costs, excise taxes, and costs of correcting any prohibited transaction or obtaining an appropriate exemption, which Mortgagee may incur as a result of Mortgagor's breach of this covenant. This indemnity shall survive the extinguishment of the lien of this Mortgage by foreclosure or action in lieu thereof, and this covenant shall survive such extinguishment. Furthermore, the foregoing indemnity shall supersede any limitations on Mortgagor's liability under the Note, this Mortgage, or any of the other Loan Documents.

Article 2

ASSIGNMENT OF LEASES AND OCCUPANCY AGREEMENTS AND RENTS AND PROFITS

2.1 Assignment. Mortgagor hereby presently assigns, transfers and grants unto Mortgagee a security interest of first priority in all of Mortgagor's remaining right, title and interest now existing or hereafter arising, if any, in and to any and all existing and future Leases and Occupancy Agreements and Rents and Profits including any Leases and Occupancy

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Agreements (and Rents and Profits arising therefrom) that may have been heretofore or may be hereafter made or agreed to by Mortgagor, or the agents of Mortgagor, or which may be made or agreed to by Mortgagee under the powers herein granted. Mortgagor hereby confirms that Mortgagee is authorized (with or without taking possession of the Property) to rent, lease or let all or any portion of the Property to any party or parties at such rental and upon such terms as Mortgagee shall, in its sole discretion, determine. Subject to the first and prior Assignment: (a) Mortgagor hereby gives to and confers upon Mortgagee the right, power and authority to collect Mortgagor's interest, if any, in the Rents and Profits (no such interest being implied hereby); and (b) Mortgagor irrevocably appoints Mortgagee its true and lawful attorney-in-fact, such appointment being coupled with an interest, at the option of Mortgagee at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Mortgagor or Mortgagee, for all of Mortgagor's interests, if any, in such Rents and Profits (no such interests being implied hereby). All such Rents and Profits shall be paid to Mortgagee in accordance with the terms of the Assignment and applied in accordance with the terms hereof and of the other Loan Documents. For the purposes of this Mortgage, "**Leases and Occupancy Agreements**" shall mean, collectively, all leases, subleases occupancy agreements, rental agreements or contracts, licenses, concessions or grants or the possessory interests, tenancies and other agreements affecting the use, possession or occupancy of all or a portion of the Property, whether written or verbal now or hereafter existing, together with any and all renewals, replacements or extensions thereof.

2.2 Approval by Mortgagor; Required Lease and Occupancy Agreement Provisions.

All Leases and Occupancy Agreements shall be in form and substance satisfactory to Mortgagee and Mortgagor shall not enter into any Lease or Occupancy Agreement, including any modification, extension, rider, renewal, termination or cancellation thereof, without the prior written consent of Mortgagee. Mortgagor shall deliver duplicate originals or copies (certified by Mortgagor to be complete and correct) of all Leases and Occupancy Agreements in effect at the Property, including all Leases and Occupancy Agreements for personal property, and a schedule (certified by Mortgagor to be complete and correct) setting forth the Rents and Profits, prepaid rentals, Security Deposits, other guarantees or evidence of security and all other information pertaining to such Leases and Occupancy Agreements as Mortgagee may require at any time and from time to time. Mortgagor shall promptly notify Mortgagee of the termination of any Leases or Occupancy Agreements and/or new Leases and Occupancy Agreements, or modifications of existing Leases or Occupancy Agreements. Except as may otherwise be approved by Mortgagee, all Leases and Occupancy Agreements (or Subordination, Non-Disturbance and Attornment Agreements related thereto) shall contain a provision: (a) requiring the Tenant or Occupant thereunder to give Mortgagee written notice of any default by the landlord under such Lease or Occupancy Agreement and a reasonable period of time within which to cure such default prior to such Tenant or Occupant taking any action to remedy such default or to cancel the Lease or Occupancy Agreement; (b) a covenant of the Tenant or Occupant to provide upon ten (10) days' written notice an estoppel certificate in a form to be provided by Mortgagee confirming its/their subordination and attornment to Mortgagee and certifying to Mortgagee such matters as are requested by Mortgagee; and (c) an acknowledgment by the Tenant or Occupant thereunder that

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in the event Mortgagee becomes owner of the Property through foreclosure or otherwise, Mortgagee shall not be liable for any acts, omissions, events or conditions arising prior to the time Mortgagee became the record owner of the Property.

2.3 Performance Under Leases and Occupancy Agreements. At its sole cost and expense, Mortgagor will perform and discharge, or cause to be performed and discharged, all of the obligations and undertakings of Mortgagor or its agents under the Leases and Occupancy Agreements, and will enforce or secure, or cause to be enforced or secured, the performance of each and every obligation and undertaking of the respective Tenants and Occupants under the Leases and Occupancy Agreements, and to appear in and defend at its sole cost and expense, any action or proceeding arising under or in any manner connected with the Leases and Occupancy Agreements or the obligations and undertakings of any Tenant or Occupant thereunder. Mortgagor will not do, nor neglect to do, nor permit to be done anything which may cause the modification or termination of any Lease or Occupancy Agreement, or of the obligations of any Tenant or Occupant thereunder, or any person claiming by, through or under such Tenant or Occupant, or which may diminish or impair the value of any Leases or Occupancy Agreements or the Rents and Profits or the interest of Mortgagor therein or of Mortgagee thereunder or hereunder. In the event of a default by Mortgagor under any of the Leases or Occupancy Agreements, Mortgagor will give written notice of such default to Mortgagee not later than thirty (30) days after the occurrence of such default, or not less than ten (10) days prior to the time when Mortgagor's default might permit a cancellation of the Lease or Occupancy Agreement by the Tenant or Occupant thereunder, whichever shall earlier occur. Mortgagee shall have the right, but not the obligation, to cure such default if Mortgagor fails to do so within the applicable grace or cure period, if any, specified in the Lease or Occupancy Agreement between Mortgagor and such Tenant or Occupant. In the event of a default by a Tenant or Occupant under a Lease or Occupancy Agreement, Mortgagor shall give written notice thereof to Mortgagee no later than sixty (60) days after the occurrence of said default, unless said default is cured before the expiration of said sixty (60) day period. Mortgagor represents and agrees that all Rents and Profits will be paid in accordance with the Assignment, that Mortgagor promptly shall deposit or cause to be deposited any Rents and Profits received by Mortgagor, or any of their employees or representatives, into the Account, that no Rents or Profits have been or will be paid by any person in possession of any portion of the Property other than into the Account, as defined in the Assignment, and that the payment of the Rents and Profits to accrue for any portion of said Property has not been and will not be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagor without the prior written consent of Mortgagee.

2.4 No Third-Party Assignment; Estoppels. Mortgagor shall not assign, or otherwise encumber future rental payments under the Leases and Occupancy Agreements to third parties. From time to time (by not more than one time per year), following Mortgagee's written request therefor, Mortgagor will furnish Mortgagee with executed copies of each of the Leases and Occupancy Agreements and estoppel certificates executed by the Tenants, certifying such matters relating to the Leases and Occupancy Agreements as Mortgagee may request.

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2.5 Approval of Leases and Occupancy Agreements. A standard lease form acceptable in form and substance to Mortgagee, shall be in effect for the Property at all times. Any amendments to such form or any material changes to the form with respect to any Lease or Occupancy Agreement shall be subject to the prior written approval of Mortgagee.

Article 3 EVENTS OF DEFAULT

3.1 Default. Mortgagor and Mortgagee agree that the occurrence of any of the "Events of Default" set forth in Article 10 of the Loan Agreement shall be deemed to be Events of Default hereunder.

Mortgagor acknowledges and agrees that all material non-monetary Events of Default are conclusively deemed to be and are defaults which impair the security of the Loan Documents, and that Mortgagee shall be entitled to exercise any appropriate remedy, including, without limitation, charging interest at the Default Interest Rate and/or foreclosure of the Loan Documents upon the occurrence of any such material non-monetary Event of Default after the expiration of any cure period, if applicable.

Article 4 REMEDIES

4.1 Remedies Available. If there shall occur an Event of Default under this Mortgage, Mortgagee may, at its option:

(a) Accelerate the maturity date of the Note and declare any or all of the indebtedness secured hereby to be immediately due and payable without any presentment, demand, protest or notice of any kind;

(b) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Property, or any part thereof, and do any and all acts which may be desirable in Mortgagee's judgment to complete any unfinished construction on the Real Estate, to preserve the value, marketability or rentability of the Property, to increase the income therefrom, to manage and operate the Property or to protect the security hereof and, with or without taking possession of the Property, sue for or otherwise collect the Rents and Profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorney's fees, against the indebtedness secured hereby in such order as Mortgagee may determine, without in any way curing or waiving any default. In connection with any action taken by Mortgagee pursuant to this subsection Mortgagee shall not be liable to Mortgagor for any loss sustained by Mortgagor resulting from any failure to let the Improvements, or any part thereof; nor shall Mortgagee be obligated to perform or discharge any obligation, duty or liability under any Leases or Occupancy Agreements,

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or contract for sale covering the Real Estate or the Improvements, or any part thereof, or under or by reason of this instrument or the exercise of rights or remedies hereunder. Mortgagor shall, and does hereby, agree to indemnify Mortgagee for, and to hold Mortgagee harmless from, any and all liabilities, loss or damage which may or might be incurred by Mortgagee under any Leases or Occupancy Agreements or contract for sale or under this Mortgage or the exercise of rights or remedies hereunder and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any such Leases or Occupancy Agreements. Should Mortgagee incur any such liability, the amount thereof, including costs, expenses and reasonable attorney's fees, shall be secured hereby and shall be a demand obligation hereunder. Any sums expended by Mortgagee under this subsection, including, without limitation, sums expended with respect to completion of any construction on the Real Estate shall be a demand obligation hereunder owing by Mortgagor and if not paid on demand, shall be added to the principal balance of the Note and shall bear interest thereafter at the Default Interest Rate;

(c) Commence an action to foreclose this Mortgage or to specifically enforce its provisions or any of the obligations secured by this Mortgage. It is the intention of Mortgagor and Mortgagee that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Illinois Mortgage Foreclosure Law (the "Act"), 735 ILCS 15-1101 et seq., and with respect to such Act Mortgagor agrees and covenants that:

(a) Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Mortgagee 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;

(b) Wherever provision is made in this Mortgage or the Loan Agreement for insurance policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Mortgagee shall continue in the Mortgagee as judgement creditor or mortgagee until confirmation of sale;

(c) All advances, disbursements and expenditures made or incurred by Mortgagee before and during a foreclosure, and before and after judgement of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by the Mortgage, or the Loan Agreement 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:

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(1) all advances by Mortgagee in accordance with the terms of the Mortgage or the Loan Agreement to: (1) preserve, maintain, repair, restore or rebuild the improvements upon the Property; (ii) preserve the lien of the Mortgage or the priority thereof; or (iii) enforce the Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the Act;

(2) payments by Mortgagee of (i) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (ii) 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 Property or any part thereof; (iii) other obligations authorized by the Mortgage; or (iv) 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 15-1505 of the Act;

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

(4) attorneys' fees and other costs incurred: (i) in connection with the foreclosure of the Mortgage as referred to in Section 1504(d)(2) and 15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against the Mortgagee for the enforcement of the Mortgage or arising from the interest of the Mortgagee hereunder; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to the Mortgage or the Property;

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

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

(7) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably 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 mortgagee takes possession of the Property imposed by Section 15-1704(c)(1) of the Act; (ii) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (iii) payments deemed by Mortgagee to be required for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (iv) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property; (v) if the loan secured hereby is a construction loan, costs incurred by Mortgagee for demolition, preparation for and

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completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (vi) payments required to be paid by Mortgagor or Mortgagee pursuant to any lease or other agreement for occupancy of the Mortgaged Property.

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

This Mortgage shall be a lien for all Protective Advances as to the subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b)(5) of Section 15-1502 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) any determination of the amount of indebtedness secured by this Mortgage at any time;

(ii) the indebtedness found due and owing to the Mortgagee 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 is being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(iii) if right of redemption has not been waived by this Mortgage, computation of amounts required to redeem, pursuant to Sections 15-1503(d)(2) and 1603(e) of the Act;

(iv) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act;

(v) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act;

(v) application of income in the hands of any receiver or mortgagee in possession; and

(vi) computation of any deficiency judgment pursuant to Sections 15-1508(b)(2), 15-1508(e) and 15-1511 of the act;

(d) In addition to any provision of this Mortgage authorizing the Mortgagee to take or be placed in possession of the Property, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Act, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or

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Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, power, immunities, and duties as provided for in Sections 15-1701 and 15-1703 of the Act; and

(e) Mortgagor acknowledges that the Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act. Pursuant to Section 15-1601(b) of the Act, Mortgagor hereby waives any and all right of redemption.

(f) Exercise any other right or remedy available hereunder, under any of the other Loan Documents or at law or in equity.

4.2 Application of Sale Proceeds. The proceeds of any sale under this Mortgage shall be applied in the following manner:

FIRST: Payment of the costs, expenses and fees of taking possession of the Property and of holding, operating, maintaining, using, leasing, repairing, improving, marketing and selling same incurred by Mortgagee from and after the date of the Event of Default hereunder and of otherwise enforcing Mortgagee's rights and remedies hereunder and under the other Loan Documents, including, but not limited to, legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Mortgagee.

SECOND: Payment of all sums expended by Mortgagee under the terms of any of the Loan Documents and not yet repaid, together with interest on such sums at the Default Interest Rate.

THIRD: Payment of the secured indebtedness and all other obligations secured by this Mortgage, including, without limitation, interest at the Default Interest Rate from the date of Event of Default, in any order that Mortgagee chooses. The secured indebtedness and all other obligations secured by this Mortgage may be bid by Mortgagee in the event of a foreclosure sale hereunder, including, without limitation, interest at the Default Interest Rate, and reasonable attorneys' fees and any other amounts due and unpaid to Mortgagee under the Loan Documents.

FOURTH: The remainder, if any, to the Mortgagor, or other person or persons legally entitled thereto.

4.3 Receiver. In addition to all other remedies herein provided for, Mortgagor agrees that upon the occurrence of an Event of Default hereunder or under the Note or under any of the other Loan Documents, Mortgagee shall, as a matter of right, upon ex parte application, be entitled to the appointment of a receiver or receivers for all or any part of the Property, whether such receivership be incident to a proposed sale of the Property or otherwise, and without regard to the value of the Property or the solvency of Mortgagor, or any person or persons liable for the payment of the indebtedness secured hereby. Mortgagor does hereby consent to the appointment

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of such receiver or receivers, but nothing herein is to be construed to deprive Mortgagee of any other right, remedy or privilege it may now have under the law to have a receiver appointed, provided, however, that the appointment of such receiver or other appointee by virtue of any court order, statute or regulation shall not impair or in any manner prejudice the rights of Mortgagee to receive payment of the Rents and Profits pursuant to other terms and provisions hereof. In connection with any action brought by Mortgagee for appointment of a receiver as allowed herein, Mortgagor hereby consents to and confesses to the jurisdiction and venue of the District Court in the County of Cook or the City and County of Denver, State of Illinois. Any money advanced by Mortgagee in connection with any such receivership shall be a demand obligation owing by Mortgagor to Mortgagee, shall bear interest from the date of making such advancement by Mortgagee until paid at the Default Interest Rate, shall be added to the principal balance of the Note and shall be a part of the secured indebtedness. The receiver or his agents shall be entitled to enter upon and take possession of any and all of the Property to the same extent and in the same manner as Mortgagor might lawfully do. The receiver, personally or through its agents or attorneys, may exclude Mortgagor and its agents, servants and employees wholly from the Property and may have, hold, use, operate, manage and control the same and each and every part thereof, and in the name of Mortgagor or Mortgagor's agents, may exercise all of their rights and powers and use all of the then existing materials, current supplies, stores and assets and, at the expense of Mortgagor, maintain, restore, insure and keep insured the properties, equipment, and apparatus provided or required for use in connection with the business or businesses operated on the Real Estate and may make all such necessary and proper repairs, renewals and replacements and all such useful alterations, additions, betterment and improvements as the receiver may deem judicious. Such receivership shall, at the option of Mortgagee, continue until full payment of all of the indebtedness secured hereby or until title to the Property shall have passed by foreclosure sale under this Mortgage or deed in lieu of foreclosure.

4.4 Partial Foreclosure. If default (subject to any applicable grace period) be made in the payment of any part of the secured indebtedness, Mortgagee shall have the option to proceed with foreclosure of the liens and security interests evidenced hereby in satisfaction of such item either through the courts or by proceeding as if under a full foreclosure, conducting the sale as herein provided, all without declaring the entire secured indebtedness due, and provided, however, that if sale of the Property is made because of such default in the payment of a part of the secured indebtedness, such sale may be made subject to the unmatured part of the secured indebtedness; and such sale, if so made, shall not in any manner affect the unmatured part of the secured indebtedness, but as to such unmatured part this Mortgage shall remain in full force and effect just as though no sale had been made. The proceeds of any sale shall be applied as provided in Section 4.2 hereof except that the amount paid under subsection THIRD thereof shall be only the matured portion of the secured indebtedness and any proceeds of such sale in excess of those provided for in subsections FIRST through THIRD (modified as provided above) shall be applied to installments of principal on the Note in the inverse order of maturity, or, if no installments of principal are payable under the Note to prepay the principal balance of the Note in whatever order Mortgagee shall subjectively determine. Several sales may be made hereunder without exhausting the right of sale for any unmatured part of the secured indebtedness. It is the purpose hereof to

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provide for a foreclosure and sale of the Property for any matured portion of the secured indebtedness without exhausting the power to foreclose and to sell the Property for any other part of the secured indebtedness whether matured at the time or subsequently maturing.

4.5 Occupancy After Foreclosure. In the event there is a foreclosure sale hereunder and upon expiration of the redemption period, Mortgagor or Mortgagor's representatives, successors or assigns, or any other persons claiming any interest in the Property by, through or under Mortgagor (except tenants of space in the Improvements subject to leases entered into prior to the date hereof) are occupying or using the Property, or any part thereof, each and all shall, at the option of Mortgagee or the purchaser at such sale, as the case may be, immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy at sufferance, at a reasonable rental per day based upon the value of the Property occupied or used, such rental to be due daily to purchaser.

4.6 Notice to Account Debtors. Mortgagee may, at any time after an Event of Default hereunder, notify the account debtors and obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness to Mortgagor included in the Property to pay Mortgagee directly.

4.7 Cumulative Remedies. All remedies contained in this Mortgage are cumulative and Mortgagee shall also have all other remedies provided at law and in equity or in any other Loan Documents. Such remedies may be pursued separately, successively or concurrently at the sole subjective discretion of Mortgagee and may be exercised as often as occasion therefor shall arise. No act of Mortgagee shall be construed as an election to proceed under any particular provision of this Mortgage to the exclusion of any other provision of this Mortgage or as an election of remedies to the exclusion of any other remedy which may then or thereafter be available to Mortgagee. No delay or failure by Mortgagee to exercise any right or remedy under this Mortgage shall be construed to be a waiver of that right or remedy or of any default hereunder. Mortgagee may exercise any one or more of its rights and remedies at its option without regard to the adequacy of its security.

4.8 Payment of Expenses. Mortgagor shall pay, immediately upon demand therefor, all of Mortgagee's expenses incurred in any efforts to enforce any terms of this Mortgage, whether or not any lawsuit is filed, including, but not limited to, reasonable legal fees, all disbursements, foreclosure costs and title charges and, such expenses not so paid by Mortgagor shall be added to the principal balance of the Note, shall bear interest thereafter at the Default Interest Rate and shall be a part of the secured indebtedness.

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Article 5

MISCELLANEOUS TERMS AND CONDITIONS

5.1 Time of Essence. Time is of the essence with respect to all provisions of this Mortgage.

5.2 Certain Rights of Mortgagee. Without affecting Mortgagor's liability for the payment of any of the obligations secured by this Mortgage, Mortgagee may from time to time: (a) release any person liable for the payment of the indebtedness secured hereby; (b) extend, amend or modify the terms of payment of said indebtedness or any of the other terms or provisions of any of the Loan Documents; or (c) accept additional real or personal property of any kind as security or alter, substitute or release any property securing the indebtedness secured hereby.

5.3 Late Charge. There shall be due to Mortgagee a late charge of five percent (5%) of the amount of any payment not received by Mortgagee when due hereunder (and after the expiration of any applicable cure period), except payment in full of the indebtedness secured hereby on the Maturity Date, as defined in the Note, and all such late charges may be added to the principal balance of the Note and shall be part of the secured indebtedness. Mortgagor acknowledges that it would be extremely difficult or impracticable to determine Mortgagee's actual damages resulting from any late payment and this late charge is a reasonable estimate of those damages.

5.4 Notice. All notices or demands under this Mortgage shall be in writing and shall be deemed given and received according to the following criteria:

(a) In the case of personal delivery, notice shall be deemed to have been given and received on the day of the actual receipt or refusal of receipt by the intended Notice Party.

(b) In the case of nationally recognized overnight courier service, notice shall be deemed to have been given and received on the day of the actual receipt or refusal of receipt by the intended Notice Party. No signature affirming receipt by the receiving party is required, the internal records of the courier service are to be accepted as sufficient evidence of receipt.

(c) In the case of the U.S. Postal Service, notice shall be deemed to have been given and received on the day of actual receipt or refusal of receipt by the intended Notice Party.

All notices shall be given to the respective parties (herein the "Notice Parties") at the following addresses until further written notice. Notice must be given to the following to be effective.

If to Mortgagee:

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The Travelers Insurance Company
388 Greenwich Street
36th Floor
New York, New York 10013
Attn: Michael D. Watson, Loan No. 206768-0
Telephone: (212) 816-7733

The Travelers Insurance Company
205 Columbus Boulevard
One Tower Square - 9 PB
Hartford, CT 06183-2030
Attn: Counsel, Loan No. 206768-0
Telephone: (860)954-2391

The Travelers Insurance Company
190 South LaSalle Street
Suite 2740
Chicago, IL 60603-3410
Attn: Thomas B. Iarowski, Loan No. 206768-0
Telephone: (312)917-3604

Katten Muchin & Zavis
525 West Monroe Street
Suite 1600
Chicago, Illinois 60661-3693
Attn: Keith D. Pascus, Esq.
Telephone: (312) 902-5538

If To Mortgagor:

Windy Point of Schaumburg LLC
c/o Fifield Realty Corp.
20 North Wacker Drive
Suite 3200
Chicago, Illinois 60606
Attn: Steven D. Fifield
Telephone: (312) 855-1600

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Katz Randall & Weinberg
333 West Wacker Drive
Suite 1800
Chicago, Illinois 60606
Attn: Benjamin J. Randall
Telephone: (312) 845-2510

5.5 Successors and Assigns; Amendment. The terms, provisions, covenants and conditions hereof shall be binding upon Mortgagor and the representatives, successors and assigns of Mortgagor, including all successors in interest of Mortgagor in and to all or any part of the Property, and shall inure to the benefit of Mortgagee and their respective successors, substitutes and assigns and shall constitute covenants running with the land. All references in this Mortgage to Mortgagor, or Mortgagee shall be deemed to include all such parties' representatives, successors and assigns, and the term "**Mortgagee**" as used herein shall also mean and refer to any lawful holder or owner, including pledgees and participants, of any of the indebtedness secured hereby. If Mortgagor consists of more than one person or entity, each will be jointly and severally liable to perform the obligations of Mortgagor. This Mortgage may not be terminated or amended orally, but only by a termination in writing executed by Mortgagee or an amendment in writing executed by Mortgagee and Mortgagor.

5.6 Severability. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

5.7 Gender. Within this Mortgage, words of any gender shall be held and construed to include any other gender, and words in the singular shall be held and construed to include the plural, and vice versa, unless the context otherwise requires.

5.8 Waiver; Discontinuance of Proceedings. Mortgagee may waive any single default without waiving any other prior or subsequent default. Mortgagee may remedy any default without waiving the default remedied. Neither the failure by Mortgagee to exercise, nor the delay by Mortgagee in exercising, any right, power or remedy upon any default shall be construed as a waiver of such default or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise by Mortgagee of any right, power or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No modification or waiver of any provision hereof nor consent to any departure by Mortgagor therefrom shall in any event be effective unless the same shall be in writing and signed by Mortgagee, and then such waiver or consent shall be effective only in the specific instances, for the purpose for which given and to the extent therein specified. No notice to nor demand on Mortgagor in any case shall of itself entitle Mortgagor to any other or further notice or demand

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in similar or other circumstances. Acceptance by Mortgagee of any payment in an amount less than the amount then due on any of the secured indebtedness shall be deemed an acceptance on account only and shall not in any way affect the existence of a default hereunder. In case Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted hereunder or under the other Loan Documents and shall thereafter elect in writing to discontinue or abandon same for any reason, Mortgagee shall have the unqualified right so to do and, in such an event, Mortgagor and Mortgagee shall be restored to their former positions with respect to the indebtedness secured hereby, the Loan Documents, the Property and otherwise, and the rights, remedies, recourses and powers of Mortgagee shall continue as if same had never been invoked.

5.9 Section Headings. The headings of the sections and paragraphs of this Mortgage are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.

5.10 Governing Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois, except to the extent that any of such laws may now or hereafter be preempted by federal law, in which case, such federal law shall so govern and be controlling. In any action brought under or arising out of this Mortgage or the other Loan Documents, Mortgagor hereby consents to the jurisdiction of any competent court within the State of Illinois and consents to service of process by any means authorized by the law of the State of Illinois.

5.11 Counting of Days. The term "Days" when used herein shall mean calendar days. If any time period ends on a Saturday, Sunday or holiday officially recognized by the state within which the Property is located, the period shall be deemed to end on the next succeeding business day that Mortgagee's Real Estate Investment office in Hartford, Connecticut is open for business.

5.12 Relationship of the Parties. The relationship between Mortgagor and Mortgagee is that of a borrower and a lender only and neither of those parties is, nor shall it hold itself out to be, the agent, employee, joint venturer or partner of the other party even though an affiliate of Mortgagee is a member of Mortgagor.

5.13 Application of the Proceeds of the Note. To the extent that proceeds of the Note are used to pay indebtedness secured by any outstanding lien, security interest, charge or prior encumbrance against the Property, such proceeds have been advanced by Mortgagee at Mortgagor's request and Mortgagee shall be subrogated to any and all rights, security interests and liens owned by any owner or holder of such outstanding liens, security interests, charges or encumbrances, irrespective of whether said liens, security interests, charges or encumbrances are released.

5.14 Waiver of Jury Trial, Jurisdiction

(a) MORTGAGOR HEREBY EXPRESSLY WAIVES ANY RIGHT TO A

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TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS MORTGAGE OR THE LOAN DOCUMENTS OR UNDER ANY AMENDMENT, INSTRUMENT OR DOCUMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH OR ARISING FROM ANY CREDIT RELATIONSHIP EXISTING IN CONNECTION WITH THIS MORTGAGE OR THE LOAN DOCUMENTS, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

(B) MORTGAGOR IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY ILLINOIS STATE DISTRICT COURT SITTING IN THE COUNTY OF COOK, ILLINOIS OR ANY FEDERAL COURT SITTING IN THE STATE OF ILLINOIS OVER ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS MORTGAGE OR THE LOAN DOCUMENTS. MORTGAGOR IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF THE MORTGAGEE TO BRING ANY ACTION OR PROCEEDING AGAINST THE MORTGAGOR IN THE COURTS OF ANY OTHER JURISDICTION.

5.15 Unsecured Portion of Indebtedness. If any part of the secured indebtedness cannot be lawfully secured by this Mortgage or if any part of the Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is unsecured by this Mortgage.

5.16 Omitted.

5.17 Cross Default. An Event of Default hereunder shall be an Event of Default under each of the other Loan Documents.

5.18 Principal Balance of the Note. Notwithstanding the amount set forth on the face of the Note as the stated principal amount of the Note, it is the intention of Mortgagee and Mortgagor that the principal balance of the Note be increased by amounts, if any, which are added thereto pursuant to the terms hereof and/or the terms of the other Loan Documents and, even though such additions may increase the principal balance of the Note to an amount greater than said face amount, the entire amount of the principal balance, including such additions, is intended to be evidenced by the Note and to be a part of the secured indebtedness.

5.19 Inconsistency with Other Loan Documents. In the event of any inconsistency between the provisions hereof and the provisions in any of the other Loan Documents, it is intended that the provisions of the Loan Agreement shall be controlling.

5.20 Construction of this Document. This document may be construed as a mortgage,

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deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of the foregoing, in order to fully effectuate the liens and security interests created hereby and the purposes and agreements herein set forth.

5.21 No Merger. It is the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Property. It is hereby understood and agreed that should Mortgagee acquire any additional or other interests in or to the Property or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in such other or additional interests in or to the Property, toward the end that this Mortgage may be foreclosed as if owned by a stranger to said other or additional interests.

5.22 Rights With Respect to Junior Encumbrances. Any person or entity purporting to have or to take a junior mortgage or other lien upon the Property or any interest therein shall be subject to the rights of Mortgagee to amend, modify, increase, vary, alter or supplement this Mortgage, the Note or any of the other Loan Documents and/or to extend the maturity date of the indebtedness secured hereby and/or to increase the amount of the indebtedness secured hereby and/or to waive or forebear the exercise of any of its rights and remedies hereunder or under any of the other Loan Documents and/or to release any collateral or security for the indebtedness secured hereby, in each and every case without obtaining the consent of the holder of such junior lien and without the lien or security interest of this Mortgage losing its priority over the rights of any such junior lien.

5.23 Mortgagee May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor, Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Mortgagee allowed in such proceedings for the entire secured indebtedness at the date of the institution of such proceedings and for any additional amount which may become due and payable by Mortgagor hereunder after such date.

5.24 Fixture Filing. This Mortgage shall be effective from the date of its recording as a financing statement filed as a fixture filing with respect to all goods constituting part of the Property which are or are to become fixtures.

5.25 After-Acquired Property. All right, title, and interest of Mortgagor in and to all extensions, improvements, alterations, betterment, renewals, substitutes and replacements of, and all additions and appurtenances to the Property, hereafter acquired by, or released to, Mortgagor or constructed, assembled or placed by Mortgagor on the Real Estate, and all conversions of the security constituted thereby, or proceeds thereof, immediately upon such acquisition, release, construction, assembling, placement, or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment, or other act by Mortgagor, shall become

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subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described in the granting clause hereof, but at any and all times Mortgagor will execute and deliver to Mortgagee any and all such further assurances, mortgages, conveyances, or assignments thereof as Mortgagee may require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage.

5.26 No Representation. By accepting delivery of any item required to be observed, performed or fulfilled or to be given to Mortgagee pursuant to the Loan Documents, including, but not limited to, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal or insurance policy, Mortgagee shall not be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance of delivery thereof shall not be or constitute any warranty, consent or affirmation with respect thereto by Mortgagee.

5.27 Damage Lawsuit; Consent to Jurisdiction. The sole and exclusive remedy of Mortgagor for any and all adverse claims against Mortgagee is a Damage Lawsuit. Mortgagor hereby represents and warrants to Mortgagee that no such adverse claims exist against Mortgagee. Any such Damage Lawsuit, regardless of the procedural form in which it is alleged, will be severed from any enforcement by Mortgagee of its legal, equitable and contractual rights, and the Damage Lawsuit cannot be asserted by Mortgagor as a defense, set-off, recoupment, or grounds for delay, stay, subordination or injunction against any enforcement by Mortgagee of its legal, equitable and contractual rights under the Loan, the Loan Documents or otherwise.

5.28 Liability of Mortgagor. Without in any manner releasing, impairing or otherwise affecting the Note, this Mortgage or any other of the Loan Documents or the validity thereof or hereof or the liens thereof, notwithstanding anything contained herein or in the other Loan Documents, there shall be no personal liability of Mortgagor or any Affiliated Parties under the Note or under any of the other Loan Documents except as set forth in the Guaranty and the Indemnity Agreement; provided, however, that a judgment may be sought against the Mortgagor to the extent necessary to enforce the rights of Mortgagee in, to or against the Property, the Rents and Profits therefrom, and all collateral securing the indebtedness secured hereby or any of the other Loan Documents.

The foregoing limitation of liability shall not be deemed to impair or limit in any respect the personal liability of the Affiliated Parties or any other person or entity in respect of any guaranty or indemnity, now or hereafter executed in connection with the Loan, including the Guaranty and the Indemnity Agreement, nor shall it impair or limit in any respect Mortgagee's rights to recover from the Affiliated Parties or any other person or entity under the Guaranty or the Indemnity Agreement, any and all amounts due thereunder, and all damages (including special and consequential), losses, liabilities, costs and expenses arising out of a breach of any of the representations, warranties, covenants or obligations of Affiliated Parties or such other person or entity contained in the Indemnity Agreement, the Guaranty, or otherwise afforded by law or in equity on account thereof with respect to the other Affiliated Parties and other persons and

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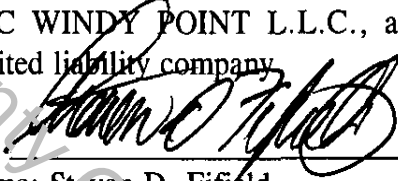
entities. Furthermore, nothing contained in this Section shall be deemed to release, affect, limit or impair the indebtedness evidenced by the Note or the security therefor. Mortgagee shall be entitled to enforce its full rights and remedies under any and all of the Loan Documents, the Guaranty, the Indemnity Agreement or otherwise afforded by law or in equity, including any remedy for specific performance, injunctive or other equitable relief, and all such rights and remedies are cumulative and may be exercised successively, independently or concurrently at any time. Furthermore, nothing herein shall be deemed to be a waiver of any right or remedy which Mortgagee may have under the United States Bankruptcy Code, as amended from time to time, to file a claim for the full amount owing to Mortgagee by the Affiliated Parties or to require that all collateral shall continue to secure all of the Loan in accordance with the Loan Documents.

5.29 Maximum Indebtedness. Notwithstanding anything herein to the contrary, in no event shall the principle amount of the Indebtedness, not including sums advanced in accordance herewith to protect the security of this Mortgage, exceed \$36,800,000.00.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first above written.

WINDY POINT OF SCHAUMBURG, LLC, a
Delaware limited liability company

By: FRC WINDY POINT L.L.C., an Illinois
limited liability company

By: 
Name: Steven D. Fifield
Title: Manager

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EXHIBIT A

Legal Description

That part of Section 12, Township 41 North, Range 10 East of the Third Principal Meridian, bounded and described as follows:

Commencing at the center of said Section 12; thence North 89 degrees 57 minutes 41 seconds East along the East-West centerline of said Section 12 a distance of 819.02 feet to the point of beginning; thence South 12 degrees 46 minutes 51 seconds West 571.11 feet to the Northerly line of McConnor Parkway, dedicated for public street per document 87579086; thence Westerly along said Northerly line of McConnor Parkway, said line being a curve, concave to the South, having a radius of 1100.00 feet, an arc distance of 727.83 feet to a point of tangency, the chord of said arc having a length of 714.63 feet and a bearing of North 88 degrees 33 minutes 58 seconds West; thence South 72 degrees 28 minutes 43 seconds West along said Northerly line 200.00 feet to a point of curvature; thence continuing Westerly along said Northerly line, said line being a curve, concave to the North, having a radius of 550.00 feet, an arc distance of 363.39 feet to a point of tangency, the chord of said arc having a length of 356.82 feet, and a bearing of North 88 degrees 35 minutes 36 seconds West; thence North 69 degrees 40 minutes 02 seconds West along said Northerly line 96.48 feet; thence North 58 degrees 21 minutes, 25 seconds West along said Northerly line 112.18 feet; thence Westerly along said Northerly line, said line being a curve, concave to the South, having a radius of 1981.86 feet, an arc distance of 443.49 feet, the chord of said arc having a length of 442.57 feet and a bearing of North 76 degrees 04 minutes 32 seconds West; thence North 52 degrees 54 minutes 12 seconds West along said Northerly line 30.00 feet to the East line of Meacham Road; thence Northerly along said East line of Meacham Road, per document 88501280, the following five courses: North 03 degrees 21 minutes 48 seconds East 241.23 feet; South 87 degrees 12 minutes 56 seconds East 15.00 feet; North 05 degrees 09 minutes 05 seconds East 367.47 feet; North 86 degrees 01 minutes 43 seconds West 25.00 feet; North 03 degrees 58 minutes 17 seconds East 185.89 feet to the Southerly line of the Northern Illinois Gas Company right of way aforesaid; thence South 80 degrees 50 minutes 18 seconds East along said Southerly line 1596.75 feet; thence South 09 degrees 09 minutes 42 seconds West along said Southerly line 25.00 feet; thence South 80 degrees 50 minutes 18 seconds East along said Southerly line 427.13 feet; thence South 12 degrees 46 minutes 51 seconds West 74.61 feet to the place of beginning in Cook County, Illinois.

Property Address: 34.99413 acres of vacant land located on the Northeast corner of Meacham Road and McConnor Parkway, Schaumburg, Illinois

Permanent Index Numbers: 07-12-400-036
07-12-400-037

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EXHIBIT B

PERMITTED EXCEPTIONS

Please see the attached Schedule B for the list of Permitted Exceptions.

Property of Cook County Clerk's Office

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NEAR NORTH NATIONAL TITLE CORPORATION ISSUING AGENT

LENDER'S FORM

SCHEDULE B

Number: N9801424P

This policy does not insure against loss or damage by reason of the following:

1. (A) GENERAL REAL ESTATE TAXES FOR THE YEAR 1998. TAX NUMBER 07-12-400-036 AND 07-12-400-037, VOLUME 187.

NOTE: THE 1993 TAXES ARE NOT YET DUE AND PAYABLE.

2. (E) ~~COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THE DOCUMENT RECORDED AS NUMBER 17262518 RELATING TO THE USE OF THE PROPERTY.~~
3. (F) COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THE DECLARATION RECORDED MAY 10, 1993 AS NUMBER 93350375 RELATING TO CONSTRUCTION UPON AND USE OF THE PROPERTY.
4. (G) EASEMENT AT NORTHWEST CORNER IN FAVOR OF NORTHERN ILLINOIS GAS COMPANY FOR THE INSTALLATION, RELOCATION, RENEWAL AND REMOVAL OF GAS MAINS AND APPURTENANCES, AS CREATED BY GRANT RECORDED ON MAY 7, 1974 AS DOCUMENT 22709206.
5. (H) GRANT OF EASEMENT IN FAVOR OF NORTHWEST SUBURBAN MUNICIPAL JOINT ACTION WATER AGENCY OVER, UNDER, UPON, ACROSS AND ALONG THE NORTHWEST CORNER FOR THE INSTALLATION, MAINTENANCE, OPERATION, REPAIR AND REMOVAL OF AN UNDERGROUND WATER MAIN RECORDED ON JUNE 14, 1982 AS DOCUMENT NUMBER 26258380.
6. (I) GRANT OF EASEMENT IN FAVOR OF VILLAGE OF SCHAUMBURG OVER, UNDER, UPON, ACROSS AND ALONG THE WEST LINE OF THE PROPERTY FOR THE INSTALLATION, MAINTENANCE, OPERATION, REPAIR AND REMOVAL OF WATER MAIN RECORDED ON JUNE 25, 1982 AS DOCUMENT NUMBERS 26272215 AND 26272216.
7. (K) THE FOLLOWING, AS FOUND ON THE SURVEY OF HAEGER AND ASSOCIATES, INC., DATED MARCH 23, 1995 AND REVISED OCTOBER 7, 1997 AND DECEMBER 16, 1997:

A. A POND USED FOR STORM SEWER PURPOSES LOCATED AT THE SOUTHEAST CORNER OF THE PROPERTY;

B. STORM SEWER EASEMENT ALONG THE SOUTHERLY LINE OF SUBJECT PROPERTY GRANTED BY DOCUMENT NUMBER 87579086. SAID STORM SEWERS SHOW IN THREE PLACES. ONE RUNS FROM THE MOST SOUTHWESTERLY END OF THE AFORESAID POND TO THE SOUTHERLY LINE OF SUBJECT PROPERTY. THE OTHER TWO RUN FROM THE SOUTHERLY LINE OF THE POND TO THE SOUTHERLY LINE OF THE SUBJECT PROPERTY;

C. PUBLIC UTILITY EASEMENT ALONG THE SOUTHERLY LINE OF THE SUBJECT PROPERTY AS GRANTED BY DOCUMENT NUMBER 87579086, SAID EASEMENT APPEARS TO BE 20 FEET IN WIDTH;

E. TWENTY (20) FEET WIDE WATER MAIN EASEMENT GRANTED BY DOCUMENT NUMBER

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Lender's Form - Schedule B - Continued

26992573 AND LOCATED AT THE NORTHEAST CORNER OF SUBJECT PROPERTY;

G. WATER MAIN LOCATED ON THE SOUTHERLY LINE OF THE PROPERTY.

~~H. ENCROACHMENT OF 6 FOOT CHAIN LINK FENCE WHICH SURROUNDS THE POND MENTIONED IN A ABOVE;~~

~~I. ENCROACHMENT OF 4 FOOT CHAIN LINK FENCE AS IT PROTRUDES FROM THE WEST SIDE OF THE 6 FOOT CHAIN LINK FENCE MENTIONED AT H ABOVE;~~

~~J. POWER LINE BURIED UNDERGROUND THAT RUNS ALONG THE NORTHERLY PORTION OF THE LAND FROM THE NORTHWEST CORNER AND THEN RUNS SOUTH TO MCCONNOR PARKWAY ALONG THE WEST SIDE OF THE FENCES MENTIONED AT H AND I ABOVE;~~

8. (L) ASSIGNMENT OF INTEREST OF DECLARANT DATED DECEMBER 17, 1997 AND RECORDED DECEMBER 26, 1997 AS DOCUMENT NUMBER 97970297.

9. (W) NOTE: WE HAVE LEARNED THAT THE UNITED STATES DEPARTMENT HAS INTERPRETED THE STATUTE 42 USC 3604 TO MEAN TITLE COMPANIES ARE PROHIBITED FROM EITHER PROVIDING COPIES OF, OR REFLECTING AS EXCEPTIONS IN TITLE COMMITMENTS, PRELIMINARY REPORTS OR POLICIES, RESTRICTIVE COVENANTS WHICH ARE IN VIOLATION OF THE STATUTE. IN LIGHT OF THIS INTERPRETATION, WE BELIEVE IT NECESSARY TO INCLUDE THE FOLLOWING "CARVE OUT" AS PART OF THE LANGUAGE OF ANY EXCEPTION FOR RESTRICTIVE COVENANTS INCLUDED IN ALL TITLE EVIDENCE:

IF ANY DOCUMENT REFERENCED HEREIN CONTAINS A COVENANT, CONDITION OR RESTRICTION VIOLATIVE OF 42 USC 3604(C), SUCH COVENANT, CONDITION OR RESTRICTION TO THE EXTENT OF SUCH VIOLATION IS HEREBY DELETED.

10. (Z) AMENDMENT TO ANNEXATION AGREEMENT BETWEEN WINDY POINT OF SCHAUMBURG, LLC AND THE VILLAGE OF SCHAUMBURG DATED JULY 14, 1998 AND RECORDED JULY 23, 1998 AS DOCUMENT NUMBER 98639896 PROVIDES AMONG OTHER THINGS THAT CERTAIN EASEMENTS WILL BE GRANTED.

11. (AA) GRANT OF EASEMENT FOR WATERMAIN BY UNOCAL LAND DEVELOPMENT TO THE VILLAGE OF SCHAUMBURG RECORDED JULY 9, 1998 AS DOCUMENT NUMBER 98591530.

NOTE: AFFECTS THE EAST 35 FEET AND THE NORTH 35 FEET OF THE LAND.

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