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Document prepared by and after  
recording to be returned to:

Daniel Kohn, Esq.  
Duane Morris LLP  
190 South LaSalle Street  
Suite 3700  
Chicago, IL 60603

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## MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT (this "Mortgage") is made as of May 23<sup>rd</sup>, 2008, by WINIFRED BROWN McKINNEY (a/k/a Winifred Brown), a divorced woman not since remarried ("Mortgagor"), with a mailing address of 1426 Hinman Avenue, Evanston, Illinois 60201, promises to pay to the order of MORTGAGE LENDING SERVICES, LLC, an Illinois limited liability company ("Lender"), its successors and its assigns, at its office at 2614 Patriot Boulevard, Suite A, Glenview, Illinois 60026, and pertains to the real estate described in Exhibit A attached hereto and made a part hereof (the "Premises").

### I RECITALS

A. Mortgagor has executed and delivered to Lender a Mortgage Note dated of even date herewith (together with all renewals, amendments, supplements, restatements, extensions, and modifications thereof and thereto, the "Note"), wherein Mortgagor promises to pay to the order of Lender the principal amount of Two Million Eight Hundred Thirty Eight Thousand and No/100 Dollars (\$2,838,000.00), in repayment of a mortgage loan from Lender to Mortgagor (the "Loan") together with interest thereon at variable rates of interest and otherwise as set forth in the Note, which payments are due and payable in accord with the terms of the Note with a final payment of all amounts due on or before November 22<sup>nd</sup>, 2008 or such date as may be accelerated in accordance with the terms of the Note (the "Maturity Date").

B. As security for the repayment of the Loan, in addition to this Mortgage, certain other loan documents have been executed and delivered to Lender by Mortgagor (the Note, this Mortgage, that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Financing Statement of even date herewith from Mortgagor in favor of Lender, encumbering certain property located in Highland Park, Illinois, and all other documents or instruments executed and/or delivered as additional evidence of, or security for repayment of, the Loan by Mortgagor, whether now or hereafter existing, and all renewals, amendments, supplements, restatements, extensions, and modifications thereof and thereto, are hereinafter sometimes collectively referred to as the "Loan Documents"). The terms and provisions of the other Loan Documents are hereby incorporated herein by this reference.

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## II THE GRANT

**NOW, THEREFORE**, to secure the payment of the principal amount of the Note and interest thereon (at variable rates and as otherwise provided therein) and all fees and premiums, if any, thereon, and all other sums due thereunder or advanced by Lender in accordance with the Loan Documents and all costs and expenses incurred by Lender in connection with any of the Loan Documents (all such obligations and payments are sometimes referred to herein as the **"indebtedness secured hereby"**) and to secure the observance and performance of the agreements contained herein and in the other Loan Documents, and in all renewals, extensions and modifications of the Note, Mortgagor hereby **GRANTS, BARGAINS, CONVEYS, and MORTGAGES** to Lender, its successors and its assigns, forever all of Mortgagor's estate, right, title and interest, whether now or hereafter acquired, in and to the Premises, together with the following described property, whether now or hereafter acquired (the Premises, together with a security interest in and a lien on the following described property being hereinafter referred to collectively as the **"Mortgaged Property"**), all of which other property is hereby pledged on a parity with the Premises and not secondarily:

(a) All leases now or hereafter on or affecting the Premises, whether written or oral, and all agreements for use of the Premises, together with all rents, issues, deposits, profits and other benefits now or hereafter arising from or in respect of the Premises accruing and to accrue from the Premises and the avails thereof;

(b) All fixtures and personal property now or hereafter owned by Mortgagor and attached to, contained in or used in connection with the Premises or the aforesaid improvements thereon, including, without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, inventory, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring and all renewals or replacements thereof or articles in substitution thereof, whether or not the same be attached to such improvements, it being agreed that all such property owned by Mortgagor and placed on the Premises or used in connection with the operation or maintenance thereof shall, so far as permitted by law, be deemed for the purpose of this Mortgage to be part of the real estate constituting and located on the Premises and covered by this Mortgage;

(c) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Premises and the other Mortgaged Property, or any part thereof, or to any rights appurtenant thereto;

(d) All compensation, awards, damages, claims, rights of actions and proceeds of or on account of (i) any damage or taking, pursuant to the power of eminent domain, of the Premises and the other Mortgaged Property or any part thereof, (ii) damage to all or any portion of the Premises and the other Mortgaged Property by reason of the taking, pursuant to the power

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of eminent domain, of all or any portion of the Premises and the other Mortgaged Property or of other property, or (iii) the alteration of the grade of any street or highway on or about the Premises and the other Mortgaged Property or any part thereof; and Lender is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and to apply the same toward the payment of the indebtedness and other sums secured hereby;

(e) All contract rights, general intangibles, actions and rights in action, including, without limitation, all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Premises or the other Mortgaged Property or any part thereof;

(f) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Premises or the other Mortgaged Property; and

(g) The proceeds from any sale, transfer, pledge or other disposition of any or all of the foregoing described Mortgaged Property;

To have and to hold the same unto Lender and its successors and assigns forever, for the purposes and uses herein set forth subject only to those exceptions to title set forth in Lender's title policy insuring the lien of this Mortgage and such other exceptions to title acceptable to Lender (the "**Permitted Exceptions**"); the Mortgagor hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the state where the Premises are located (the "**State**").

**MORTGAGOR REPRESENTS, WARRANTS AND COVENANTS**, to Lender that Mortgagor is lawfully seized of the Premises, that the same is unencumbered except by the Permitted Exceptions, if any, and that it has good right, full power and lawful authority to convey and mortgage the same, and that Mortgagor will warrant and forever defend said parcels and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever. The covenants and warranties of this paragraph shall survive foreclosure of this Mortgage and shall run with the Premises.

If and when the principal amount of the Note and all interest as provided thereunder has been paid, and Mortgagor has satisfied all obligations thereunder and under the other Loan Documents, then this Mortgage shall be promptly released at the cost of Mortgagor, but otherwise shall remain in full force and effect. Notwithstanding the foregoing Lender acknowledges and agrees that upon payment of all amounts required in Section 3.26 hereof, Lender shall promptly release this Mortgage, at the cost of Mortgagor.

## III GENERAL AGREEMENTS

**3.01 Principal and Interest.** Mortgagor shall pay or cause to be paid promptly when due the principal and interest on the indebtedness evidenced by the Note, and any and all other amounts due under the Note or any of the other Loan Documents, at the times, at the variable

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rates and in the manner provided in the Note, and the other Loan Documents. Any amount not paid shall accrue interest at the Default Interest Rate (as defined in the Note).

**3.02 Property Taxes.** Subject to Section 3.03, Mortgagor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer charges, and any other charges that may be asserted against the Mortgaged Property or any part thereof or interest therein, and furnish to Lender duplicate receipts therefor within thirty (30) days after payment thereof. Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes or assessments, provided that:

(a) such contest shall have the effect of preventing the collection of the tax or assessment so contested and the sale or forfeiture of the Mortgaged Property or any part thereof or interest therein to satisfy the same;

(b) Mortgagor has notified Lender in writing of the intention of Mortgagor to contest the same before any tax or assessment has been increased by any interest, penalties or costs; and

(c) Mortgagor has deposited with Lender, at such place as Lender may from time to time in writing designate, a sum of money or other security reasonably acceptable to Lender that is sufficient, in Lender's sole and absolute judgment, to pay in full such contested tax and assessment and all penalties and interest that might become due thereon, and shall keep on deposit an amount sufficient, in Lender's sole and absolute judgment, to pay in full such contested tax and assessment, increasing such amount to cover additional penalties and interest whenever, in Lender's sole and absolute judgment, such increase is advisable. Upon the consummation of such contest, and provided there is no existing Default hereunder, any excess funds held by Lender shall be returned to Mortgagor.

In the event Mortgagor fails to prosecute such contest in good faith and with reasonable diligence, Lender may, at its option, apply the monies and liquidate any securities deposited with Lender in payment of, or on account of, such taxes and assessments, or any portion thereof then unpaid, including all penalties and interest thereon. If the amount of the money and any such security so deposited is insufficient for the payment in full of such taxes and assessments, together with all penalties and interest thereon, Mortgagor shall forthwith, upon demand, either deposit with Lender a sum that, when added to such funds then on deposit, is sufficient to make such payment in full, or, if Lender has applied funds on deposit on account of such taxes and assessments, restore such deposit to an amount satisfactory to Lender. Provided no Default exists hereunder, Lender shall, if so requested in writing by Mortgagor, after final disposition of such contest and upon Mortgagor's delivery to Lender of an official bill for such taxes, apply the money so deposited in full payment of such taxes and assessments or that part thereof then unpaid, together with all penalties and interest thereon, and any excess security shall be returned to Mortgagor.

**3.03 Tax Escrow.** Following a Default hereunder and Mortgagor's failure to cure within any applicable cure period, upon Lender's written request, Mortgagor, to provide for the payment of real estate taxes and assessments pertaining to the Mortgaged Property, shall after the request of Lender, simultaneously with Mortgagor's monthly payments of interest and principal



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to Lender, deposit monthly with Lender one twelfth (1/12th) of one hundred ten percent (110%) of the annual real estate taxes as reasonably estimated by Lender from time to time in such manner as Lender may prescribe so as to provide for the current year's real estate tax obligation. If the amount estimated to pay said taxes is not sufficient, Mortgagor shall pay the difference within five (5) days following Lender's demand therefor. Should Mortgagor fail to deposit sufficient amounts with Lender to pay such obligations, Lender may, but shall not be obligated to, advance monies necessary to make up any deficiency in order to pay such obligations. Any monies so advanced by Lender shall become so much additional indebtedness secured hereby and shall become immediately due and payable with interest due thereon at the Default Interest Rate. Lender is not obligated to inquire into the validity or accuracy of the real estate tax obligations before making payments of the same and nothing herein contained shall be construed as requiring Lender to advance other monies for said purpose nor shall Lender incur any personal liability for anything it may do or omit to do hereunder. It is agreed that all such payments made, shall be held in a non interest bearing escrow account (the "**Tax Escrow Account**") for the benefit of Mortgagor and withdrawn by Lender to pay the real estate tax obligations. All funds held in the Tax Escrow Account are hereby pledged together with any other account of Mortgagor, held by Lender to further secure the indebtedness secured hereby, and any officer of Lender is authorized to withdraw the same and apply said sums as aforesaid. Notwithstanding any provision to the contrary herein contained, so long as no Default or event which with the giving of notice and the expiration of any grace or cure period would constitute a Default exists hereunder, Lender shall apply the deposits received hereunder to the payment of real estate taxes and assessments pertaining to the Mortgaged Property, provided, however, that in no event shall Lender be obligated to pay any amount in excess of the amount of deposits held by Lender in the Tax Escrow Account pursuant hereto nor shall Lender be required to inquire as to the validity or accuracy of any real estate tax or assessment obligation before making such payments.

**3.04 Payments by Lender.** In the event of a Default hereunder, Lender is hereby authorized to make or advance, in the place and stead of Mortgagor, any payment relating to taxes, assessments, water and sewer charges, and other governmental charges, fines, impositions or liens that may be asserted against the Mortgaged Property or any part thereof, and may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy thereof or into the validity of any tax, assessment, lien, sale, forfeiture of title or claim relating thereto. In the event of a Default hereunder, Lender is further authorized to make or advance, in the place and stead of Mortgagor, any payment relating to any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim, charge or payment, as well as take any and all actions which Lender deems necessary or appropriate on Mortgagor's behalf whenever, in Lender's sole and absolute judgment and discretion, such payments or actions seem necessary or desirable to protect the full security intended to be created by this Mortgage. In connection with any such advance, Lender is further authorized, at its option, to obtain a continuation report of title or title insurance policy prepared by a title insurance company of Lender's choosing. All payments, costs and other expenses incurred by Lender pursuant to this Section 3.04, including without limitation reasonable attorneys' fees, expenses and court costs, shall constitute additional indebtedness secured hereby and shall be repayable by Mortgagor upon demand with interest at the Default Interest Rate.

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## 3.05 Insurance.

(a) Hazard. (i) Mortgagor agrees to cause to be maintained insurance against loss or damage to the building and all improvements and betterments on the Mortgaged Property ("Loss"), in such amounts and with such limits as Lender may reasonably require from time to time. The coverage shall be equivalent or better than the Causes of Loss - Special Form (CP1030) as published by the Insurance Services Office ("ISO") and shall be on a replacement cost, agreed amount basis. Mortgagor must pay promptly, when due, any premium on such insurance. All such insurance policies and renewals thereof shall be written in companies having a Best's rating of A or better. All such policies and renewals thereof (or binders evidencing the same) shall be delivered to Lender at least thirty (30) days before the expiration of the existing policies and shall have attached thereto a standard mortgagee clause entitling Lender to collect any and all proceeds payable under such insurance. The policy shall contain a waiver of subrogation in favor of the Lender. If more than one policy is written insuring the Mortgaged Property, this separate policy must also include a standard mortgagee clause and waiver of subrogation in favor of Lender. In the event of a change in ownership or of occupancy of the Mortgaged Property, or any portion thereof, Mortgagor shall give immediate notice thereof to Lender.

(ii) In case of any Loss in excess of Twenty-Five Thousand and No/100 Dollars (\$25,000.00), Mortgagor shall immediately give Lender and the insurance companies that have insured against such risks, notice of such Loss and Mortgagor is authorized, with Lender's prior written consent, which shall be granted in Lender's sole discretion, to settle and adjust any claim under insurance policies which insure against such risks. Notwithstanding the foregoing, in the event of a total casualty or in the event of a Default, or event or condition which with the giving of notice or the passage of time would constitute a Default, shall have occurred hereunder or under any of the other Loan Documents, Lender (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) is, subject to the provisions hereof, hereby authorized to either: (1) settle, adjust or compromise any claim under any insurance policies and Lender shall act in its sole and absolute discretion without the consent of Mortgagor; or (2) allow Mortgagor to settle, adjust or compromise any claims for Loss with the insurance company or companies on the amount to be paid upon the Loss. In all cases Lender is authorized to collect and receipt for any such insurance proceeds and the expenses incurred by Lender in the adjustment and collection of insurance proceeds shall be such additional indebtedness secured hereby and shall be reimbursed to Lender upon demand with interest thereon at the Default Interest Rate or may be deducted by Lender from said insurance proceeds prior to any other application thereof.

The insurance proceeds shall be made available to Mortgagor to repair and restore the Mortgaged Property if, and only if, all of the following conditions are satisfied:

(A) no Default, or event which with the giving of notice or passage of time would constitute a Default, shall have occurred hereunder or under any of the other Loan Documents;

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(B) the insurance proceeds shall, in Lender's sole and absolute judgment, be sufficient to complete the repair and restoration of the buildings, structures and other improvements on the Premises to an architectural and economic unit of substantially the same character and the same value as existed immediately prior to such casualty, or, if Lender shall determine, in its sole and absolute discretion, that the insurance proceeds are insufficient, Mortgagor shall have deposited with Lender the amount of the deficiency in cash within fifteen (15) days after Lender's demand therefor;

(C) after such repair or restoration, the Mortgaged Property shall, in Lender's sole and absolute judgment, adequately secure the outstanding balance of the Loan; and

(D) the insurers do not deny liability to the insureds.

In all other cases, the insurance proceeds may, at the option of Lender, be applied in the reduction of the indebtedness secured hereby, whether due or not, in such order as Lender shall determine in its sole and absolute discretion, or be held by Lender and used to reimburse Mortgagor for the cost of rebuilding or restoring buildings or improvements on the Premises.

Notwithstanding anything herein to the contrary, in case of any Loss after foreclosure proceedings have been instituted, all insurance proceeds shall, at Lender's option, be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if said owner shall then be entitled to the same, or as the court may otherwise direct. In case of the foreclosure of this Mortgage, the court in its decree may provide that the mortgagee's clause attached to each of said insurance policies may be canceled and that the decree creditor may cause a new loss clause to be attached to each of said policies making the loss thereunder payable to said decree creditor. Any foreclosure decree may further provide that in case of any one or more redemptions made under said decree, each successive redeemer may cause the preceding loss clause attached to each insurance policy to be canceled and a new loss clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale, Lender is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Lender may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

Nothing contained in this Mortgage shall create any responsibility or obligation on Lender to collect any amount owing on any insurance policy, to rebuild, repair or replace any damaged or destroyed portion of the Mortgaged Property, or to perform any act hereunder.

(iii) Upon Mortgagor's request, and provided all of the conditions of the second paragraph of Section 3.05(a)(ii) have been satisfied or upon Lender's election, to apply such insurance proceeds toward repairing, restoring, and rebuilding such improvements, such insurance proceeds shall be made available therefor, by Lender, or such other depository designated by Lender, from time to time, to Mortgagor or at Lender's option directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to such conditions to disbursement as Lender may impose to ensure

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that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof, provided that Lender is furnished with evidence reasonably satisfactory to Lender of the estimated cost of such repairs, restoration and rebuilding and with architect's and other certificates, waivers of lien, certificates, contractors' sworn statements, and other evidence of the estimated cost thereof and of payments as Lender may require and approve in its sole and absolute discretion. In addition to the foregoing, if the estimated cost of the work exceeds ten percent (10%) of the original principal amount of the indebtedness secured hereby, Mortgagor shall also deliver to Lender for its prior approval evidence satisfactory to Lender in its sole and absolute discretion that the appraised value of the Mortgaged Property after such work will not be less than its appraised value established in the appraisal delivered to Lender on or prior to the date hereof pursuant to all plans and specifications for such repairs, restoration and rebuilding as Lender may require and approve in its sole and absolute discretion. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the repair, restoration or rebuilding work performed, from time to time, and at all times the undisbursed balance of such proceeds remaining in the custody or control of Lender shall be, in Lender's sole and absolute discretion, at least sufficient to pay for the cost of completion of the work, free and clear of any liens. Lender may, at any time after the occurrence of a Default hereunder, and in its sole and absolute discretion, procure and substitute for any and all of the insurance policies so held as aforesaid, such other policies of insurance in such amounts and carried in such companies as Lender may select. Lender may commingle any such funds held by it hereunder and shall not be obligated to pay any interest with respect to any such funds held by or on behalf of Lender.

(b) Liability. Mortgagor shall carry and maintain commercial general liability insurance against bodily injury and property damage written with companies having a Best's rating of A- or better. Coverage shall be written on an occurrence form equivalent or better than the occurrence form (CG0001) as published by the ISO with minimum limits of Two Million and No/100 Dollars (\$2,000,000.00) each occurrence and Three Million and No/100 Dollars (\$3,000,000.00) general aggregate (the "**Insurance Coverage**"). The policy shall name Lender as an additional insured with respect to liability arising out of the Mortgaged Property. Certificates of insurance showing Lender as additional insured, premiums prepaid, shall be deposited with Lender and shall contain provision for thirty (30) days notice to Lender prior to any cancellation or non-renewal except for ten (10) days notice for non-payment of premium.

(c) Other Insurance. Upon Lender's written request, Mortgagor at its sole cost and expense, shall, carry and maintain or cause to carry and maintain such other insurance coverage(s) as Lender may, in its reasonable discretion, deem necessary or appropriate in such amounts, with such companies and in such form as Lender deems satisfactory in its reasonable discretion, all at Mortgagor's sole expense.

(d) COLLATERAL INSURANCE. **UNLESS MORTGAGOR PROVIDES LENDER WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THIS MORTGAGE, LENDER MAY PURCHASE INSURANCE AT MORTGAGOR'S EXPENSE TO PROTECT LENDER'S INTERESTS IN THE MORTGAGED PROPERTY. THIS INSURANCE MAY, BUT NEED NOT, PROTECT MORTGAGOR'S INTERESTS IN THE MORTGAGED PROPERTY. THE COVERAGE PURCHASED**



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BY LENDER MAY NOT PAY ANY CLAIMS THAT MORTGAGOR MAKES OR ANY CLAIM THAT IS MADE AGAINST MORTGAGOR IN CONNECTION WITH THE MORTGAGED PROPERTY. MORTGAGOR MAY LATER CANCEL ANY SUCH INSURANCE PURCHASED BY LENDER, BUT ONLY AFTER PROVIDING LENDER WITH EVIDENCE THAT MORTGAGOR HAS OBTAINED INSURANCE AS REQUIRED BY THIS MORTGAGE. IF LENDER PURCHASES INSURANCE FOR THE MORTGAGED PROPERTY, MORTGAGOR WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES THAT LENDER MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO THE INDEBTEDNESS SECURED. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE MORTGAGOR MAY BE ABLE TO OBTAIN ON ITS OWN.

**3.06 Condemnation and Eminent Domain.** Any and all awards heretofore or hereafter made or to be made to the present or any subsequent owner of the Mortgaged Property by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Mortgaged Property, (including any award from the United States government at any time after the allowance of a claim therefor, the ascertainment of the amount thereto, and the issuance of a warrant for payment thereof), are hereby assigned by Mortgagor to Lender, which awards Lender is hereby authorized to negotiate, collect and receive from the condemnation authorities. Lender is hereby authorized to give appropriate receipts therefor. Mortgagor shall give Lender immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings of which it has knowledge affecting all or any part of the Mortgaged Property (including severance of, consequential damage to or change in grade of streets), and shall immediately deliver to Lender copies of any and all papers served in connection with any such proceedings. Mortgagor further agrees to make, execute and deliver to Lender, free and clear of any encumbrance of any kind whatsoever, any and all further assignments and other instruments deemed necessary by Lender for the purpose of validly and sufficiently assigning all awards and other compensation heretofore, now and hereafter made to Mortgagor for any taking, either permanent or temporary, under any such proceeding. Any such award shall be applied toward the indebtedness secured by this Mortgage or applied toward restoring the Mortgaged Property in accordance with the provisions of and in the same manner as is provided for insurance proceeds in Section 3.05(a) hereof. Notwithstanding the foregoing, any expenses, including, without limitation, reasonable attorneys' fees and expenses, incurred by Lender in intervening in such action or compromising and settling such action or claim, or collecting such proceeds, shall be reimbursed to Lender first out of the proceeds.

**3.07 Maintenance of Property.** No portion of the Mortgaged Property shall be removed, demolished, severed, sold or mortgaged, without the prior written consent of Lender. Mortgagor further agrees not to permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or any part thereof, to keep and maintain the Mortgaged Property and every part thereof in good repair and condition, to effect such repairs as Lender may reasonably

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require, and, from time to time, to make all necessary and proper replacements thereof and additions thereto so that the Premises and such buildings, other improvements, fixtures, chattels and articles of personal property will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed.

**3.08 Compliance with Laws.** Mortgagor shall: (i) comply with, all statutes, ordinances, regulations, rules, orders, decrees and other requirements relating to the Mortgaged Property, or any part thereof, by any federal, state or local authority, including, without limitation, the Americans with Disabilities Act of 1990, and (ii) observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, without limitation, zoning variances, special exceptions, and nonconforming uses), privileges, franchises and concessions that are applicable to the Mortgaged Property or that have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the Mortgaged Property or any part thereof. Mortgagor shall not initiate or acquiesce in any changes to or termination of any of the foregoing or of zoning design actions affecting the use of the Mortgaged Property or any part thereof without the prior written consent of Lender.

**3.09 Liens and Transfers.** Without Lender's prior written consent, Mortgagor shall not, directly or indirectly, create, suffer or permit to be created or filed or to remain against the Mortgaged Property, or any part thereof, hereafter any mortgage lien or other lien, encumbrance or charge on, pledge of, or conditional sale or other title retention agreement with respect to the Mortgaged Property, whether superior or inferior to the lien of this Mortgage; provided, however, that Mortgagor may, within ten (10) days after the filing thereof, contest in good faith by appropriate legal or administrative proceedings any lien claim arising from any work performed, material furnished or obligation incurred by Mortgagor upon furnishing Lender a bond issued by a company approved by Lender in its sole and absolute discretion covering the lien claim, or an endorsement to Lender's title insurance policy insuring Lender's interest in the Premises insuring over said lien claim, each in form and substance reasonably satisfactory to Lender in its sole and absolute discretion, or such other security and indemnification satisfactory to Lender, for the final payment and discharge thereof. In the event Mortgagor hereafter creates, suffers or permits any superior or inferior lien to be attached to the Mortgaged Property or any part thereof without such consent or without furnishing security as aforesaid and the same is not received within ten (10) days after written notice, Lender shall have the unqualified right, at its option, to accelerate the maturity of the Note, causing the entire principal balance thereof and all interest accrued thereon to be immediately due and payable.

If Mortgagor, without Lender's prior written consent, sells, leases, transfers, conveys, assigns, pledges, hypothecates or otherwise disposes of the title to all or any portion of the Mortgaged Property, whether by operation of law, voluntarily or otherwise, or any interest (beneficial or otherwise) thereto, or enters into any agreement to do any of the foregoing, Lender shall have the unqualified right, at its option, to accelerate the maturity of the Note, causing the entire principal balance, and accrued interest to be immediately due and payable.

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Any waiver by Lender of the provisions of this Section 3.09 shall not be deemed to be a waiver of the right of Lender in the future to insist upon strict compliance with the provisions hereof.

**3.10 Subrogation to Prior Lienholder's Rights.** If the proceeds of the Loan secured hereby or any part thereof, or any amount paid out or advanced by Lender is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property or any part thereof, then Lender shall be subrogated to the rights of the holder thereof in and to such other lien or encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

**3.11 Lender's Dealings with Transferee.** In the event of the sale or transfer, by operation of law, voluntarily or otherwise, of all or any part of the Mortgaged Property, Lender shall be authorized and empowered to deal with the vendee or transferee with regard to the Mortgaged Property, the indebtedness secured hereby and any of the terms or conditions hereof as fully and to the same extent as it might with Mortgagor, without in any way releasing or discharging Mortgagor from its covenants hereunder, specifically including those contained in Section 3.09 hereof, and without waiving Lender's right of acceleration pursuant to Section 3.09 hereof.

**3.12 Stamp Taxes.** If at any time the United States government or any federal, state or municipal governmental subdivision requires Internal Revenue or other documentary stamps, levies or any tax on this Mortgage or on the Note, or requires payment of the United States Interest Equalization Tax on any of the indebtedness secured hereby, then such indebtedness and all interest accrued thereon shall be and become due and payable, at the election of the Lender, thirty (30) days after the mailing by Lender of notice of such election to Mortgagor; provided, however, that such election shall be unavailing, and this Mortgage and the Note shall be and remain in effect, if Mortgagor may and does lawfully pay for such stamps or tax, including interest and penalties thereon, to or on behalf of Lender.

**3.13 Change in Tax Laws.** In the event of the enactment, after the date of this Mortgage, of any law of the state in which the Premises are located deducting from the value of the Premises, for the purpose of taxation, the amount of any lien thereon, or imposing upon Lender the payment of all or any part of the taxes, assessments, charges or liens hereby required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagor's interest in the Mortgaged Property, or the manner of collection of taxes, so as to affect this Mortgage or the indebtedness secured hereby or the holder thereof, then Mortgagor, upon demand by Lender, shall pay such taxes, assessments, charges or liens, or reimburse Lender therefor; provided, however, that if, in the opinion of counsel for Lender, it might be unlawful to require Mortgagor to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Lender may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness secured hereby to become due and payable thirty (30) days after the giving of such notice. Nothing contained in this Section 3.13 shall be construed as obligating Lender to pay any portion of Mortgagor's federal income tax.

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**3.14 Inspection of Property.** Mortgagor shall permit Lender and its representatives and agents to inspect the Mortgaged Property from time to time upon reasonable prior telephonic notice during normal business hours and as frequently as Lender considers reasonable; provided Lender agrees that it shall make no such inspection unless it is accompanied by Mortgagor's representative (unless Mortgagor fails to make a representative reasonably available to Lender, in which case Lender shall inspect the Mortgaged Property without Mortgagor and Lender shall endeavor to make such inspections so as to minimize any interference with Mortgagor's business).

**3.15 Acknowledgment of Debt.** Mortgagor shall furnish from time to time, within ten (10) days after Lender's request, a written statement, duly acknowledged, specifying the amount due under the Note, this Mortgage and any of the other Loan Documents and disclosing whether to Mortgagor's knowledge any alleged offsets or defenses exist against the indebtedness secured hereby.

**3.16 Other Amounts Secured; Maximum Indebtedness.** Mortgagor acknowledges and agrees that this Mortgage secures the entire principal amount of the Note and interest accrued thereon, regardless of whether any or all of the loan proceeds are disbursed on or after the date hereof, and regardless of whether the outstanding principal is repaid in whole or part and future advances made at a later date, as well as any amounts owed to Lender pursuant to Sections 3.02 and 3.04 hereof, any and all litigation and other expenses pursuant to Sections 4.05 and 4.06 hereof and any other amounts as provided herein or in any of the other Loan Documents, including, without limitation, the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or paid or incurred by Lender in connection with the Loan. Under no circumstances, however, shall the total indebtedness secured hereby exceed Seven Million Five Hundred Thousand and No/100 Dollars (\$7,500,000.00).

**3.17 Declaration of Subordination.** At the option of Lender, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Mortgaged Property upon the execution by Lender and recording thereof, at any time hereafter, in the appropriate official records of the county wherein the Premises are situated, of a unilateral declaration to that effect.

**3.18 Releases.** Lender, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens thereon, may release from the liens of Lender all or any part of the Mortgaged Property, or release from liability any person or entity obligated to repay any indebtedness secured hereby, without in any way affecting the liability of any party pursuant to the Note, this Mortgage or any of the other Loan Documents, including, without limitation, any guaranty given as additional security for the indebtedness secured hereby, and without in any way affecting the priority of the lien of this Mortgage, and may agree with any party liable therefor to extend the time for payment of any part or all of such indebtedness. Any such agreement shall not in any way release or impair the lien created by this Mortgage or reduce or modify the liability of any person or entity obligated personally to repay the indebtedness secured hereby, but shall extend the lien hereof as against



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the title of all parties having any interest, subject to the indebtedness secured hereby, in the Mortgaged Property.

**3.19 Mortgagor's Representations.** Mortgagor hereby represents and covenants to Lender that:

(a) Mortgagor is lawfully seized of the Mortgaged Property hereby mortgaged, granted and conveyed and has the right to mortgage, grant and convey the Mortgaged Property, that the Mortgaged Property is unencumbered except by the Permitted Encumbrances, if any, and that Mortgagor will warrant and defend generally the title to the Mortgaged Property, or any portion thereof, against any and all claims and demands, subject only to the Permitted Encumbrances, if any.

(b) The execution, delivery and performance of the Note and the other Loan Documents: (i) have received all necessary trust, partnership, corporate and governmental approval; (ii) do not violate any provision of any law, any order of any court or agency of government or any indenture, agreement or other instrument to which Mortgagor is a party, or by which it or any portion of the Property is bound; and (iii) are not in conflict with, nor will it result in breach of, or constitute (with due notice and/or lapse of time) a default under any indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever, upon any of Mortgagor's property or assets, except as contemplated by the provisions of this Mortgage.

(c) The Note and the other Loan Documents, when executed and delivered by Mortgagor, will constitute the legal, valid and binding obligations of Mortgagor and all other obligors named therein, if any, in accordance with their respective terms.

(d) All other information, reports, papers, balance sheets, statements of profit and loss, and data given to Lender or its agents and employees regarding Mortgagor or any other party obligated under the terms of the Note or any of the other Loan Documents are accurate and correct in all material respects, and are complete insofar as completeness may be necessary to give Lender a true and accurate knowledge of the subject matter.

(e) There is not now pending against or affecting Mortgagor or any other party obligated under the terms of the Note or any of the other Loan Documents, nor, to the best of Mortgagor's knowledge, is there threatened any action, suit or proceeding at law, in equity or before any administrative agency which, if adversely determined, would materially impair or affect the financial condition or operation of Mortgagor.

(f) Mortgagor is not now, nor has ever been (i) listed on any Government Lists, (ii) a person who has been determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order #13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations promulgated in accord therewith or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any governmental authority for alleged criminal activity.

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For purposes hereof, the term “**Patriot Act Offense**” means any violation of the criminal laws of the United States of America or any of the several states or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism, (B) the criminal laws against money laundering, (C) the Bank Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended or (E) the Patriot Act (as said term is defined in Section 3.25 hereof).

“Patriot Act Offense” also includes the crimes of conspiracy to commit, or aiding and abetting another to commit a Patriot Act Offense. For purposes hereof, the term “**Government Lists**” means (1) the specially designated nationals and blocked persons lists maintained by the Office of Foreign Assets Controls, (2) other lists of terrorists, terrorist organizations or narcotic traffickers maintained pursuant to any of the rules and regulations of the Office of Foreign Assets Controls that Lender notify Mortgagor in writing is now included in “Government Lists” or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other government authority or pursuant to any Executive Order of the President of the United States that Lender notify Mortgagor in writing is now included in “Government Lists.”

**3.20 Utilities.** Mortgagor will pay all utility charges incurred in connection with the Premises and all improvements thereon, and shall maintain all utility services now or hereafter available for use at the Premises.

**3.21 Assignment of Rents.** (a) As further security for the repayment of the Note, and any amounts due pursuant to this Mortgage, Mortgagor does hereby sell, assign and transfer to Lender all rents, leases, issues, deposits and profits now due and which may hereinafter become due under or by reason of any lease or any letting of, or any agreement for the use, sale, or occupancy of the Premises or any portion thereof (whether written or verbal), which may have been heretofore or may hereafter be made or agreed to or which may be made or agreed to by Lender under the powers herein granted, including without limitation sale contracts, leases, escrow and other agreements, it being Mortgagor’s intention hereby to establish an absolute transfer and assignment of all such leases, contracts, escrows and agreements pertaining thereto (such leases, contracts, escrows and agreements being collectively referred to hereinbelow as “**agreements**” and any such individual lease, contract, escrow or other agreement being referred to hereinbelow as an “**agreement**”), and all the avails thereof, to Lender.

Mortgagor does hereby irrevocably appoint Lender as its true and lawful attorney in its name and stead (with or without taking possession of the Premises) to rent, lease, let, or sell all or any portion of the Premises to any party or parties at such price and upon such term as Lender in its sole discretion may determine, and to collect all of such rents, issues, deposits, profits and avails now due or that may hereafter become due under any and all of such agreements or other tenancies now or hereafter existing on the Premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Lender would have upon taking possession of the Premises pursuant to the provisions set forth hereinbelow.

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This assignment confers upon Lender a power coupled with an interest and it cannot be revoked by Mortgagor.

(b) Mortgagor represents and agrees that without the prior written consent of the Lender, which consent shall not be unreasonably withheld, no rent for right of future possession will be paid by any person in possession of any portion of the Premises in excess of one installment thereof paid in advance and that no payment of rents to become due for any portion of the Premises has been or will be waived, conceded, released, reduced, discounted, or otherwise discharged or compromised by Mortgagor. Mortgagor waives any right of setoff against any person in possession of any portion of the Premises. Mortgagor agrees that it will not assign any of such rents, issues, profits, deposits or avails, and shall not agree to any modification of the terms, or a voluntary surrender, of any such lease or agreement without the prior written consent of Lender.

(c) Mortgagor further agrees to assign and transfer to Lender all future leases and agreements pertaining to all or any portion of the Premises and to execute and deliver to Lender, immediately upon demand of Lender, all such further assurances and assignments pertaining to the Premises as Lender may from time to time require.

(d) Mortgagor shall, at its own cost: (i) at all times perform and observe all of the covenants, conditions and agreements of the lessor under the terms of any or all leases or similar agreements affecting all or any part of the Premises; (ii) at all times enforce and secure the performance and observance of all of the material covenants, conditions and agreements of the lessees under the terms of any or all of said leases or other agreements; (iii) appear in and defend any action or other proceeding arising out of or in any manner connected with said leases and other agreements, and to pay any and all costs of Lender incurred by reason of or in connection with said proceedings, including, without limitation, reasonable attorneys' fees, expenses and court costs; and (iv) promptly furnish Lender with copies of any notices of default either sent or received by Mortgagor under the terms of or pursuant to any of said leases or other agreements.

(e) Although it is the intention of Mortgagor and Lender that the assignment, including, without limitation, the power of attorney appointment, contained in this Section 3.21 is a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Lender shall not exercise any of the rights and powers conferred upon it herein unless and until a Default hereunder has occurred, or a condition which with the passage of time or giving of notice or both, would constitute a Default hereunder.

(f) Lender, in the exercise of the rights and powers conferred upon it herein, shall have full power to use and apply the rents, issues, deposits, profits and avails of the Premises to the payment of or on account of the following, in such order as Lender may, in its sole and absolute discretion determine.

(i) operating expenses of the Premises (including, without limitation, all costs of management, sale and leasing thereof, which shall include reasonable compensation to Lender and its agents, if management be delegated thereto, reasonable attorneys' fees, expenses and court costs, and lease or sale commissions and other compensation and expenses of seeking and

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procuring tenants or purchasers and entering into leases or sales), establishing any claims for damages, and premiums on insurance authorized hereinabove;

(ii) taxes, special assessments, water and sewer charges on the Premises now due or that may hereafter become due;

(iii) any and all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Premises (including, without limitation, the cost from time to time of installing or replacing personal property therein, and of placing the Premises in such condition as will, in the sole judgment of Lender, make them readily rentable or salable);

(iv) any indebtedness secured hereby or any deficiency that may result from any foreclosure sale pursuant thereto; and

(v) any remaining funds to Mortgagor or its successors or assigns, as their interests and rights may appear.

(g) Mortgagor does further specifically authorize and instruct each and every present and future lessee or purchaser of all or any portion of the Premises to pay all unpaid rentals or deposits agreed upon in any lease or agreement pertaining to the Premises to Lender upon receipt of demand from Lender to pay the same without any further notice or authorization by Mortgagor, and Mortgagor hereby waives any rights or claims it may have against any lessee by reason of such payments to Lender.

(h) Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any lease or agreement pertaining to the Premises, and Mortgagor shall and does hereby agree to indemnify and hold Lender harmless from and against any and all liability, loss and damage that Lender may or might incur under any such lease or agreement or under or by reason of the assignment thereof, as well as any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on Lender's part to perform or discharge any of the terms, covenants or conditions contained in such leases or agreements; provided the foregoing indemnity shall not apply to any liability, loss or damage caused by Lender's gross negligence or willful misconduct. Should Lender incur any such liability, loss or damage under any such lease or agreement, or under or by reason of the assignment thereof, or in the defense of any claims or demands relating thereto, Mortgagor shall reimburse Lender for the amount thereof (including, without limitation, reasonable attorneys' fees, expenses and court costs) immediately upon demand.

(i) Nothing herein contained shall be construed as making or constituting Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Lender pursuant to the provisions set forth herein. In the exercise of the powers herein granted Lender, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Mortgagor.



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(j) Mortgagor may only enter into new leases or amend, modify, terminate or cancel any existing lease or waive any rights thereunder, or accept a voluntary surrender of any lease, upon the prior written consent of Lender, which consent shall not be unreasonably withheld or delayed.

**3.22 Security Agreement.** (a) This Mortgage shall be deemed a "Security Agreement" as defined in the Illinois Uniform Commercial Code in the form approved by the State of Illinois on July 1, 2001 and codified at 810 Ill. Comp. Stat. 5/9-101 et. seq. (West 2001) (the "**Illinois Uniform Commercial Code**") and creates a security interest in favor of Lender in all property including, without limitation, all personal property, fixtures and goods affecting property either referred to or described herein or in any way connected with the use or enjoyment of the Mortgaged Property. The remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed herein or by general law or, as to such part of the security which is also reflected in any Financing Statement filed to perfect the security interest herein created, by the specific statutory consequences now or hereinafter enacted and specified in the Illinois Uniform Commercial Code, all at Lender's sole election. Mortgagor and Lender agree that the filing of such a Financing Statement in the records normally having to do with personal property shall not be construed as in any way derogating from or impairing the intention of the parties hereto that everything used in connection with the production of income from the Premises or adapted for use therein or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Lender, or (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time. Similarly, the mention in any such Financing Statement of (1) the rights in or the proceeds of any fire or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) Mortgagor's interest as lessor in any present or future lease or rights to income growing out of the use or occupancy of the Mortgaged Property whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Lender under this Mortgage or impugning the priority of the Lender's lien granted hereby or by any other recorded document, but such mention in the Financing Statement is declared to be for the protection of the Lender in the event any court or judge shall at any time hold with respect to (1), (2) and (3) that notice of Lender's priority of interest to be effective against a particular class of persons, including, but not limited to, the Federal Government and any subdivisions or entity of the Federal Government, must be filed in the Illinois Uniform Commercial Code records.

(b) Mortgagor shall execute, acknowledge and deliver to Lender, within ten (10) days after request by Lender, any and all security agreements and any other similar security instruments reasonably required by Lender, in form and of content reasonably satisfactory to Lender, covering all property of any kind whatsoever owned by Mortgagor that, in the reasonable opinion of Lender, is essential to the operation of the Mortgaged Property and concerning which there may be any doubt whether title thereto has been conveyed, or a security interest therein perfected, by this Mortgage under the laws of the state in which the Premises are

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located. Mortgagor agrees to cooperate and join with Lender in taking such steps as are necessary, in Lender's judgment, to perfect or continue the perfected status of the security interests granted hereunder, including, without limitation, the execution and delivery of any financing statements, amendments thereto, continuation statements, affidavits, certificates or other documents as Lender may request in order to perfect, preserve, maintain, continue and extend such security instruments. Mortgagor further agrees to pay to Lender all fees, costs and expenses (including, without limitation, all reasonable attorneys' fees and expenses and court costs) incurred by Lender in connection with the preparation, execution, recording, filing and refiling of any such document. Lender may at any time and from time to time, file financing statements, continuation statements and amendments thereto that describe the property of Mortgagor in particular or as all assets of Mortgagor or words of similar effect and which contain any other information required by the Illinois Uniform Commercial Code for the sufficiency or filing office acceptance of any financing statement, continuation statement or amendment, including whether Mortgagor is an organization, the type of organization and any organization identification number issued to Mortgagor. Mortgagor agrees to furnish any such information to Lender promptly upon request. Any such financing statements, continuation statements or amendments may be signed by Lender on behalf of Mortgagor, and may be filed at any time in any jurisdiction whether or not Revised Article 9 of the Uniform Commercial Code is then in effect in that jurisdiction.

(c) Mortgagor shall, at any time and from time to time, take such steps as Lender may require for Lender to insure the continued perfection and priority of Lender's security interest in any of Mortgagor's property and of the preservation of its rights therein.

**3.23 Fixture Financing Statement.** From the date of its recording, this Mortgage shall be effective as a fixture financing statement with respect to all goods constituting part of the Mortgaged Property which are or are to become fixtures related to the real estate described herein. For this purpose, the following information is set forth:

(a) Name and Address of Debtor:

Winifred Brown McKinney  
1426 Hinman Avenue  
Evanston, Illinois 60201

and

(b) Name and Address of Lender:

Mortgage Lending Services, LLC  
2614 Patriot Boulevard  
Suite A  
Glenview, Illinois 60026

This document covers goods which are or are to become fixtures.

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**3.24 Interest Laws.** It being the intention of Lender and Mortgagor to comply with the laws of the State of Illinois, it is agreed that notwithstanding any provision to the contrary in the Note, this Mortgage or any of the other Loan Documents, no such provision shall require the payment or permit the collection of any amount ("**Excess Interest**") in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by the Note. If any Excess Interest is provided for, or is adjudicated to be provided for, in the Note, this Mortgage or any of the other Loan Documents, then in such event: (a) the provisions of this Section 3.24 shall govern and control; (b) neither Mortgagor nor any other party obligated under the terms of the Note or any of the other Loan Documents shall be obligated to pay any Excess Interest; (c) any Excess Interest that Lender may have received hereunder shall, at the option of Lender, be (i) applied as a credit against the then unpaid principal balance under the Note, accrued and unpaid interest thereon not to exceed the maximum amount permitted by law, or both, (ii) refunded to the payor thereof, or (iii) any combination of the foregoing; (d) the Interest Rate (as that term is defined in the Note) shall be subject to automatic reduction to the maximum lawful contract rate allowed under the applicable usury laws of the aforesaid State, and the Note, this Mortgage and the other Loan Documents shall be deemed to be automatically reformed and modified to reflect such reduction in the Interest Rate; and (e) neither Mortgagor nor any other party obligated under the terms of the Note or any of the other Loan Documents shall have any action against Lender for any damages whatsoever arising out of the payment or collection of any Excess Interest.

**3.25 Patriot Act.** Mortgagor shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of governmental authorities having jurisdiction over Mortgagor and/or the Premises, including those relating to money laundering and terrorism. In the event that Mortgagor fails to comply with the Patriot Act or any such requirements of governmental authorities, then Lender may, at its option, cause Mortgagor to comply therewith and any and all costs and expenses incurred by Lender in connection therewith shall be secured by this Mortgage and shall be immediately due and payable. For purposes of this Section 3.25, "**Patriot Act**" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act) of 2001 as the same may be amended from time to time in corresponding provisions of future laws.

**3.26 Releases of Mortgaged Property.** Notwithstanding anything to the contrary contained herein, Lender agrees that provided there is no Default hereunder, or any condition or circumstance which, with the passage of time and/or giving of notice, would constitute a Default under any of the Loan Documents, Lender agrees to release the Mortgaged Property from the lien of this Mortgage pursuant to the following terms and provisions:

(a) Mortgagor pays to Lender the Evanston Release Price in accordance with the terms of Section 2(b) of the Note; and

(b) Any and all documents and agreements used in connection with a release pursuant to this Section 3.26 shall be in form and substance reasonably satisfactory to provide for the release of the Mortgaged Property.

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## IV DEFAULTS AND REMEDIES

**4.01 Events Constituting Defaults.** Each of the following events shall constitute a default (a “Default”) under this Mortgage:

- (a) Failure of Mortgagor to pay when due any sum secured hereby, including, but not limited to, any installment of principal or interest or both thereon;
- (b) Failure of Mortgagor to comply with any of the requirements of Section 3.09;
- (c) Failure of Mortgagor to perform or observe any other covenant, warranty or other provision contained in this Mortgage and not otherwise covered in any of the other provisions of this Section 4.01, provided, if such default is capable of being cured, Mortgagor shall have a period of thirty (30) days after the date on which notice of the nature of such failure is given by Lender to Mortgagor to cure such default;
- (d) Untruth or material deceptiveness or inaccuracy of any representation or warranty contained in the Note, this Mortgage or any other Loan Document, or any writing pertaining to the foregoing submitted to Lender by or on behalf of Mortgagor;
- (e) Admission by Mortgagor in writing, including, without limitation, an answer or other pleading filed in any court, of Mortgagor’s insolvency or inability to pay its debts generally as they fall due;
- (f) Institution by Mortgagor of bankruptcy, insolvency, reorganization or arrangement proceedings of any kind under the Federal Bankruptcy Code, whether as now existing or as hereafter amended, or any similar debtors’ or creditors’ rights law, whether federal or state, now or hereafter existing, or the making by Mortgagor of a general assignment for the benefit of creditors;
- (g) Institution of any proceedings described in Section 4.01(f) against Mortgagor that are consented to by Mortgagor and are not dismissed within forty-five (45) days;
- (h) Appointment by any court of a receiver, trustee or liquidator of or for, or assumption by any court of jurisdiction of, all or any part of the Mortgaged Property or all or a major portion of the property of Mortgagor if such appointment or assumption is consented to by Mortgagor or if, within forty-five (45) days after such appointment or assumption, such receiver, trustee or liquidator is not discharged or such jurisdiction is not relinquished, vacated or stayed;
- (i) Declaration by any court or governmental agency of the bankruptcy or insolvency of Mortgagor;
- (j) The occurrence of any default or event of default under the terms of any of the Loan Documents after the expiration of the applicable notice and grace period, if any;



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(k) Any material adverse change in the financial condition of Mortgagor, or any corporation owned or controlled, directly or indirectly by Mortgagor which causes Lender to reasonably deem itself to be insecure.

**4.02 Acceleration of Maturity.** Upon the occurrence of any Default, at the election of Lender, the entire principal balance then outstanding under the Note, together with all unpaid interest accrued thereon and all other sums due from Mortgagor thereunder, under this Mortgage or any other Loan Document shall become immediately due and payable with interest thereon at the Default Interest Rate.

**4.03 Foreclosure of Mortgage.** Upon the occurrence of any Default, or at any time thereafter, Lender may, at its option, proceed to foreclose the lien of this Mortgage by judicial proceedings in accordance with the laws of the state in which the Premises are located and to exercise any other remedies of Lender provided herein or in the other Loan Documents, or which Lender may have at law or in equity. Any failure by Lender to exercise such option shall not constitute a waiver of its right to exercise the same at any other time.

**4.04 Lender's Continuing Options.** The failure of Lender to declare a Default or exercise any one or more of its options to accelerate the maturity of the indebtedness secured hereby and to foreclose the lien hereof following any Default as aforesaid, or to exercise any other option granted to Lender hereunder in any one or more instances, or the acceptance by Lender of partial payments of such indebtedness, shall neither constitute a waiver of any such Default or of Lender's options hereunder nor establish, extend or affect any grace period for payments due under the Note, but such options shall remain continuously in force. Acceleration of maturity, once claimed hereunder by Lender, may, at Lender's option, be rescinded by written acknowledgment to that effect by Lender and shall not affect Lender's right to accelerate maturity upon or after any future Default.

**4.05 Litigation Expenses.** In any proceeding to foreclose the lien of this Mortgage or enforce any other remedy of Lender under the Note, this Mortgage, the other Loan Documents or in any other proceeding whatsoever in connection with the Mortgaged Property in which Lender is named as a party, there shall be allowed and included, as additional indebtedness secured hereby in the judgment or decree resulting therefrom, all expenses paid or incurred in connection with such proceeding by or on behalf of Lender, including, without limitation, reasonable attorneys' fees and expenses and court costs, appraiser's fees, outlays for documentary evidence and expert advice, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of such judgment or decree) of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates and any similar data and assurances with respect to title to the Premises as Lender may deem reasonably necessary, and any other expenses and expenditures which may be paid or incurred by or on behalf of Lender and permitted by the IMF Law (as such term is hereinafter defined in Section 4.09) to be included in the decree of sale, either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to any such decree the true condition of the title to or value of the Premises or the Mortgaged Property. All expenses of the foregoing nature, and such expenses as may be incurred in the protection of any of the Mortgaged Property and the maintenance of the lien of this Mortgage thereon, including, without limitation, the

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reasonable fees and expenses of, and court costs incurred by, any attorney employed by Lender in any litigation affecting the Note, this Mortgage or any of the other Loan Documents or any of the Mortgaged Property, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding in connection therewith, shall be immediately due and payable by Mortgagor with interest thereon at the Default Interest Rate.

**4.06 Performance by Lender.** In the event of any Default, or in the event any action or proceeding is instituted which materially affects, or threatens to materially affect, Lender's interest in the Mortgaged Property, Lender may, but need not, make any payment or perform any act on Mortgagor's behalf in any form and manner deemed expedient by Lender, and Lender may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any; purchase, discharge, compromise or settle any tax lien or other prior or junior lien or title or claim thereof, redeem from any tax sale or forfeiture affecting the Mortgaged Property; or contest any tax or assessment thereon. All monies paid for any of the purposes authorized herein and all expenses paid or incurred in connection therewith, including, without limitation, reasonable attorneys' fees and court costs, and any other monies advanced by Lender to protect the Mortgaged Property and the lien of this Mortgage, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable by Mortgagor to Lender without notice and with interest thereon at the Default Interest Rate from the date an advance is made to and including the date the same is paid. The action or inaction of Lender shall never be construed to be waiver of any right accruing to Lender by reason of any default by Mortgagor or Mortgagor. Lender shall not incur any personal liability because of anything it may do or omit to do hereunder, nor shall any acts of Lender act as a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage or to proceed to foreclose this Mortgage.

**4.07 Intentionally Omitted.**

**4.08 Priority of Payments.** Any rents, issues, deposits, profits and avails of the Property received by Lender pursuant to any assignment thereof to Lender under the provisions of this Mortgage shall be applied in payment of or on account of the following, in such order as Lender or, in case of a receivership, as the court, may in its sole and absolute discretion determine:

(a) operating expenses of the Mortgaged Property (including, without limitation, reasonable compensation to Lender, any receiver of the Mortgaged Property, any agent or agents to whom management of the Mortgaged Property has been delegated, and also including lease commissions and other compensation for and expenses of seeking and procuring tenants and entering into leases, establishing claims for damages, if any, and paying premiums on insurance hereinabove authorized);

(b) taxes, special assessments, water and sewer charges now due or that may hereafter become due on the Mortgaged Property, or that may become a lien thereon prior to the lien of this Mortgage;

(c) any and all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Mortgaged Property (including, without limitation, the

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cost, from time to time, of installing or replacing any personal property therein, and of placing the Mortgaged Property in such condition as will, in the judgment of Lender or any receiver thereof, make it readily rentable or salable);

(d) any indebtedness secured by this Mortgage or any deficiency that may result from any foreclosure sale pursuant hereto; and

(e) any remaining funds to Mortgagor or its successors or assigns, as their interests and rights may appear.

**4.09 Appointment of Receiver.** Upon or at any time after the filing of any complaint to foreclose the lien of this Mortgage, the court may appoint upon petition of Lender, and at Lender's sole option, a receiver of the Mortgaged Property pursuant to the Illinois Mortgage Foreclosure Law, as amended (Illinois Compiled Statutes 735 ILCS 5/15-1101, et. seq.) (the "**IMF Law**"). Such appointment may be made either before or after sale, without notice; without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby; without regard to the value of the Mortgaged Property at such time and whether or not the same is then occupied as a homestead; without bond being required of the applicant; and Lender hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by the IMF Law, including the power to take possession, control and care of the Mortgaged Property and to collect all rents, issues, deposits, profits and avails thereof during the pendency of such foreclosure suit and apply all funds received toward the indebtedness secured by this Mortgage, and in the event of a sale and a deficiency where Mortgagor has not waived its statutory rights of redemption, during the full statutory period of redemption, as well as during any further times when Mortgagor or its devisees, legatees, administrators, legal representatives, successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues, deposits, profits and avails, and shall have all other powers that may be necessary or useful in such cases for the protection, possession, control, management and operation of the Mortgaged Property during the whole of any such period. To the extent permitted by law, such receiver may extend or modify any then existing leases and make new leases of the Mortgaged Property or any part thereof, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Loan, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Mortgaged Property are subject to the lien hereof, and upon the purchaser or purchasers at any such foreclosure sale, notwithstanding any redemption from sale, discharge of indebtedness, satisfaction of foreclosure decree or issuance of certificate of sale or deed to any purchaser.

**4.10 Foreclosure Sale.** In the event of any foreclosure sale of the Mortgaged Property, the same may be sold in one or more parcels. Lender may be the purchaser at any foreclosure sale of the Mortgaged Property or any part thereof.

**4.11 Application of Proceeds.** The proceeds of any foreclosure sale of the Mortgaged Property, or any part thereof, shall be distributed and applied in the following order of priority:

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(a) on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Sections 4.05 and 4.06 hereof; (b) all other items that, under the terms of this Mortgage, constitute secured indebtedness additional to that evidenced by the Note, with interest thereon at the Default Interest Rate; (c) all principal and interest, together with any prepayment charge, remaining unpaid under the Note, in the order of priority specified by Lender in its sole and absolute discretion; and (d) the balance, if any, to Mortgagor or its successors or assigns, as their interests and rights may appear.

**4.12 Application of Deposits.** In the event of any Default, Lender may, at its option, without being required to do so, apply any monies or securities that constitute deposits made to or held by Lender or any depository pursuant to any of the provisions of this Mortgage toward payment of any of Mortgagor's obligations under the Note, this Mortgage or any of the other Loan Documents in such order and manner as Lender may elect in its sole and absolute discretion. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagor or to the then owner or owners of the Mortgaged Property. Such deposits are hereby pledged as additional security for the prompt payment of the indebtedness evidenced by the Note and any other indebtedness secured hereby and shall be held to be applied irrevocably by such depository for the purposes for which made hereunder and shall not be subject to the direction or control of Mortgagor.

**4.13 Indemnification.** Mortgagor will indemnify and hold Lender harmless from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees, expenses and court costs) incurred by or asserted against Lender by reason of (a) the ownership of the Mortgaged Property or any interest therein or receipt of any rents, issues, proceeds or profits therefrom; (b) any accident, injury to or death of persons, or loss of or damage to property occurring in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent parking areas or streets; (c) any use, nonuse or condition in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent parking areas or streets; (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage; or (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof; provided the foregoing indemnity shall not apply to liabilities, obligations, claims, damages, penalties, causes of action, costs or expenses arising due to the gross negligence or willful misconduct of Lender. Any amounts owed to Lender by reason of this Section 4.13 shall constitute additional indebtedness which is secured by this Mortgage and shall become immediately due and payable upon demand therefor, and shall bear interest at the Default Interest Rate from the date such loss or damage is sustained by Lender until paid. The obligations of Mortgagor under this Section 4.13 shall survive any termination or satisfaction of this Mortgage.

**4.14 Waiver of Right of Redemption and Other Rights.** To the full extent permitted by law, Mortgagor agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree,



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judgment or order of any court of competent jurisdiction; or after such sale claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights it may have to require that the Premises be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption under the IMF Law, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and such other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Lender, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note. Mortgagor acknowledges that the Premises do not constitute agricultural real estate as defined in Section 5/15-1201 of the IMF Law or residential real estate as defined in Section 5/15-1219 of the IMF Law.

## V MISCELLANEOUS

**5.01 Notices.** Any notice that Lender or Mortgagor may desire or be required to give to the other hereunder shall be deemed given (i) upon receipt when delivered or if sent by nationally recognized overnight air courier, or (ii) three (3) business days after being deposited in the United States certified mail, return receipt requested, properly addressed to the party, at the address of such party set forth below, or at such other address, as the party to whom notice is to be given has specified by notice hereunder to the party seeking to give such notice:

To the Mortgagor: Winifred Brown McKinney  
1426 Hinman Avenue  
Evanston, Illinois 60201

To Lender: Mortgage Lending Services, LLC  
2614 Patriot Boulevard  
Suite A  
Glenview, Illinois 60026

Except as otherwise specifically required herein, notice of the exercise of any right or option granted to Lender by this Mortgage is not required to be given.

**5.02 Time of Essence.** It is specifically agreed that time is of the essence of this Mortgage.

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**5.03 Covenants Run with Land.** All of the covenants of this Mortgage shall run with the land constituting the Premises.

**5.04 Governing Law; Litigation.** The place of the location of the Mortgaged Property being the State of Illinois, this Mortgage shall be construed and enforced according to the laws of that State. To the extent that this Mortgage may operate as a security agreement under the Uniform Commercial Code, Lender shall have all rights and remedies conferred therein for the benefit of a secured party, as such term is defined therein. TO THE MAXIMUM EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MORTGAGE SHALL BE TRIED AND DETERMINED ONLY IN THE STATE OR FEDERAL COURT LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER, IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 5.04.

**5.05 Rights and Remedies Cumulative.** All rights and remedies set forth in this Mortgage are cumulative, and the holder of the Note and of every other obligation secured hereby may recover judgment hereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy afforded hereby.

**5.06 Severability.** If any provision of this Mortgage or any paragraph, sentence, clause, phrase or word, or the application thereof, is held invalid in any circumstance, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included herein.

**5.07 Non-Waiver.** Unless expressly provided in this Mortgage to the contrary, no consent or waiver, whether express or implied, by any interested party referred to herein to or of any breach or default by any other interested party referred to herein regarding the performance by such party of any obligations contained herein shall be deemed a consent to or waiver of the party of any obligations contained herein or shall be deemed a consent to or waiver of the performance by such party of any other obligations hereunder or the performance by any other interested party referred to herein of the same, or of any other, obligations hereunder.

**5.08 Headings.** The headings of sections and paragraphs in this Mortgage are for convenience or reference only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof.

**5.09 Grammar.** As used in this Mortgage, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires. Whenever the words "including", "include" or "includes" are used in this Mortgage,

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they should be interpreted in a non-exclusive manner as though the words “, without limitation,” immediately followed the same.

**5.10 Successors and Assigns.** This Mortgage and all provisions hereof shall be binding upon Mortgagor, its successors, assigns, legal representatives and all other persons or entities claiming under or through Mortgagor, and the word “Mortgagor,” when used herein, shall include all such persons and entities and any others liable for the payment of the indebtedness secured hereby or any part thereof, whether or not they have executed the Note or this Mortgage. The word “Lender,” when used herein, shall include Lender’s successors, assigns and legal representatives, including all other holders, from time to time, of the Note.

**5.11 No Joint Venture.** Mortgagor and Lender acknowledge and agree that under no circumstances shall Lender be deemed to be a partner or joint venturer with Mortgagor including, without limitation, by virtue of its becoming a mortgagee in possession or exercising any of its rights pursuant to this Mortgage or pursuant to any of the other Loan Documents, or otherwise.

**5.12 Additional Fees.**

(a) Mortgagor agrees to pay on demand all of the reasonable out-of-pocket costs and expenses of Lender (including, without limitation, the reasonable fees and out-of-pocket expenses of Lender’s counsel) in connection with the preparation, negotiation, execution and delivery of the Note, this Mortgage, any of the other Loan Documents and all other instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith (including, without limitation, all amendments, supplements and waivers executed and delivered pursuant hereto or in connection herewith).

(b) The reasonable costs and expenses which Lender incurs in any manner or way with respect to the following shall be part of the indebtedness secured hereby, payable by Mortgagor on demand if at any time after the date of this Mortgage Lender: (i) employs counsel for advice or other representation (A) with respect to the amendment or enforcement of the Note, this Mortgage or any of the other Loan Documents, (B) to represent Lender in any work-out or any type of restructuring of the Loan, or any litigation, contest, dispute, suit or proceeding or to commence, defend or intervene or to take any other action in or with respect to any litigation, contest, dispute, suit or proceeding (whether instituted by the Lender, Mortgagor or any other person or entity) in any way or respect relating to the Note, this Mortgage, any of the other Loan Documents, Mortgagor’s affairs or any collateral securing the indebtedness secured hereby or (C) to enforce any of the rights of Lender with respect to Mortgagor; and/or (ii) seeks to enforce or enforces any of the rights and remedies of Lender with respect to Mortgagor. Without limiting the generality of the foregoing, such expenses, costs, charges and fees include reasonable fees, costs and expenses of attorneys, accountants and consultants; court costs and expenses; court reporter fees, costs and expenses; long distance telephone charges; and telegram and telecopier charges.

**5.13 Compliance with the Illinois Mortgage Foreclosure Law.**

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(a) In the event that any provision in this Mortgage shall be inconsistent with any provisions of the IMF Law, the provisions of the IMF Law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the IMF Law.

(b) Mortgagor and Lender shall have the benefit of all of the provisions of the IMF Law, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the IMF Law which is specifically referred to herein may be repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

(c) If any provision of this Mortgage shall grant to Lender any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Lender under the IMF Law in the absence of said provision, Lender shall be vested with the rights granted in the IMF Law to the full extent permitted by law.

(d) Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under any provisions of the IMF Law, whether incurred before or after any decree or judgment of foreclosure shall be added to the indebtedness hereby secured or by the judgment of foreclosure.

**5.14 Recapture.** To the extent Lender receives any payment by or on behalf of Mortgagor, which payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to Mortgagor or its respective estate, trustee, receiver, custodian or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, the obligation or part thereof which has been paid, reduced or satisfied by the amount so repaid shall be reinstated by the amount so repaid and shall be included within the indebtedness hereby secured as of the date such initial payment, reduction or satisfaction occurred.

**5.15 Deed in Trust.** If title to the Mortgaged Property or any part thereof is now or hereafter becomes vested in a trustee, any prohibition or restriction contained herein against the creation of any lien on the Mortgaged Property shall be construed as a similar prohibition or restriction against the creation of any lien on or security interest in the beneficial interest of such trust.

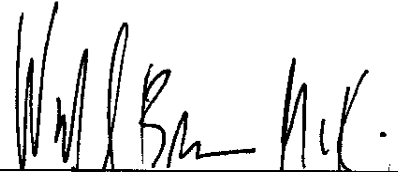
**5.16 JURY WAIVER.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF MORTGAGOR AND LENDER HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MORTGAGE, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF MORTGAGOR AND LENDER WITH RESPECT TO THIS MORTGAGE, OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF MORTGAGOR AND LENDER HEREBY AGREES THAT ANY SUCH ACTION, CAUSE



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OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT MORTGAGOR OR LENDER MAY FILE A COPY OF THIS MORTGAGE WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OF MORTGAGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

**IN WITNESS WHEREOF**, this Mortgage has been executed as of the date and year first above written.

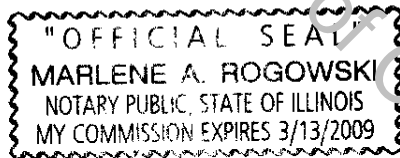
  
WINIFRED BROWN McKINNEY

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STATE OF ILLINOIS     )  
   ) SS.  
 COUNTY OF COOK        )

I, MARLENE ROGOWSKI, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that Winifred Brown McKinney, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 23<sup>rd</sup> day of May, 2008.



*Marlene Rogowski*  
 Notary Public

My commission expires: \_\_\_\_\_

Cook County Clerk's Office

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## EXHIBIT A

### LEGAL DESCRIPTION

The East 140 Feet and the South 20 Feet of the West 50 Feet of Lot 3 in Block 31 in Evanston in the Southeast  $\frac{1}{4}$  of Section 18, Township 41 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N.: 11-18-414-010-0000

Address: 1426 Hinman Avenue, Evanston, IL 60201

Property of Cook County Clerk's Office