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Cook County Recorder 77.50

This document was prepared by and after recording should be returned to:

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**COMMERCIAL MORTGAGE, SECURITY AGREEMENT, FINANCING STATEMENT AND ASSIGNMENT OF RENTS AND LEASES**

THIS INDENTURE ("Mortgage") entered into as of this 23rd day of November, 1999 by CNL APF PARTNERS, LP, a Delaware limited partnership (hereinafter called "Mortgagor"), having its principal place of business at 400 East South Street, Suite 500, Orlando, FL 32801 to COOPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK, B.A., "RABOBANK INTERNATIONAL," NEW YORK BRANCH, as Collateral Agent, with an office located at c/o 450 West 33rd Street, New York, New York 10001-2697 (hereinafter called "Mortgagee");

WITNESSETH:

WHEREAS, Mortgagor has executed and delivered to Mortgagee that certain Franchise Receivable Funding and Servicing Agreement by and among Mortgagor, as borrower, Mortgagee, as collateral agent, Neptune Funding

99-05804, 05809, 05783, MEM  
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Corporation, as lender and CNL Financial Services, LP, as servicer, dated as of October 14, 1999 (as the same has been or may hereafter be amended, modified or supplemented, the "Loan Agreement");

**WHEREAS**, Mortgagor wishes to obtain Loans (as defined in the Loan Agreement) from Mortgagee pursuant to and in accordance with the terms and conditions of the Loan Agreement from time to time;

**WHEREAS**, as a condition to Mortgagee's extension of the Loans to Mortgagor, Mortgagee has required that Mortgagor enter into this Mortgage and grant to Mortgagee the liens and security interests referred to secure the Borrower Secured Obligations (as such term is defined in the Loan Agreement); and

**WHEREAS**, THE MAXIMUM PRINCIPAL AMOUNT OF THE OBLIGATIONS SECURED BY THIS MORTGAGE AT EXECUTION OR WHICH MAY BE SECURED OR ADVANCED, PAID AND READVANCED AT ANY TIME IN THE FUTURE UNDER ANY CONTINGENCY IS \$184,000,000.00, provided, that the foregoing limitation shall apply only to the lien upon the real property created by this Mortgage, and it shall not in any manner limit, affect or impair any grant of a security interest or other right in favor of the Mortgagee under the provisions of the Loan Agreement or under any other security agreement at any time executed by Mortgagor, and further provided, that the limitation shall not limit the security of this Mortgage with respect to interest on the Borrower Secured Obligations at the rates set forth in the Loan Agreement, sums to pay real estate taxes and insurance premiums, and attorneys' fees and costs with respect to the Mortgaged Property (as defined herein);

**WHEREAS**, the balance of the Borrower's Secured Obligations and any other obligations secured hereby, if not paid sooner, shall be due and payable no later than thirty (30) years from the date first set forth on page 1 hereof (or shorter period, if such shorter period is the maximum period allowed by law) (the "Maturity Date");

**NOW, THEREFORE**, to secure payment of the Borrower Secured Obligations and in consideration of One Dollar (\$1.00) in hand paid, receipt whereof is hereby acknowledged, Mortgagor does hereby grant, remise, release, alien, convey, mortgage and warrant to Mortgagee, its successors and assigns, the following described real estate in the counties described in Exhibit A, located in Illinois, and does further grant a security interest to Mortgagee in all Personal Property (as defined below) as well as all Mortgaged Property (as defined below) as may be secured under the Uniform Commercial Code (the "Code") in effect in the State of Illinois (the "State");

**ALL OF** the real estate and land (the "Land") of Mortgagor more particularly described in Exhibit A attached hereto and by this reference made a part hereof, which Land, together with all right, title and interest, if any, which Mortgagor may now have or hereafter acquire in and to all improvements, buildings and structures thereon of every nature whatsoever, is herein called the "Premises."

**TOGETHER WITH** all right, title and interest, if any, including any after-acquired right, title and interest, and including any right of use or occupancy, which Mortgagor may now have or hereafter acquire in and to (a) all easements, rights of way, gores of land or any lands occupied by streets, ways, alleys, passages, sewer rights, water courses, water rights and powers, and public places adjoining said Land, and any other interests in property constituting appurtenances to the Premises, or which hereafter shall in any way belong, relate or be appurtenant thereto and, (b) all hereditaments, gas, oil, minerals, and easements, of every nature whatsoever, located in or on the Premises and all other rights and privileges thereunto belonging or appertaining and all extensions, additions, improvements, betterments, renewals, substitutions and replacements to, or of any of the rights and interests described in subparagraphs (a) and (b) above (hereinafter the "Property Rights.")

**TOGETHER WITH** all fixtures and appurtenances of every nature whatsoever now or hereafter located in, on or attached to, and used or intended to be used in connection with, or with the operation of, the Premises, including, but not limited to (a) all apparatus, machinery and equipment of Mortgagor; and (b) all extensions, additions, improvements, betterments, renewals, substitutions, and replacements to or of any of the foregoing (the "Fixtures"); as well as all personal property and equipment of every nature whatsoever now or hereafter located in or on the Premises,

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including but not limited to (c) accounts, contract rights, general intangibles, tax refunds, chattel paper, instruments, notes, letters of credit, documents, documents of title; (d) inventory; (e) equipment; (f) all of Mortgagor's deposit accounts (general or special) with and credits and other claims against Mortgagee, or any other financial institution with which Mortgagor maintains deposits relating to the Mortgaged Property or any of the other Collateral (as such term is defined in the Loan Agreement); (g) all of Mortgagor's now owned or hereafter acquired monies, and any and all other property and interests in property of Mortgagor now or hereafter coming into the actual possession, custody or control of Mortgagee or any agent or affiliate of Mortgagee in any way or for any purpose (whether for safekeeping, deposit, custody, pledge, transmission, collection or otherwise); (h) all insurance proceeds of or relating to any of the foregoing; (i) all of Mortgagor's books and records relating to any of the foregoing; and (j) all accessions and additions to, substitutions for, and replacements, products and proceeds of any of the foregoing clauses (c) through (i) (the items described in the foregoing clauses (c) through (j) and any other personal property referred to in this paragraph being the "Personal Property"). It is mutually agreed, intended and declared that the Premises and all of the Property Rights and Fixtures owned by Mortgagor (referred to collectively herein as the "Real Property") shall, so far as permitted by law, be deemed to form a part and parcel of the Land and for the purpose of this Mortgage to be real estate and covered by this Mortgage.

**TOGETHER WITH** (i) all the estate, right, title and interest of the Mortgagor, in and to all judgments, insurance proceeds, awards or damages and settlements resulting from condemnation proceedings or the taking of the Real Property, or any part thereof, under the power of eminent domain or for any damage (whether caused by such taking or otherwise) to the Real Property, the Personal Property or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the Real Property, the Personal Property or any part thereof; and (except as otherwise provided herein or in the Loan Agreement) the Mortgagee is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor, and to apply the same as provided in the Loan Agreement; and (ii) all contract rights, general intangibles, actions and rights in action, relating to the Real Property, or the Personal Property, including, without limitation, all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Real Property; and (iii) all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Real Property or the Personal Property. (The rights and interests described in this paragraph shall hereinafter be called the "Intangibles.")

As additional security for the Borrower Secured Obligations secured hereby, Mortgagor does hereby pledge and assign to Mortgagee from and after the date hereof (including any period of redemption), primarily and on a parity with said real estate, and not secondarily, all the rents, issues and profits of the Real Property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits of money as advance rent, for security or as earnest money or as down payment for the purchase of all or any part of the Real Property or the Personal Property) (the "Rents") under any and all present and future leases, contracts or other agreements relative to the ownership of the Real Property or the Personal Property or to the occupancy of all or any portion of the Real Property and, except to the extent such a transfer or assignment is not permitted by the terms thereof, does hereby transfer and assign to Mortgagee all such leases and agreements (including all Mortgagor's rights under any contracts for the sale of any portion of the Mortgaged Property (as hereinafter defined) and all revenues and royalties under any oil, gas and mineral leases relating to the Real Property) (the "Leases"). Mortgagor agrees to execute and deliver such assignments of leases or assignments of land sale contracts as Mortgagee may from time to time reasonably request and agrees that the Mortgagee may assume the management of the Real Property, and collect the Rents, applying the same upon the Borrower Secured Obligations in the manner provided in the Loan Agreement. In accordance with and subject to the provisions of the Loan Agreement, (i) Mortgagor hereby authorizes and shall direct all Obligor's, tenants, purchasers or other persons occupying or otherwise acquiring any interest in any part of the Real Property to pay the Rents due under the Leases to the Mortgagee by depositing same in a Lockbox Account (as such term is defined in the Loan Agreement) and (ii) Mortgagor hereby appoints Mortgagee as its true and lawful attorney in fact to manage said property and collect the Rents, with full power to bring suit for collection of the Rents and possession of the Real Property, giving and granting unto said Mortgagee and unto its agent or attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in the protection of the security hereby conveyed; provided, however, that this power of attorney and assignment of rents shall not be construed as an

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obligation upon said Mortgagee to make or cause to be made any repairs that may be needful or necessary. Each of such power of attorney and the assignment of rents (which is a present and absolute assignment) shall be irrevocable (a) until this Mortgage shall have been satisfied and released of record or (b) with respect to any partial release of any of the Mortgaged Property in accordance with the Loan Agreement, until such Mortgaged Property is released (but only with respect to such Mortgaged Property), and the releasing of this Mortgage or such Mortgaged Property, as the case may be, shall act as a revocation of such power of attorney and assignment of rents with respect to the related Mortgaged Property. Mortgagee shall have and hereby expressly reserves the right and privilege (but assumes no obligation) to demand, collect, sue for, receive and recover the Rents, or any part thereof, now existing or hereafter made, and apply the same in accordance with the provisions of the Loan Agreement.

All of the mortgaged property described above, and each item of mortgaged property therein described, not limited to but including the Land, the Premises, the Property Rights, the Fixtures, the Real Property, the Personal Property, the Tangibles, the Rents and the Leases, is herein referred to as the "Mortgaged Property."

Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee-in-possession in the absence of the taking of actual possession of the Mortgaged Property by the Mortgagee. Nothing contained in this Mortgage shall be construed as imposing on Mortgagee any of the obligations of the lessor under any lease of the Real Property in the absence of an explicit assumption thereof by Mortgagee. In the exercise of the powers herein granted the Mortgagee, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by Mortgagor.

**TO HAVE AND TO HOLD** the Mortgaged Property, properties, rights and privileges hereby conveyed or assigned, or intended so to be, unto Mortgagee, its successors and assigns, forever for the uses and purposes herein set forth. Mortgagor hereby releases and waives all rights under and by virtue of the Homestead Exemption Laws of the State, and Mortgagor hereby covenants that, at the time of the enrolling and delivery of these presents, Mortgagor is well seised of the Mortgaged Property in fee simple, and with full legal and equitable title to the Mortgaged Property, with good right, full power and lawful authority to sell, assign, convey and mortgage the same, and that title to the Mortgaged Property described in Exhibit A is free and clear of encumbrances, except for Permitted Liens, if any (as such term is defined in the Loan Agreement), and that Mortgagor will forever defend the same against all lawful claims.

The following provisions shall also constitute an integral part of this Mortgage:

1. Payment of Borrower Secured Obligations. Mortgagor agrees to pay, when due or declared due, all of the Borrower Secured Obligations secured hereby in accordance with the provisions of the Loan Agreement.

2. [Intentionally Deleted.]

3. Covenants Relating to the Premises. Except to the extent expressly permitted under the Loan Agreement, Mortgagor agrees (a) not to abandon the Premises; (b) to keep the Real Property in good, safe and insurable condition and repair and not to commit or suffer waste; (c) to make when necessary and appropriate any and all repairs to the Premises, whether structural or nonstructural, exterior or interior, foreseen or unforeseen, ordinary or extraordinary, and to cause all such repairs to be (in the opinion of Mortgagee) of first class quality; (d) to refrain from taking any action that would impair or diminish the value of this Mortgage, including any action that would increase the risk of fire or any other hazard for the Premises; and (e) neither to make nor to permit structural or other substantial alterations in the buildings or any substantial construction on the Land without the written consent of Mortgagee. Mortgagor may remove any Personal Property or Fixtures used in connection with the Premises which is worn out or obsolete, provided that, either prior to or simultaneously with such removal, (i) Mortgagor shall replace such property with other property which shall be of the same or greater utility and value as the replaced property had when first acquired, and such replacement property shall be free and clear of any liens or security interests other than those of Mortgagee and shall be subject to the lien and security interest created by this Mortgage and (ii) such removal is made in accordance with the provisions of the Loan Agreement.

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4. [Intentionally Deleted.]

5. Change in Law. Except to the extent otherwise expressly set forth in the Loan Agreement, Mortgagor agrees that, if the United States or the State or any of their subdivisions having jurisdiction shall levy, assess, or charge any tax, assessment or imposition upon this Mortgage or the credit or indebtedness secured hereby or the interest of Mortgagee in the Mortgaged Property or upon Mortgagee by reason of or as holder of any of the foregoing, or in the event that any law is enacted changing in any way the laws now in force with respect to the taxation of mortgages or debts secured thereby for any purpose, then, Mortgagor shall pay (or reimburse Mortgagee for) such taxes, assessments or impositions and, unless all such taxes, assessments and impositions are paid or reimbursed by Mortgagor when and as they become due and payable, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee, notwithstanding anything contained herein or in any law heretofore or hereafter enacted. In the event that any court of last resort enters a decision that the undertaking by the Mortgagor provided for in this Paragraph 5 to pay taxes, assessments, and charges in connection with the Mortgaged Property is legally inoperative or cannot be enforced, or in the event that any law is enacted changing in anyway the laws now in force with respect to the taxation of mortgages or debts secured thereby for any purposes, or the manner of collection of any such taxes, so as to affect adversely the Mortgagee, Mortgagee shall have the right to exercise any remedies with respect to the Mortgaged Property that Mortgagee would otherwise have in the event of a Termination Event.

6. Insurance.

(a) Mortgagor agrees to maintain in force at all times such insurance as may be required under the Loan Agreement or reasonably required by Mortgagee from time to time.

(b) All such insurance shall be written by companies and on forms with endorsements satisfactory to Mortgagee, all with suitable loss-payable and standard noncontribution mortgagee clauses in favor of Mortgagee (or, in case of a foreclosure sale, in favor of the owner of the certificate of sale) attached, and originals or certified copies of the policies evidencing the same shall be kept constantly deposited with Mortgagee. All said policies shall provide for, among other things, written notice to Mortgagee of their expiration or any anticipated cancellation at least thirty (30) days prior to such event occurring. Not less than thirty (30) days prior to the expiration of any such policy, a certified copy of an appropriate renewal policy shall be deposited with Mortgagee. In case of loss, Mortgagee is authorized to collect and apply insurance proceeds as set forth under, and in accordance with, the provisions of the Loan Agreement.

(c) Mortgagor shall notify Mortgagee, in writing, of any loss to the Real Property covered by insurance and Mortgagor hereby directs each insurance company to make payment for such loss as required by, and in accordance with, the provisions of the Loan Agreement; and Mortgagor agrees that any payment which is delivered, for any reason, to Mortgagor shall be held in trust for Mortgagee and promptly delivered in the form received (except for any necessary endorsements thereon) to Mortgagee.

7. [Intentionally Deleted.]

8. Recording and Mortgage Taxes. Except to the extent otherwise expressly set forth in the Loan Agreement, Mortgagor agrees that, if the United States Government or any department, agency or bureau thereof or the State or any of its subdivisions shall at any time require documentary stamps to be affixed to the Mortgage, Mortgagor will, upon request, pay for such stamps in the required amount and deliver them to Mortgagee, and Mortgagor agrees to indemnify Mortgagee against liability on account of such documentary stamps, whether such liability arises before or after payment of the Borrower Secured Obligations and regardless of whether this Mortgage shall have been released.

9. [Intentionally Deleted.]

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10. Escrow for Insurance and Taxes. Mortgagor shall pay or cause to be paid all real estate tax or required insurance premium related to the Real Property when due, in accordance with, and subject to, the provisions of the Loan Agreement. If requested by Mortgagee, (i) Mortgagor shall provide Mortgagee with the original real estate tax bill or insurance invoice not later than ten (10) days before the payment is due, and (ii) Mortgagor shall furnish Mortgagee with copies of paid tax receipts and insurance premium receipts not later than [ five (5) days ] before the payment is due.

11. Leases. Except to the extent otherwise expressly set forth under the Loan Agreement, Mortgagor agrees faithfully to perform all its obligations under all present and future Leases at any time assigned to Mortgagee as additional security, and to refrain from any action or inaction which would result in termination of any such Leases or in the diminution of the value thereof or of the Rents due thereunder. All future lessees under any Lease made after the date of recording of this Mortgage shall, at Mortgagee's option and without any further documentation, attorn to Mortgagee as lessor if for any reason Mortgagee becomes lessor thereunder, and, Mortgagee shall not be responsible under such Lease for matters arising prior to Mortgagee becoming lessor thereunder; provided, however, Mortgagee shall not become lessor or obligated as lessor under any such Leases unless or until it shall elect in writing to do so.

12. Use. Mortgagor agrees that it shall not permit the public to use the Real Property or any other property covered by this Mortgage in any manner that might tend, in Mortgagee's judgment, to impair Mortgagor's marketable title to such property or any portion thereof, or to make possible any claim or claims of easement by prescription or of implied dedication to public use. Mortgagor shall not use or permit the use of any part of the Premises or any other property covered by this Mortgage for an illegal purpose. Mortgagor shall not permit any use of the Premises or such property for any purpose other than that for which such Premises or property is used as of the date hereof without Mortgagee's consent.

13. Casualty. If any building or other improvement now or hereafter erected on the Land shall be lost, damaged or destroyed by fire or any other cause, Mortgagor will give immediate written notice thereof to Mortgagee and shall, with Mortgagee's prior written consent, promptly restore the Premises to the equivalent of its condition immediately prior to such loss, damage or destruction regardless of whether or not there shall be any insurance proceeds therefore except to the extent such repair or restoration is not required under the Loan Agreement or Lease (but with respect to any such Lease, Mortgagor shall enforce and cause the tenant under such Lease to complete such repair or restoration). Mortgagee shall have the right to apply any insurance proceeds or other recovery related to said loss in accordance with, and subject to, the provisions of the Loan Agreement. If a part of the Premises shall be lost, physically damaged, or destroyed through condemnation, Mortgagor will promptly restore, repair or alter the Premises remaining in a manner satisfactory to Mortgagee in accordance with, and subject to, the provisions of the Loan Agreement. Plans and specifications for the restoration as herein required shall be submitted to Mortgagee prior to commencement of work and shall be subject to reasonable approval of Mortgagee.

14. [Intentionally Deleted.]

15. Condemnation Proceeds. Mortgagor hereby assigns to Mortgagee, as additional security, all awards of damage resulting from condemnation proceedings or the taking of or injury to the Premises for public use, and Mortgagor agrees that, the proceeds of all such awards shall be paid in accordance with the provisions of the Loan Agreement, and Mortgagee is hereby authorized, except to the extent otherwise expressly set forth under the Loan Agreement, on behalf of and in the name of Mortgagor, to execute and deliver valid acquittance for and to appeal from any such award.

16. Right to Cure. Mortgagor agrees that, from and after the occurrence of a default under this Mortgage, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor, in any form and manner deemed expedient after reasonable inquiry into the validity thereof. By way of illustration and not in limitation of the foregoing, Mortgagee may, but need not, (i) make full or partial payments of insurance premiums which are unpaid by Mortgagor, coordinate liens or encumbrances, if any, (ii) purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, title or claim thereof, or (iii) redeem all or any part of the

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Premises from any tax or assessment. All money paid for any of the purposes herein authorized and all other moneys advanced by Mortgagee to protect the Mortgaged Property and the lien hereof shall be additional Borrower Secured Obligations secured hereby and shall become immediately due and payable without notice and shall bear interest thereon at the interest rate as provided in the Loan Agreement ("Interest Rate") until paid to Mortgagee in full. In making any payment hereby authorized relating to taxes, assessments or prior or coordinate liens or encumbrances, Mortgagee shall be the sole judge of the legality, validity and priority thereof and of the amount necessary to be paid in satisfaction thereof.

17. Access and Inspection. Mortgagee, or any person designated by Mortgagee in writing, shall have the right, from time to time hereafter, to call at the Premises (or at any other place where information relating thereto is kept or located) during reasonable business hours and, without hindrance or delay, to make such inspection and verification of the premises, and the affairs, finances and business of Mortgagor in connection with the Premises, as Mortgagee may consider reasonable under the circumstances, and to discuss the same with any agents or employees of Mortgagor.

18. Any of the following occurrences or acts shall constitute an event of default under this Mortgage ("default"):

(i) A Termination Event (as described in the Loan Agreement) shall occur and be continuing;  
or

(ii) Mortgagor (regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, a law, in equity, or before any administrative tribunal, which have prevented or might have the effect of preventing Mortgagor from complying with the terms of this Mortgage), shall fail to observe or perform any of Mortgagor's covenants, agreements or obligations under this Mortgage and such default shall continue for fifteen (15) days;

(iii) any default under any other Mortgage (as such term is defined in the Loan Agreement) executed and delivered under the Loan Agreement.

If any such default shall have occurred, then, to the extent permitted by applicable law, and in accordance with, and subject to the provisions of the Loan Agreement, the following provisions shall apply:

(a) All Borrower Secured Obligations shall, at the option of Mortgagee, become immediately due and payable without presentment, demand or further notice.

(b) It shall be lawful for Mortgagee to, in accordance with, and subject to the provisions of the Loan Agreement, (i) sell the Mortgaged Property either in whole or in separate parcels, as prescribed by State law, under power of sale, which power is hereby granted to Mortgagee to the full extent permitted by State law, and thereupon, to make and execute to any purchaser(s) thereof deeds of conveyance pursuant to applicable law or (ii) immediately foreclose this Mortgage by action. The court in which any proceeding is pending for the purpose of foreclosure of this Mortgage may, at once or at any time thereafter, either before or after sale, without notice and without requiring bond, and without regard to the solvency or insolvency of any person liable for payment of the Borrower Secured Obligations secured hereby, and without regard to the then value of the Mortgaged Property or the occupancy thereof as a homestead, appoint a receiver (the provisions for the appointment of a receiver and assignment of rents being an express condition upon which the loan evidenced by the Loan Agreement and the other financial accommodations to Mortgagor have been made) for the benefit of Mortgagee, with power to collect the Rents, due and to become due, during such foreclosure suit and the full statutory period of redemption notwithstanding any redemption. The receiver, out of such Rents, when collected, may pay costs incurred in the management and operation of the Real Property, prior and subordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then due or thereafter accruing, and may make and pay for any necessary repairs to the Real Property or the Personal Property, and may pay

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all or any part of the Borrower Secured Obligations then due and payable, or other sums secured hereby or any deficiency decree entered in such foreclosure proceedings in accordance with, and subject to, the provisions of the Loan Agreement. Without limiting the foregoing and in amplification thereof, while a default is continuing, the Mortgagee, with or without entry, shall also have the following rights:

(1) to institute a proceeding or proceedings, by advertisement, judicial process or otherwise, as provided under applicable law, for the complete or partial foreclosure of this Mortgage or the complete or partial sale of the Mortgaged Property under the power of sale hereunder or under any applicable provision of law;

(2) to sell the Mortgaged Property and all estate, right, title and interest of the Mortgagor therein, as a whole or in separate parcels, at one or more sales, at such time and place and upon such terms and conditions as may be required by applicable law;

(3) to take such steps to protect and enforce its rights, whether by action, suit or proceeding in equity or at law, for the specific performance of any provision in the Loan Documents, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy the Mortgagee shall elect;

(4) to apply for the appointment of a receiver, supervisor, trustee, liquidator, conservator or other custodian of the Mortgaged Property or any part thereof and all earnings, revenues, Rents, issues, profits and income thereof, to the extent permitted by law, without giving notice to any other party and without regard to the adequacy or inadequacy of the security of the Mortgaged Property or the solvency of either Mortgagor or any other Person and the Mortgagor agrees that it shall not oppose the appointment of a receiver; and

(5) to take all such other steps and to assert all such other rights and remedies as shall be permitted by applicable law.

(c) [Intentionally Omitted.]

(d) Without limiting any of the foregoing and in amplification thereof, the Mortgagor hereby waives, after a default has occurred, all right to the possession, income and Rents of the Property, and the Mortgagee or a receiver (as the case may be as the Person exercising the rights under this Section) is hereby expressly authorized and empowered to the extent permitted by applicable law, and in accordance with the provisions of the Leases, while a default is continuing, (i) to enter into and upon and take possession of, and operate all facilities on, the Real Property or any part thereof, personally, or by its agents or attorneys, and exclude the Mortgagor therefrom without liability for trespass, damages or otherwise; (ii) to enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of the Mortgagor relating to the possession and operation of the Mortgaged Property; (iii) to conduct, either personally or by its agents, the business of the Real Property; (iv) to exercise all rights of the Mortgagor with respect to the Mortgaged Property; (v) to complete any alteration or restoration in progress on the Real Property at the expense of the Mortgagor at reasonable and customary cost or at such cost previously agreed to by the Mortgagor, and (vi) to apply all income of the Real Property and other Rents less the necessary or appropriate expenses of collection thereof, either for the operation, care and preservation of the Mortgaged Property, or, at the election of the Person exercising the rights under this Section in its sole discretion. The Person exercising the rights under this Section is also hereby granted full and complete authority while a default is continuing, but subject to the provisions of the Leases, (vii) to employ watchmen to protect the Mortgaged Property; (viii) to continue any and all outstanding contracts for the erection and completion of improvements to the Premises; (ix) to make all necessary and proper repairs, renewals, replacements, alterations, additions, betterments and improvements to the Real Property that, in its sole discretion, it may deem appropriate; (x) to



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insure and reinsure the Real Property for all risks incidental to the Mortgagee's possession, operation and management thereof; (xi) to make and enter into any contracts and obligations wherever necessary in its own name for the operation, care and preservation of the Mortgaged Property, and (xii) to pay and discharge all debts, obligations and liabilities incurred thereby, all at the expense of the Mortgagor, and the Person exercising the rights under this Section shall not be liable to account for any action taken hereunder, and shall not be liable for any loss sustained by the Mortgagor resulting from any act or omission of such Person, except to the extent such loss is caused by such Person's willful misconduct or gross negligence. All such expenditures by the Person exercising the rights under this Section shall be Borrower Secured Obligations hereunder.

(e) Except as otherwise provided herein, to the extent permitted under applicable law, and not expressly prohibited under the Loan Agreement, at the election of the Mortgagee, the following provisions shall apply to any sale of the Mortgaged Property hereunder, whether made pursuant to the power of sale hereunder, any judicial proceeding or any judgment or decree of foreclosure or sale or otherwise:

(i) The Mortgagee or the court officer (as the case may be as the Person conducting any sale) may conduct any number of sales from time to time. The power of sale hereunder or with respect hereto shall not be exhausted by any sale as to any part or parcel of the Mortgaged Property which is not sold, unless and until the Borrower Secured Obligations shall have been paid in full and the Commitments terminated, and shall not be exhausted or impaired by any sale which is not completed or is defective. Any sale may be as a whole or in part or parcels and the Mortgagor hereby waives its right to direct the order in which the Mortgaged Property or any part or parcel thereof is sold.

(ii) Any sale may be postponed or adjourned by public announcement at the time and place appointed for such sale or for such postponed or adjourned sale without further notice.

(iii) After each sale, the Person conducting such sale shall deliver to the purchaser or purchasers at such sale a good and sufficient instrument or instruments granting, conveying, assigning, transferring, warranting (subject to the Permitted Liens) and delivering all right, title and interest of the Mortgagor in and to the Mortgaged Property sold and shall receive the proceeds of such sale and apply the same all as provided in the Loan Agreement. The Mortgagor hereby irrevocably appoints the Person conducting such sale as the attorney in fact of the Mortgagor (with full power to substitute any other Person in its place as such attorney in fact) to act in the name of the Mortgagor or, at the option of the Person conducting such sale, in such Person's own name, to make without warranty by such Person any conveyance, assignment, transfer, or delivery of the Mortgaged Property sold, and to execute, acknowledge and deliver any instrument of conveyance, assignment, transfer, warranty or delivery or other document in connection therewith or to take any other action incidental thereto, as the Person conducting such sale shall deem appropriate in its discretion; and the Mortgagor hereby irrevocably authorizes and directs any other Person to act upon the foregoing appointment and a certificate of the Person conducting such sale that such Person is authorized to act hereunder. Nevertheless, upon the request of such attorney in fact the Mortgagor shall promptly execute, acknowledge and deliver any documentation which such attorney in fact may require for the purpose of ratifying, confirming or effectuating the powers granted hereby or any such conveyance, assignment, transfer or delivery by such attorney in fact.

(iv) Any statement of fact or other recital made in any instrument referred to in subsection (iii) of this Section given by the Person conducting any sale as to (a) the nonpayment of any Borrower Secured Obligation, (b) the receipt of a default notice, (c) the amount of the Borrower Secured Obligations due and payable, (d) the request to the Mortgagee to sell, (e) the notice of the time, place and terms of sale and of the Mortgaged Property to be sold having been duly given, or (f)

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any other act or thing having been duly done or not done by the Mortgagor, the Mortgagee or any other Person, shall be taken as conclusive and binding against all other Persons as evidence of the truth of the facts so stated or recited. The Person conducting any sale may appoint or delegate any other Person as agent to perform any act necessary or incident to such sale, including the posting of notices and the conduct of such sale, but in the name and on behalf of the Person conducting such sale.

(v) The receipt of the Person conducting any sale for the purchase money paid at any such sale shall be sufficient discharge therefor to any purchaser of any Mortgaged Property sold, and no such purchaser, or its representatives, grantees or assigns, after paying such purchase price and receiving such receipt, shall be bound to see to the application of such purchase price or any part thereof upon or for any trust or purpose of this Mortgage or the Loan Agreement in any manner whatsoever, be answerable for any loss, misapplication or nonapplication of any such purchase money or be bound to inquire as to the authorization, necessity, expediency or regularity of such sale.

(vi) Any sale shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of the Mortgagor in and to the Mortgaged Property sold, and (to the extent permitted under applicable law) shall be a perpetual bar both at law and in equity against the Mortgagor and any and all Persons claiming such Mortgaged Property or any interest therein by, through or under the Mortgagor.

(vii) At any sale, the Mortgagee may bid for and acquire the Mortgaged Property sold and, in lieu of paying cash therefor, may make settlement for the purchase price by causing the Collateral Agent to credit against the Borrower Secured Obligations, including the expenses of the sale and the cost of any enforcement proceeding hereunder, the amount of the bid made therefor to the extent necessary to satisfy such bid.

(viii) In the event that the Mortgagor or any Person claiming by, through or under the Mortgagor (other than Obligor) shall transfer or fail to surrender possession of the Mortgaged Property after any sale thereof, then the Mortgagor or such Person shall be deemed a tenant at sufferance of the purchaser at such sale, subject to eviction by means of forcible entry and unlawful detainer proceedings, or subject to any other right or remedy available hereunder or under applicable law.

(ix) Upon any sale, it shall not be necessary for the Person conducting such sale to have any Mortgaged Property being sold present or constructively in its possession.

(x) To the extent permitted under applicable law, in the event that a foreclosure hereunder shall be commenced by the Mortgagee, the Mortgagee may at any time before the sale abandon the sale, and may institute suit for the collection of the Borrower Secured Obligations or for the foreclosure of this Mortgage; or in the event that the Mortgagee should institute a suit for collection of the Borrower Secured Obligations or the foreclosure of this Mortgage, the Mortgagee may at any time before the entry of final judgment in said suit dismiss the same and sell the Mortgaged Property in accordance with the provisions of this Mortgage.

19. Use of Proceeds After Foreclosure. In any foreclosure of this Mortgage by action, or any sale of the Mortgaged Property under power of sale granted herein, there shall be allowed (and included in the decree for sale in the event of a foreclosure by action), to be paid out of the rents or the proceeds of such foreclosure proceeding or sale of all of the Borrower Secured Obligations, in accordance with, and subject to, the provisions of the Loan Agreement.

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20. Remedies Cumulative. Each remedy or right of Mortgagee shall not be exclusive of but shall be in addition to every other remedy or right now or hereafter existing at law or in equity. No delay in the exercise or omission to exercise any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or acquiescence therein, nor shall it affect any subsequent default of the same or in different nature. Every such remedy or right may be exercised concurrently or independently and when and as often as may be deemed expedient by Mortgagee.

21. Separate Lots. If more than one property, lot or parcel is covered by this Mortgage, and if this Mortgage is foreclosed upon, or judgment is entered upon any Borrower Secured Obligations, or if Mortgagee exercises its power of sale, execution may be made upon or Mortgagee may exercise its power of sale against any one or more of the properties, lots or parcels and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and execution sales or sales by advertisement may likewise be conducted separately or concurrently, in each case at Mortgagee's election.

22. No Merger. In the event of a foreclosure of this Mortgage, the Borrower Secured Obligations then due the Mortgagee shall not be merged into any decree of foreclosure entered by the court, and Mortgagee may concurrently or subsequently seek to foreclose one or more mortgages or deeds of trust which also secure said Borrower Secured Obligations.

23. Further Assurances. Mortgagor agrees that, upon request of Mortgagee from time to time, it will execute, acknowledge and deliver all such additional instruments and further assurances of title and will do or cause to be done all such further acts and things as may reasonably be necessary to fully effectuate the intent of this Mortgage. In the event that Mortgagor shall fail to do any of the foregoing, Mortgagee may, in its sole discretion, do so in the name of Mortgagor, and Mortgagee hereby appoints Mortgagee as its attorney-in-fact to do any of the foregoing.

24. Notices. Except as otherwise provided herein, any notices, demands, consents, requests, approvals, undertakings or other instruments required or permitted to be given in connection with this Mortgage shall be in writing, and shall be sent in the same manner as set forth in the Loan Agreement.

25. No Waiver. Mortgagor agrees that, without affecting the liability of any person for payment of the Borrower Secured Obligations secured hereby or affecting the lien of this Mortgage upon the Mortgaged Property or any part thereof (other than persons or property explicitly released as a result of the exercise by Mortgagee of its rights and privileges hereunder), Mortgagee may at any time and from time to time, on request of the Mortgagor, without notice to any person liable for payment of any Borrower Secured Obligations secured hereby, extend the time, or agree to alter the terms of payment of Borrower Secured Obligations. Mortgagor further agrees that any part of the security herein described may be released with or without consideration without affecting the remainder of the Borrower Secured Obligations or the remainder of the security.

26. Governing Law. Mortgagor agrees that this Mortgage is to be construed and governed by the laws of the State. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

27. Defeasance. If all of the Borrower Secured Obligations shall have been paid in full and there shall be no Advances or Liquidity Loan (as such terms are defined in the Loan Agreement) exposures outstanding under the Loan Agreement and if the Borrower and all other obligors under the Loan Documents shall have performed and observed all the covenants, obligations and conditions to be performed by such persons pursuant to the Loan Agreement and the Loan Agreement shall have been terminated, then this Mortgage shall cease, terminate and, thereafter, be of no further force or effect (except for such terms which expressly survive termination hereof). Upon such termination and

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the Mortgagor's request, appropriate release shall promptly be made by the Mortgagee to the Person or Persons legally entitled thereto at the Mortgagor's expense.

28. Limited Recourse. Notwithstanding any provision contained in this Mortgage to the contrary, no recourse for the repayment of the Borrower Secured Obligations shall be had against the Borrower except to the extent set forth in Section 8.5 of the Loan Agreement.

29. Successors and Assigns. This Mortgage shall be binding upon the Mortgagor and upon the successors, assigns and vendees of the Mortgagor and shall inure to the benefit of the Mortgagee's successors and assigns; all references herein to the Mortgagor and to the Mortgagee shall be deemed to include their successors and assigns. Mortgagor's successors and assigns shall include, without limitation, a receiver, trustee or debtor in possession of or for the Mortgagor. Wherever used, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders.

30. Care by Mortgagee. The Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any of the Mortgaged Property in its possession if it takes such action for that purpose as the Mortgagor requests in writing, but failure of the Mortgagee to comply with any such request shall not of itself be deemed a failure to exercise reasonable care, and no failure of the Mortgagee to preserve or protect any rights with respect to such Mortgaged Property against prior parties, or to do any act with respect to the preservation of such Mortgaged Property not so requested by the Mortgagor, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Mortgaged Property.

31. Waiver of Certain Rights. Mortgagor represents that it has been authorized to, and Mortgagor does hereby, waive (to the full extent permitted under State law) any and all statutory or equitable rights of redemption from sale by advertisement or sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor and each and every person, except decree or judgment creditors of Mortgagor, acquiring any interest in or title to the Mortgaged Property subsequent to the date hereof. Mortgagor agrees, to the full extent permitted by law, that in case of a default, neither Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, or extension laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereof, and Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof and agrees that Mortgagee or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety.

32. Jurisdiction and Process.

(a) To the extent permitted under applicable law, in any suit, action or proceeding arising out of or relating to this Mortgage or the Loan Agreement as it relates to any Mortgaged Property, the Mortgagor (i) irrevocably consents to the jurisdiction of any State or Federal court sitting in the State in which such Mortgaged Property is located and irrevocably waives any defense or objection which it may now or hereafter have to the jurisdiction of such court over, the venue of such court for or the convenience of such court as the forum for any such suit, action or proceeding; and (ii) irrevocably consents to the service of (A) any process in any such suit, action or proceeding, or (B) any notice relating to any sale, or the exercise of any other remedy by the Mortgagee hereunder by mailing a copy of such process or notice by United States registered or certified mail, postage prepaid, return receipt requested to the Mortgagor at its address specified in or pursuant to Section 24, such service to be effective when such process or notice is mailed as aforesaid.

(b) Nothing in this Section shall affect the right of the Mortgagee to bring any suit, action or proceeding arising out of or relating to this Mortgage or any other Loan Document in any court having

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jurisdiction under the provisions of any other Loan Document or applicable law or to serve any process, notice of sale or other notice in any manner permitted by this Mortgage, any other Loan Document or applicable law.

33. **Environmental Audit.** Mortgagee shall have the right to perform or to require Mortgagor to perform an environmental audit and/or an environmental risk assessment of the Real Property subject to and in accordance with the provisions of the Loan Agreement and the Leases. Nothing in this paragraph shall give or be construed as giving the Mortgagee the right to direct or control the Mortgagor's actions in complying with all applicable environmental, health and safety statutes, regulations and other governmental requirements.

34. **No Liens; No Transfers.** Except to the extent expressly permitted under the Loan Agreement, Mortgagor shall not permit any Liens (other than Permitted Liens), or security interests to be filed or attached to the Mortgaged Property without the written consent of Mortgagee. The Mortgagor shall not sell, convey, transfer, lease or further encumber any interest in or any part of the Mortgaged Property, without the prior written consent of the Mortgagee having been obtained to (i) the sale, conveyance, transfer, lease, pledge, assignment or other transfer to the purchaser, transferee, assignee or pledgee, and (ii) to the form and substance of any instrument evidencing any such sale, transfer, lease, pledge, assignment or other transfer. The Mortgagor shall not, without the prior written consent of the Mortgagee, further assign the Pents. If Mortgagor does sell, convey, transfer, lease or otherwise dispose of all or any part of the Mortgaged Property or any interest therein, or permits any liens or security interests to be filed against the Mortgaged Property in contravention of this paragraph, Mortgagee may elect, by notice in writing to Mortgagor, to declare all of the Borrower Secured Obligations, or any part thereof, and all other sums secured hereby to be and to become due and payable immediately upon the giving of such notice. The Mortgagor agrees that in the event the ownership of the Mortgaged Property or any part thereof becomes vested in a person other than the Mortgagor, the Mortgagee may, without notice to the Mortgagor, deal in any way with such successor or successors in interest with reference to the Mortgage and other sums hereby secured without in any way vitiating or discharging the Mortgagor's liability hereunder or upon other sums hereby secured. No sale of the Mortgaged Property, no forbearance to any person with respect to this Mortgage, and no extension to any person of the time for payment of the Borrower Secured Obligations shall operate to release, discharge, modify, change or affect the original liability of the Mortgagor, either in whole or in part.

35. **Security Agreement.** (a) This Mortgage, to the extent that it conveys items of personal property which are to become fixtures or other personal property, shall also be construed as a security agreement under the Code and, after a default has occurred, the Mortgagee shall be entitled with respect to such personal property to all remedies thereunder and all other applicable remedies under law or at equity. Without limiting the foregoing, any personal property may, at Mortgagee's option, (i) be sold hereunder, (ii) be sold pursuant to the Code or (iii) be dealt with by the Mortgagee in any other manner permitted under applicable law. The Mortgagee may require the Mortgagor to assemble the personal property and make it available to the Mortgagee at a place to be designated by the Mortgagee. If a default has occurred and is continuing, effect, the Mortgagee shall be the attorney-in-fact (coupled with an interest) of the Mortgagor with respect to any and all matters pertaining to the personal property with full power and authority to give instructions with respect to the collection and remittance of payments, to endorse checks, to enforce the rights and remedies of the Mortgagor and to execute on behalf of the Mortgagor and in the Mortgagor's name any instruction, agreement or other writing required therefor. The Mortgagor acknowledges and agrees that a disposition of the personal property in accordance with the Mortgagee's rights and remedies in respect of the Property as heretofore provided is a commercially reasonable disposition thereof and that five days prior notice of such disposition is commercially reasonable notice.

(b) **Fixture Filing.** To the extent that the Mortgaged Property includes items of personal property which are or are to become fixtures under applicable law, and to the extent permitted under applicable law, the filing of this Mortgage in the real estate records of the county in which such Mortgaged Property is located shall also operate from the time of filing as a fixture filing with respect to such Mortgaged Property, and the following information is applicable for the purpose of such fixture filing, to wit:

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(i) Name and Address of the "Debtor":

CNL APF PARTNERS, LP  
400 East South Street, Suite 500  
Orlando, Florida 32801

(ii) Name and Address of the "Secured Party":

COOPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK, B.A.,  
"RABOBANK INTERNATIONAL," NEW YORK BRANCH, as Collateral Agent  
c/o 450 West 33rd Street  
New York, New York 10001-2697

(iii) This financing statement covers goods or items of personal property which are or are to become fixtures upon the Property.

(iv) Name and Address of record owners:

CNL APF PARTNERS, LP  
400 East South Street, Suite 500  
Orlando Florida 32801

36. Revolving Loans. Subject to the conditions stated in the Loan Agreement, all Advances under the Loan Agreement (as such term is defined in the Loan Agreement) are obligatory and all such Advances and Borrower Secured Obligations will have the same priority, to the extent permitted by law, as the funds initially advanced on or before the date hereof. The unpaid balance of the Loans and the Borrower Secured Obligations and the unpaid balance of Borrower Secured Obligations may at certain times be zero. A zero balance, by itself, does not affect any Lender's obligations to permit Advances to be drawn. The interest of the Mortgagee hereunder will remain in full force and effect notwithstanding a zero balance of Borrower Secured Obligations, and the lien of this Mortgage will not be extinguished until all amounts secured hereby have been paid, all Advances have been terminated and the Loan Agreement has been terminated.

37. Subrogation. To the extent that the Mortgagee, after the date hereof, pays pursuant to the terms of the Loan Agreement or this Mortgage any sum due under any provision of law or any instrument or documents creating any Lien prior or superior to the lien of this Mortgage, the Mortgagee shall have and be entitled to a Lien on the Mortgaged Property equal in priority to that discharged, and the Mortgagee shall be subrogated to, and receive and enjoy all rights and Liens possessed, held or enjoyed by, the holder of such Lien, which shall remain in existence for the benefit of the Mortgagee to secure the amount expended by the Mortgagee on account of or in connection with such Lien. The Mortgagee shall be subrogated, notwithstanding their release of record, to mortgages, trusts, deeds, superior titles, vendor's liens, liens, charges, encumbrances, rights and equities on the Premises to the extent that any obligation under any thereof is paid or discharged with proceeds of disbursements or advances under any instrument evidencing Borrower Secured Obligations.

38. Amendments in Writing. No amendment, waiver or supplement in any way affecting the Mortgagor's obligations or the Mortgagee's rights under this Mortgage shall in any event be effective unless contained in a writing signed by the Mortgagee.

39. Miscellaneous.

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(a) In this Mortgage, unless otherwise specified, (i) singular words include the plural and plural words include the singular; (ii) words which include a number of constituent parts, things or elements, including the terms Leases, Improvements, Land, Borrower Secured Obligations and Mortgaged Property, shall be construed as referring separately to each constituent part, thing or element thereof, as well as to all of such constituent parts, things or elements as a whole; (iii) words importing any gender include the other gender; (iv) references to any Person include such Person's successors and assigns and in the case of an individual, the word "successors" includes such Person's heirs, devisees, legatees, executors, administrators and personal representatives; (v) references to any statute or other law include all applicable rules, regulations and orders adopted or made thereunder and all statutes or other laws amending, consolidating or replacing the statute or law referred to; (vi) the words "consent", "approve" and "agree", and derivations thereof or words of similar import, mean the prior written consent, approval or agreement of the Person in question; (vii) the words "include" and "including", and words of similar import, shall be deemed to be followed by the words "without limitation"; (viii) the words "hereto", "herein", "hereof" and "hereunder", and words of similar import, refer to this Mortgage in its entirety; (ix) references to Articles, Sections, Schedules, Exhibits, subsections, paragraphs and clauses are to the Articles, Sections, Schedules, Exhibits, subsections, paragraphs and clauses of this Mortgage; (x) the Schedules and Exhibits to this Mortgage are incorporated herein by reference; (xi) the titles and headings of Articles, Sections, Schedules, Exhibits, subsections, paragraphs and clauses are inserted as a matter of convenience only and shall not affect the construction of this Mortgage; (xii) all obligations of the Mortgagor hereunder shall be satisfied by the Mortgagor at the Mortgagor's sole cost and expense; and (xiii) all rights and powers granted to the Mortgagee hereunder shall be deemed to be coupled with an interest and be irrevocable.

(b) The Mortgagor acknowledges that it was represented by counsel in connection with this Mortgage, that it and its counsel reviewed and participated in the preparation and negotiation of this Mortgage and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party or Mortgagee shall not be employed in the interpretation of this Mortgage.

40. Additional Provisions. Exhibit B attached hereto contains any additional provisions that are necessary or appropriate under the laws of the State in which the Premises is located or pursuant to the provisions of any Permitted Lien.

[Signatures on Next Page]

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IN WITNESS WHEREOF, this instrument is executed as of the day and year first above written.

THE MORTGAGOR HEREBY DECLARES AND ACKNOWLEDGES THAT THE MORTGAGOR HAS RECEIVED, WITHOUT CHARGE, A TRUE COPY OF THIS MORTGAGE.

## "MORTGAGOR"

Signed, Sealed and Delivered  
in the presence of:

CNL APF PARTNERS, LP, a Delaware limited  
partnership

BY: CNL APF GP Corp., a Delaware  
corporation, as general partner

By: [Signature]  
Curtis B. McWilliams,  
Chief Executive Officer

[Signature]  
Name: TERESA C. PHILLIPS  
[Signature]  
Name: James D. Howell

STATE OF GEORGIA  
COUNTY OF FULTON

I, George C. Galloway, a Notary Public residing in the county and state aforesaid, do certify that Curtis B. McWilliams, Chief Executive Officer of CNL APF GP Corp., a Delaware corporation, as general partner of CNL APF Partners, LP, a Delaware limited partnership, who is personally known to me, or produced FLA Driver License as identification, this day appeared before me personally and did acknowledge that he did sign, seal and deliver the foregoing instrument of his own free will and accord, for the purposes therein named and expressed.

In witness whereof, I have hereunto set my hand and official seal, this 23rd day of November, 1999.

[Signature]  
Notary Public, State of Georgia  
Printed Name: GEORGE C. GALLOWAY  
Notary Commission No. 2003  
My Commission Expires JUNE 23 2003  
COUNTY, GEORGIA  
NOTARY PUBLIC

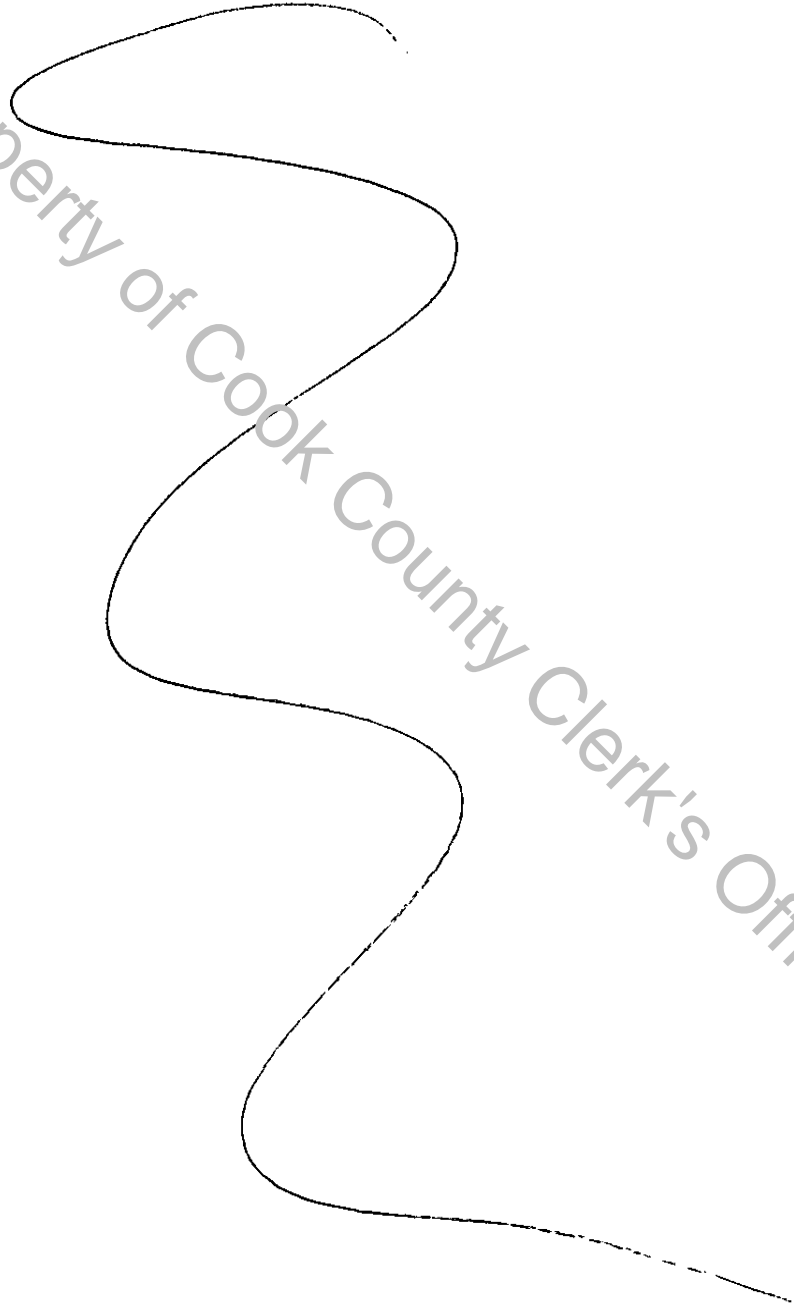


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## EXHIBIT "A"

### Legal Description of the Premises

Property of Cook County Clerk's Office



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EXHIBIT A-1

**LEGAL DESCRIPTION:**

lot 1 in A.T. Maras Company subdivision of part of the East 1/2 of the Northwest 1/4 of section 10, Township 37 North, Range 13 East of the Third Principal Meridian, according to the plat thereof recorded November 11, 1993 as Document Number 93946351, in Cook County, Illinois.

Permanent Index Number: 24-10-101-019-000  
Address: 4545 West 95th Street  
Oak Lawn, Illinois

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EXHIBIT A-2

**LEGAL DESCRIPTION:**

lots 21 and 22 in Borchert's Subdivision of the South 1/2 of the West 1/2 of the Southwest 1/4 (except the West 6 acres of the North 1/2 of the South 1/2 of the West 1/2 of the Southwest 1/4) of Section 32, Township 38 North, Range 13 East of the third Principal Meridian, according to the plat thereof recorded April 17, 1951 as Document 5055203 in Cook County, Illinois.

**Permanent Index Number:** 19-32-310-015-0000 and  
19-32-310-019-0000

**Address:** 8650 State Road  
Burbank, Illinois

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EXHIBIT A-3

LEGAL DESCRIPTION:

PARCEL 1:

LOTS 4 AND 5 IN JENNI'S RESUBDIVISION OF PART OF LOT B IN THE SUBDIVISION BY THE CIRCUIT COURT COMMISSIONERS IN PARTITION OF THAT PART OF THE NORTHEAST 1/4 LYING SOUTH OF ILLINOIS AND MICHIGAN CANAL RESERVE OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART OF SAID LOTS 4 AND 5 IN JENNI'S RESUBDIVISION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 4; THENCE NORTH 89 DEGREES 47 MINUTES 49 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT, 35.00 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 14 SECONDS EAST ALONG THE EAST LINE OF THE WEST 35.00 FEET OF SAID LOT; 129.43 FEET; THENCE SOUTH 75 DEGREES 12 MINUTES 15 SECONDS EAST, 67.27 FEET TO A POINT ON THE SOUTH LINE OF LOT 4, SAID POINT BEING 100.00 FEET EAST OF THE SOUTHWEST CORNER THEREOF; THENCE SOUTH 00 DEGREES 03 MINUTES 12 SECONDS EAST ALONG THE EAST LINE OF THE WEST 100.00 FEET OF THE AFORESAID LOT 5, A DISTANCE OF 150.16 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID LOT; THENCE SOUTH 89 DEGREES 47 MINUTES 49 SECONDS WEST ALONG SAID SOUTH LINE, 100.00 FEET TO THE SOUTHWEST CORNER OF LOT 5; THENCE NORTH 00 DEGREES 03 MINUTES 12 SECONDS WEST ALONG THE WEST LINE OF SAID LOT, A DISTANCE OF 150.16 FEET TO THE NORTHWEST CORNER THEREOF; THENCE NORTH 00 DEGREES 08 MINUTES 14 SECONDS WEST ALONG THE WEST LINE OF LOT 4, A DISTANCE OF 146.84 FEET TO THE HEREINABOVE DESCRIBED POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR INGRESS AND EGRESS AS CREATED BY GRANT DATED JULY 18, 1996 AND RECORDED OCTOBER 3, 1996 AS DOCUMENT 96755485 MADE BY WALDORF CORP., TO POLYGON REAL ESTATE L.L.C. OVER THE FOLLOWING LAND:

THAT PART OF LOT B IN THE SUBDIVISION BY THE CIRCUIT COURT COMMISSIONERS IN PARTITION OF THAT PART OF THE NORTHEAST 1/4 LYING SOUTH OF ILLINOIS AND MICHIGAN CANAL RESERVE OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO PLAT OF SAID SUBDIVISION RECORDED IN THE OFFICE OF THE RECORDER OF COOK COUNTY ILLINOIS ON SEPTEMBER 5, 1893, IN BOOK 59 OF PLATS, PAGE 32 AS DOCUMENT NUMBER 1924571, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 5 IN JENNI'S RESUBDIVISION OF PART OF LOT B IN THE SUBDIVISION BY THE CIRCUIT COURT COMMISSIONERS IN PARTITION OF THAT PART OF THE NORTHEAST 1/4 LYING SOUTH OF ILLINOIS AND MICHIGAN CANAL

(Continued)

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EXHIBIT A-3 (cont'd)

RESERVE OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE SOUTH, ALONG THE WEST LINE OF PULASKI ROAD, 33.00 FEET; THENCE WEST, ALONG A LINE BEING 33.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF THE AFORESAID LOT 5 IN JENNI'S RESUBDIVISION, 168.27 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE EAST LINE OF THE WEST 100 FEET OF SAID LOT 5; THENCE NORTH, ALONG SAID SOUTHERLY EXTENSION, 33.00 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF THE AFORESAID LOT 5 IN JENNI'S RESUBDIVISION; THENCE EAST, ALONG SAID SOUTH LINE, 168.22 FEET TO THE HEREINABOVE DESCRIBED POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR INGRESS AND EGRESS AS GRANTED BY DEED DATED JULY 18, 1996 AND RECORDED OCTOBER 3, 1996 AS DOCUMENT NUMBER 9075486 MADE BY WALDORF CORP., TO POLYGON REAL ESTATE L.L.C. OVER THE FOLLOWING LAND:

THE NORTH 129.43 FEET OF THE WEST 35.00 FEET OF LOT 4 IN JENNI'S RESUBDIVISION OF PART OF LOT B IN THE SUBDIVISION BY THE CIRCUIT COURT COMMISSIONERS IN PARTITION OF THAT PART OF THE NORTHEAST 1/4 LYING SOUTH OF ILLINOIS AND MICHIGAN CANAL RESERVE OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 13 EAST, OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Permanent Index Number: 19-03-201-051-0000 and  
19-03-201-051-0000

Address: Southwest Corner of Pulaski Road and 40th Street  
Chicago, Illinois

# UNOFFICIAL COPY

EXHIBIT A-4

## LEGAL DESCRIPTION:

LOT 2 IN O.D. FLANDERMEYER'S SUBDIVISION BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 21, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPTING THE NORTH 50.0 FEET TAKEN FOR 111TH STREET), IN THE VILLAGE OF ALSIP, COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT OF SUBDIVISION OF O.D. FLANDERMEYER'S SUBDIVISION RECORDED ON JANUARY 10, 1978, AS DOCUMENT NUMBER 24278857.

Permanent Real Estate Index Number: Tax No. 24-21-200-060  
Vol. No. 0246

Property Address: 4839 West 11th Street, Alsip, Illinois 60658

# UNOFFICIAL COPY

EXHIBIT A-5

## LEGAL DESCRIPTION:

LOTS 1, 2, 3 AND 4 IN FRANK DE LUGACH 79TH CICERO GOLF VIEW, A SUBDIVISION OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO MIDDLE 1/3 ON NORTH <sup>60</sup>~~50~~ ACRES OF THE EAST ~~1/2~~ OF THE NORTHEAST 1/4 OF SAID SECTION 33, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID MIDDLE 1/3 BEING THE WEST 1/2 OF THE EAST 2/3 OF SAID NORTH 60 ACRES, ACCORDING TO THE PLAT RECORDED SEPTEMBER 4, 1941 AS DOCUMENT NUMBER 12750971, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: Tax No. 19-33-204-001, Vol. No. 192  
Tax No. 19-33-204-002, Vol. No. 192  
Tax No. 19-33-204-003, Vol. No. 192  
Tax No. 19-33-204-004, Vol. No. 192

Property Address: 4849 West 79th Street  
Burbank, Illinois 60459

# UNOFFICIAL COPY

EXHIBIT A-6

**LEGAL DESCRIPTION:**

LOTS 21, 22, 23 AND 24 IN AXTELL'S ADDITION TO LANSING, A SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: Tax No. 30-32-307-006, Vol. No. 230  
Tax No. 30-32-307-007, Vol. No. 230  
Tax No. 30-32-307-008, Vol. No. 230

Property Address: 3545 Ridge Road  
Lansing, Illinois 60438



# UNOFFICIAL COPY

EXHIBIT A-7

## LEGAL DESCRIPTION

PARCEL 1:

LOT 1 IN THE RESUBDIVISION OF LOT 10, IN LINCOLN MALL, BEING A SUBDIVISION OF PART OF THE SOUTH WEST 1/4 OF SECTION 22, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 19, 1979 AS DOCUMENT 24883804, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENTS FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1, AS CREATED IN THE RECIPROCAL CONSTRUCTION, OPERATION AND EASEMENT AGREEMENT DATED MARCH 7, 1972, MADE BY AND BETWEEN CHICAGO TITLE AND TRUST COMPANY, AS TRUSTEE UNDER A TRUST AGREEMENT DATED JUNE 4, 1971 AND KNOWN AS TRUST NUMBER 57420 CARSON PIRIE SCOTT & COMPANY, A DELAWARE CORPORATION, J.C. PENNEY PROPERTIES, INC., A DELAWARE CORPORATION, AND MONTGOMERY WARD DEVELOPMENT CORPORATION, AND WIEBOLDT STORES, INC., RECORDED MARCH 24, 1972 AS DOCUMENT 1846183, SUPPLEMENTED BY EASEMENT RELOCATION AGREEMENT RECORDED AS DOCUMENT 24099069

Permanent Real Estate Index Number: Tax No. 31-22-300-042, Vol. No. 179

Property Address: 4721 Lincoln Mall Drive  
Matteson, Illinois 60443

# UNOFFICIAL COPY

## EXHIBIT A-8

### LEGAL DESCRIPTION:

THAT PART OF THE NORTH 208.00 FEET OF THE EAST 900.00 FEET OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE DUE WEST ALONG THE NORTH LINE OF SAID NORTHEAST 1/4, A DISTANCE OF 533.16 FEET; THENCE SOUTH 0 DEGREES, 10 MINUTES, 00 SECONDS EAST, 33.00 FEET TO A POINT IN THE SOUTH LINE OF 127TH STREET AS DEDICATED FOR THE POINT OF BEGINNING OF THE ABOVE DESCRIBED TRACT OF LAND; THENCE CONTINUOUSLY SOUTH OF 0 DEGREES, 10 MINUTES, 00 SECONDS EAST 175.00 FEET, TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF THE NORTH 208.00 FEET OF SAID NORTHEAST QUARTER; SAID POINT OF INTERSECTION BEING 533.75 FEET (AS MEASURED ALONG SAID SOUTH LINE) WEST OF THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE DUE WEST ALONG THE SOUTH LINE OF THE NORTH 208.00 FEET OF SAID NORTHEAST QUARTER, A DISTANCE OF 235.00 FEET; THENCE NORTH 0 DEGREES, 10 MINUTES, 00 SECONDS WEST, 175.00 FEET TO A POINT IN THE SAID SOUTH LINE OF 127TH STREET AS DEDICATED; THENCE DUE EAST ALONG SAID SOUTH LINE OF 127TH STREET AS DEDICATED, A DISTANCE OF 235.00 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

EXCEPTING THE NORTHERLY 17.00 FEET OF THAT PART OF THE NORTH 208.00 FEET OF THE EAST 900.00 FEET OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN.

Permanent Real Estate Index Number: Tax No. 24-31-201-014, Vol. No. 0248

Property Address: 6431 127th Street  
Palos Heights, Illinois 60463

# UNOFFICIAL COPY

## EXHIBIT A-9

Permanent Real Estate Index Numbers: Tax No. 16-33-107-014  
Tax No. 16-33-107-015  
Tax No. 16-33-107-018

Property Address: 560 Waukegan Road  
Deerfield, Illinois 60015

### LEGAL DESCRIPTION:

#### PARCEL 1:

LOT 1 (EXCEPT THE WEST 57.9 FEET OF THE NORTH 150 FEET THEREOF) IN BLOCK 5 IN HALL AND OSTERMAN'S ADDITION TO THE TOWN OF DEERFIELD IN THE NORTHEAST QUARTER OF SECTION 32 AND NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 43 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF, RECORDED JUNE 2, 1874, IN BOOK "A" OF PLATS, PAGE 16, IN LAKE COUNTY, ILLINOIS.

#### PARCEL 2:

THAT PART OF LOT 19 IN OWNERS FIRST ADDITION TO DEERFIELD, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 33, TOWNSHIP 43 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF, RECORDED SEPTEMBER 25, 1915, AS DOCUMENT 161061, IN BOOK "J" OF PLATS, PAGES 46 AND 47, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1 IN BLOCK 5 IN HALL AND OSTERMAN'S SUBDIVISION AFORESAID (SAID SOUTHWEST CORNER BEING 20 FEET SOUTH OF THE SOUTHEAST CORNER OF WOODMAN'S RE-SUBDIVISION OF LOTS 2, 3, 4, 5, 6, AND 7 IN BLOCK 5 AND LOTS 1, 2, 3, IN BLOCK 4 OF HALL AND OSTERMAN'S ADDITION); THENCE SOUTH 15 DEGREES, 46 MINUTES EAST 52 FEET; THENCE EAST 66 FEET TO THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID LOT 1, BLOCK 5 IN HALL AND OSTERMAN'S ADDITION; THENCE NORTH 13 MINUTES WEST 50 FEET ALONG THE BOUNDARY OF SAID LOT 1 IN BLOCK 5; THENCE WEST ALONG THE BOUNDARY LINE OF SAID LOT 1 IN BLOCK 5, 80 FEET TO THE PLACE OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

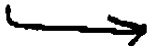
#### PARCEL 3:

THE WEST 57.9 FEET OF THE NORTH 150 FEET OF LOT 1 IN BLOCK 5 IN HALL AND OSTERMAN'S ADDITION TO THE TOWN OF DEERFIELD IN SECTION 33, TOWNSHIP 43 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF, RECORDED JUNE 2, 1874, IN BOOK "A" OF PLATS, PAGE 16, IN LAKE COUNTY, ILLINOIS.

-----  
**BEING MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:**

THAT PART OF THE NORTHEAST QUARTER OF SECTION 32 AND NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 43 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF CENTRAL AVENUE WITH THE SOUTHWESTERLY LINE OF WAUKEGAN ROAD; THENCE SOUTH 31 DEGREES 33 MINUTES 24 SECONDS EAST, 257.67 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 23 SECONDS WEST, 277.22 FEET; THENCE NORTH 15 DEGREES 33 MINUTES 09 SECONDS WEST, 52.00 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, 169.96 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 23 SECONDS EAST, 156.28 FEET TO THE PLACE OF BEGINNING, ALL IN LAKE COUNTY, ILLINOIS.

AND



*COB*  
INSERT  
M+3  
LEGAL

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EXHIBIT A-10

## LEGAL DESCRIPTION:

LOT 3 AS DESIGNATED UPON PLAT NUMBER 1 CHERRYVALE NORTH SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 44 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, THE PLAT OF WHICH SUBDIVISION IS RECORDED IN BOOK 36 OF PLATS ON PAGE 103 IN THE RECORDER'S OFFICE OF WINNEBAGO COUNTY, ILLINOIS.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF CHERRYVALE N.W. ENTRANCE ROAD; THENCE NORTH 00 DEGREES 23 MINUTES 59 SECONDS EAST ON SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 160.09 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF CHERRYVALE NORTH BOULEVARD; THENCE NORTH 89 DEGREES 39 MINUTES 45 SECONDS EAST ON SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 65.60 FEET; THENCE CONTINUING ON SAID SOUTHERLY RIGHT-OF-WAY LINE ON A CURVE TO THE LEFT HAVING A RADIUS OF 530.00 FEET, A LONG CHORD BEARING OF NORTH 79 DEGREES 05 MINUTES 35 SECONDS EAST AND A LONG CHORD DISTANCE OF 193.38 FEET, AN ARC DISTANCE OF 194.46 FEET; THENCE NORTH 69 DEGREES 39 MINUTES 44 SECONDS EAST CONTINUING ON SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1.19 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 25 SECONDS EAST, A DISTANCE OF 196.90 FEET; THENCE SOUTH 89 DEGREES 52 MINUTES 05 SECONDS WEST, A DISTANCE OF 257.96 FEET TO THE POINT OF BEGINNING.

Permanent Real Estate Index Number: Tax Code No. 179B-263  
Parcel ID No. 12-35-152-001

Property Address: 7105 Cherryvale North Boulevard  
Rockford, Illinois 61112

# UNOFFICIAL COPY

## EXHIBIT "B"

### Illinois Provisions

Notwithstanding anything to the contrary contained in this Mortgage, the following provision shall also apply to the Mortgaged Property:

"Mortgagor hereby waives all right of redemption and/or reinstatement on behalf of Mortgagor and on behalf of all other persons acquiring any interest or title in the Mortgaged Property subsequent to the date of this Instrument, except decree or judgment creditors of Mortgagor."

If there is any conflict between the terms and provisions set forth in this Exhibit B and the foregoing instrument, the term and provision that is either (a) more restrictive or limiting of Mortgagor or (b) more beneficial to Mortgagee (or grants Mortgagee an additional right or remedy) shall apply to Mortgagor notwithstanding the inclusion of such conflicting term or provision.