



Doc#: 0917429046 Fee: \$100.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 06/23/2009 02:41 PM Pg: 1 of 33

Illinois Anti-Predatory  
Lending Database  
Program

Certificate of Exemption

Report Mortgage Fraud  
800-532-8785

The property identified as: **PIN:** 02-25-100-026-0000

**Address:**

**Street:** 3400 West Euclid Avenue

**Street line 2:**

**City:** Arlington Heights

**State:** IL

**ZIP Code:** 60005

**Lender:** M&I Marshall & Ilsley Bank

**Borrower:** WPH Arlington, LLC

**Loan / Mortgage Amount:** \$24,500,000.00

This property is located within Cook County and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

**Certificate number:** CCA7B588-8708-4432-8191-B198260BD9C4

**Execution date:** 06/12/2009

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**UNOFFICIAL COPY****THIRD REAL ESTATE MORTGAGE,  
SECURITY AGREEMENT, FINANCING  
STATEMENT AND ASSIGNMENT  
OF LEASES**

Address of Property: 3400 West Euclid Ave.  
Arlington Heights, IL

P.I.N.: 02 25 100 026 0000  
02 25 100 019 0000

Prepared by: Mark E. O'Neill  
Godfrey & Kahn, S.C.  
780 North Water Street  
Milwaukee, WI 53202

THIS THIRD MORTGAGE, SECURITY AGREEMENT, FINANCING STATEMENT AND ASSIGNMENT OF LEASES ("Mortgage") is made as of the 31<sup>st</sup> day of May, 2009 from WPH ARLINGTON, LLC, a Wisconsin limited liability company ("Mortgagor"), to M&I MARSHALL AND ILSLEY BANK, a Wisconsin state chartered bank ("Mortgagee").

**WITNESSETH:**

WHEREAS, Mortgagor and its Affiliates (as defined below) have entered into a Revolving Credit Agreement and Amendment to Existing Documents ("Credit Agreement") of an even date herewith pursuant to which Mortgagee has agreed to loan to Mortgagor and its Affiliates, as co-borrowers, jointly and severally, the principal sum of Twenty-Four Million Five Hundred Thousand and 00/100 Dollars (\$24,500,000.00) ("Loan"), as evidenced by a promissory note, bearing an even date executed by Mortgagor and the Affiliates in favor of the Mortgagee (the "Note");

WHEREAS, Mortgagor and Mortgagee are also parties to an Amended and Restated Loan Agreement dated January 20, 2006, which governs a credit facility in the maximum amount of \$44,000,000.00 (as amended, restated, supplemented or modified from time to time, the

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“WPH Arlington Loan Agreement”), pursuant to which Mortgagee has made certain other loans and other extensions of credit available to Mortgagor. Mortgagor’s obligations under the WPH Arlington Loan Documents (as defined below) are evidenced in part by the Amended and Restated Mortgage Note dated January 20, 2006 in the face amount of \$44,000,000.00 (as amended, restated, supplemented or modified from time to time, the “WPH Arlington Note”). The WPH Arlington Loan Agreement and the WPH Arlington Note are collectively referred to herein as the “WPH Arlington Loan Documents.” All obligations and amounts due and owing by Mortgagor to Mortgagee under the WPH Arlington Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the “WPH Arlington Obligations”;

WHEREAS, one of the Affiliates, WPH Cherry Valley, LLC (“WPH Cherry Valley”) and Mortgagee are parties to an Amended and Restated Loan Agreement dated May 15, 2006, which governs a credit facility in the maximum amount of \$28,800,000.00 (as amended, restated, supplemented or modified from time to time, the “WPH Cherry Valley Loan Agreement”), pursuant to which Mortgagee has made certain loans and other extensions of credit available to WPH Cherry Valley. WPH Cherry Valley’s obligations under the WPH Cherry Valley Loan Documents (as defined below) are evidenced in part by the Amended and Restated Mortgage Note dated May 15, 2006 in the face amount of \$28,800,000.00 (as amended, restated, supplemented or modified from time to time, the “WPH Cherry Valley Note”). The WPH Cherry Valley Loan Agreement, the Collateral Security Documents defined therein and the WPH Cherry Valley Note are, unless referenced individually, collectively referred to herein as the “WPH Cherry Valley Loan Documents.” All obligations and amounts due and owing by WPH Cherry Valley to Mortgagee under the WPH Cherry Valley Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the “WPH Cherry Valley Obligations”;

WHEREAS, another of the Affiliates, WPH Cincinnati, LLC (“WPH Cincinnati”) and Mortgagee are parties to an Amended and Restated Loan Agreement dated November 22, 2006, which governs a credit facility in the maximum amount of \$48,000,000.00 (as amended, restated, supplemented or modified from time to time, the “WPH Cincinnati Loan Agreement”), pursuant to which Mortgagee has made certain loans and other extensions of credit available to WPH Cincinnati. WPH Cincinnati’s obligations under the WPH Cincinnati Loan Documents (as defined below) are evidenced in part by the Amended and Restated Mortgage Note dated November 22, 2006 in the face amount of \$48,000,000.00 (as amended, restated, supplemented or modified from time to time, the “WPH Cincinnati Note”). The WPH Cincinnati Loan Agreement and the WPH Cincinnati Note are, unless referenced individually, collectively referred to herein as the “WPH Cincinnati Loan Documents.” All obligations and amounts due and owing by WPH Cincinnati to Mortgagee under the WPH Cincinnati Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the “WPH Cincinnati Obligations”;

WHEREAS, another of the Affiliates, WPH Fitchburg, LLC (“WPH Fitchburg”) and Mortgagee are parties to an Amended and Restated Loan Agreement dated May 22, 2008, which governs a credit facility in the maximum amount of \$34,600,000.00 (as amended, restated, supplemented or modified from time to time, the “WPH Fitchburg Loan Agreement”), pursuant

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to which Mortgagee has made certain loans and other extensions of credit available to WPH Fitchburg. WPH Fitchburg's obligations under the WPH Fitchburg Loan Documents (as defined below) are evidenced in part by the Amended and Restated Mortgage Note dated May 22, 2008 in the face amount of \$34,600,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Fitchburg Note"). The WPH Fitchburg Loan Agreement and the WPH Fitchburg Note are, unless referenced individually, collectively referred to herein as the "WPH Fitchburg Loan Documents." All obligations and amounts due and owing by WPH Fitchburg to Mortgagee under the WPH Fitchburg Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the "WPH Fitchburg Obligations";

WHEREAS, another of the Affiliates, WPH Kansas City, LLC ("WPH Kansas City") and Mortgagee are parties to an Amended and Restated Loan Agreement dated July 16, 2007, which governs a credit facility in the maximum amount of \$42,400,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Kansas City Loan Agreement"), pursuant to which Mortgagee has made certain loans and other extensions of credit available to WPH Kansas City. WPH Kansas City's obligations under the WPH Kansas City Loan Documents (as defined below) are evidenced in part by the Amended and Restated Deed of Trust Note dated July 16, 2007 in the face amount of \$42,400,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Kansas City Note"). The WPH Kansas City Loan Agreement defined therein and the WPH Kansas City Note are, unless referenced individually, collectively referred to herein as the "WPH Kansas City Loan Documents." All obligations and amounts due and owing by WPH Kansas City to Mortgagee under the WPH Kansas City Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the "WPH Kansas City Obligations";

WHEREAS, another of the Affiliates, WPH Omaha, LLC ("WPH Omaha") and Mortgagee are parties to an Amended and Restated Loan Agreement dated December 28, 2006, which governs a credit facility in the maximum amount of \$36,800,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Omaha Loan Agreement"), pursuant to which Mortgagee has made certain loans and other extensions of credit available to WPH Omaha. WPH Omaha's obligations under the WPH Omaha Loan Documents (as defined below) are evidenced in part by the Amended and Restated Deed of Trust Note dated December 28, 2006 in the face amount of \$36,800,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Omaha Note"). The WPH Omaha Loan Agreement and the WPH Omaha Note are, unless referenced individually, collectively referred to herein as the "WPH Omaha Loan Documents." All obligations and amounts due and owing by WPH Omaha to Mortgagee under the WPH Omaha Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the "WPH Omaha Obligations";

WHEREAS, WPH Rockford, LLC ("WPH Rockford") and Mortgagee are parties to an Amended and Restated Loan Agreement dated April 18, 2006, which governs a credit facility in the maximum amount of \$28,000,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Rockford Loan Agreement"), pursuant to which Mortgagee has made

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certain loans and other extensions of credit available to WPH Rockford. WPH Rockford's obligations under the WPH Rockford Loan Documents (as defined below) are evidenced in part by the Amended and Restated Mortgage Note dated April 18, 2006 in the face amount of \$28,000,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Rockford Note"). The WPH Rockford Loan Agreement and the WPH Rockford Note are, unless referenced individually, collectively referred to herein as the "WPH Rockford Loan Documents." All obligations and amounts due and owing by WPH Rockford to Mortgagee under the WPH Rockford Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the "WPH Rockford Obligations";

WHEREAS, another of the Affiliates, WPH Mount Laurel, LLC ("WPH Mount Laurel") and Mortgagee are parties to an Amended and Restated Loan Agreement dated January 4, 2008, which governs a credit facility in the maximum amount of \$49,600,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Mount Laurel Loan Agreement"), pursuant to which Mortgagee has made certain loans and other extensions of credit available to WPH Mount Laurel. WPH Mount Laurel's obligations under the WPH Mount Laurel Loan Documents (as defined below) are evidenced in part by the Amended and Restated Mortgage Note dated January 4, 2008 in the face amount of \$49,600,000.00 (as amended, restated, supplemented or modified from time to time, the "WPH Mount Laurel Note"). The WPH Mount Laurel Loan Agreement and the WPH Mount Laurel Note are, unless referenced individually, collectively referred to herein as the "WPH Mount Laurel Loan Documents." All obligations and amounts due and owing by WPH Mount Laurel to Mortgagee under the WPH Mount Laurel Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the "WPH Mount Laurel Obligations";

WHEREAS, another of the Affiliates, Waterbury Partners, LP ("Waterbury") and Mortgagee are parties to an Amended and Restated Loan Agreement dated March 7, 2008, which governs a credit facility in the maximum amount of \$34,400,000.00 (as amended, restated, supplemented or modified from time to time, the "Waterbury Loan Agreement"), pursuant to which Mortgagee has made certain loans and other extensions of credit available to Waterbury. Waterbury's obligations under the Waterbury Loan Documents (as defined below) are evidenced in part by the Amended and Restated Mortgage Note dated March 7, 2008 in the face amount of \$34,400,000.00 (as amended, restated, supplemented or modified from time to time, the "Waterbury Note"). The Waterbury Loan Agreement and the Waterbury Note are, unless referenced individually, collectively referred to herein as the "Waterbury Loan Documents." All obligations and amounts due and owing by Waterbury to Mortgagee under the Waterbury Loan Documents, the Credit Agreement and the Line of Credit Agreement (defined below), whether now or hereafter due shall be collectively referred to as the "Waterbury Obligations";

WHEREAS, Mortgagor, the Affiliates and the Mortgagee are also parties to a Line of Credit Agreement dated February 12, 2009, which governs a credit facility in the maximum amount of \$4,000,000.00 (as amended, restated, supplemented or modified from time to time, the "Line of Credit Agreement"), pursuant to which Mortgagee has made certain loans and other extensions of credit available to Mortgagor and the Affiliates;



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WHEREAS, The WPH Arlington Obligations, the WPH Cherry Valley Obligations, the WPH Cincinnati Obligations, the WPH Fitchburg Obligations, the WPH Kansas City Obligations, the WPH Omaha Obligations, the WPH Rockford Obligations, the WPH Mount Laurel Obligations and the Waterbury Obligations are collectively referred to herein as the "Existing Obligations"; and

WHEREAS, Mortgagor and each of the Affiliates have also entered into separate Guaranties (collectively, the "Guaranties") of an even date herewith pursuant to which each of the respective guarantors under the Guaranties has guaranteed the payment of the Existing Obligations and the performance by Mortgagor and the Affiliates under all documents and agreements evidencing or securing the Existing Obligations, whether originally accruing prior to or contemporaneously with this Loan.

NOW, THEREFORE, for and in consideration of the making of the Loan by Mortgagee, other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the recitals set forth above which are incorporated herein and made a part hereof by this reference, and furthermore to secure the indebtedness evidenced by the Note and all other debt presently or in the future owed by Mortgagor and/or the Affiliates to Mortgagee under the Loan Documents (defined below), and also to secure the performance by Mortgagor, and/or the Affiliates of all of their other respective covenants, agreements and obligations under this Mortgage, the Credit Agreement, the Note, the Guaranties or any other document or instrument evidencing, securing or relating to the indebtedness evidenced by the Note (collectively, the "Loan Documents"), Mortgagor does, by these presents, MORTGAGE, GRANT, REMISE, RELEASE, ALIEN AND CONVEY unto Mortgagee, its successors and assigns, its fee simple interest in the real estate ("Real Estate") described in Exhibit A attached hereto and made a part hereof and all of its estate, right, title and interest therein, situate, lying and being in the County of Cook and the State of Illinois which, with the property hereinafter described, is hereinafter referred to as the "Premises."

TOGETHER with all of Mortgagor's right, title and interest in and to: (a) all improvements, tenements, easements, fixtures, and appurtenances thereto pertaining or belonging whether now held or hereafter acquired, (b) all leases, lettings, agreements for use and occupancy, concessions and licenses of or with respect to any or all of the Real Estate, and all rents, issues, profits and revenues thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and (c) all fixtures, apparatus, equipment or articles now or hereafter in or on the Real Estate or improvements thereon, used to supply heat, gas, air cooling, air conditioning, water, light, power, sanitation, sprinkler protection, waste, removal, refrigeration and ventilation, all other fixtures, apparatus, equipment, furniture, furnishings, and articles used or useful in connection with the operation of the Premises and all related facilities now or hereafter located upon said Premises, all shades, awnings, venetian blinds, screens, screen doors, storm doors and windows, stoves and ranges, curtain fixtures, partitions, and attached floor coverings, now or hereafter therein or thereon whether now held or hereafter acquired (it being understood that the enumeration of any specific articles of property shall in no way result in or be held to exclude

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any items of property not specifically mentioned) (the items in this clause being sometimes collectively called the "Personal Property").

TOGETHER with all estates, options to purchase, interests, rights, titles, claims or demands which Mortgagor now has or may hereinafter acquire in the Premises, including but not limited to claims or demands with respect to the proceeds of insurance in effect with respect thereto, as more specifically set forth in this Mortgage, and any and all awards made for the taking by eminent domain, or by any proceedings or purchase in lieu thereof, as more specifically set forth in this Mortgage.

All of the land, estate and property hereinabove described, real, personal and mixed, whether affixed or annexed or not, and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the Real Estate mortgaged hereby and to be appropriated to the use of the Real Estate, and shall, for the purposes of this Mortgage, be deemed to be Real Estate and conveyed and mortgaged hereby. As to any of the property aforesaid which notwithstanding the aforesaid declaration and agreement does not so form a part and parcel of said Real Estate, this Mortgage is hereby deemed to be, as well, a Security Agreement under the Illinois Uniform Commercial Code in effect or as amended from time to time or under similar or replacement statutes hereafter enacted (collectively, the "UCC") for the purpose of creating hereby a security interest in such property, which Mortgagor hereby grants to Mortgagee as Secured Party (as said term is defined in the UCC), securing said indebtedness and obligations described in this Mortgage, and Mortgagee shall have in addition to its rights and remedies hereunder all rights and remedies of a Secured Party under the UCC, as to above personal property which the UCC classifies as fixtures, this instrument shall constitute a fixture filing and financing statement under the UCC.

Mortgagor covenants (i) that it is lawfully seized of the Premises, (ii) that the same are unencumbered, except for the mortgages, liens, encumbrances, conditions, restrictions, easements, leases, and other matters, rights or interests disclosed in Exhibit B attached hereto and made a part hereof (herein called "Permitted Encumbrances"), and (iii) that Mortgagor has good right, full power and lawful authority to convey and mortgage the same; and further Mortgagor shall forever defend the Premises and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

TO HAVE AND TO HOLD the Premises unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

## Obligations Secured

1. This Mortgage is to secure:
  - (a) all indebtedness evidenced by the Note including any future advances, plus all interest accruing thereon, and fees due and payable in connection therewith, and all other amounts due hereunder and otherwise secured hereby under law;

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(b) all other sums advanced pursuant to the provisions of any of the Loan Documents including without limitation, those sums, with interest, advanced to protect the security of the Mortgage;

(c) the performance by Mortgagor and/or the Affiliates of all other covenants, agreements and obligations on the part of any of them contained in the Loan Documents;

(d) the performance by Mortgagor and/or any Affiliate of any covenants, agreements and obligations under any Other Loan Documents (defined below). As used herein, "Other Loan Documents" shall mean any loan documents executed by Mortgagor or any of the Affiliates in favor of Mortgagee;

(e) any renewals, extensions, amendments or modifications hereto or of the Loan Documents or Other Loan Documents; and

(f) any refinancings of any indebtedness evidenced by the Loan Documents or Other Loan Documents on any terms whatsoever.

The foregoing items set forth in subsections (a) through (f) of Section 1 of this Mortgage are hereinafter collectively called the "Obligations." The maximum indebtedness secured by this Mortgage shall be twice the amount of the Obligations.

## Maintenance, Repair and Restoration of Improvements, Payment of Liens, Etc.

2. (a) Mortgagor shall (i) except as consented to by Mortgagee in Mortgagee's reasonable discretion, promptly repair, restore or rebuild any buildings or improvements now or hereafter located on the Premises which may become damaged or be destroyed provided Mortgagee permits Mortgagor to use insurance proceeds for the foregoing; (ii) keep, to the extent the following relate to an event which insurance proceeds are payable, the Premises in good condition and repair, without waste, and free from mechanics liens or other liens or claims for lien of any kind or nature whatsoever except Permitted Encumbrances (collectively, "Liens"); (iii) pay when due any indebtedness which may be secured by a mortgage on the Premises, whether senior or junior to this Mortgage and whether permitted by the terms hereof or otherwise, and comply with all requirements of all loan documents evidencing or securing such indebtedness, and upon request, exhibit satisfactory evidence of the discharge of any such mortgage to Mortgagee; (iv) comply with all requirements of law, municipal ordinances, or restrictions of record with respect to the Premises and the use thereof; (v) except as consented to by Mortgagee in Mortgagee's reasonable discretion, construct no improvements on the Premises; (vi) except as consented to by Mortgagee in Mortgagee's reasonable discretion, make no demolition or material alterations in the Premises, except as required by law or municipal ordinance; (vii) suffer or permit no change in the general nature of the occupancy or use of the Premises; (viii) initiate or acquiesce in no zoning variation or reclassification without Mortgagee's prior written consent; (ix) pay each item of indebtedness secured by this Mortgage when due according to the terms hereof, and pay, perform, satisfy and discharge each of the Obligations when required to do so under the terms of this Mortgage, the Credit Agreement, the



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Note, and the other Loan Documents; (x) promptly notify Mortgagee in writing of (a) any loss or damage to any part of the Premises, (b) any material change, whether contemplated, pending or final, in the assessment of any part of the Premises by taxing authorities or in the zoning classification, (c) the actual or threatened commencement of any proceedings under condemnation or eminent domain effecting any part of the Premises including those proceedings relating to severance and consequential damage and change in grade in streets, copies of any and all papers served in connection with any such proceedings to be delivered to Mortgagee upon such service, and (d) any other action, whether contemplated (when known to Mortgagor), pending or final, by any public authority or otherwise, that would affect the value of any part of the Premises; (xi) not make or permit any use of the Premises that could, with the passage of time, result in the creation of any right of user, or any claim of adverse possession or easement on, to or against any part of the Premises in favor of any person or the public; (xii) permit the Mortgagee and its designated agents to enter the Premises subject to the rights of the tenants and provided reasonable advance notice is given to Mortgagor; (xiii) not secure secondary financing relating to the Premises other than financing provided by Mortgagee (except as approved by Mortgagee as a part of this Loan).

(b) Anything in Section 2(a) of this Mortgage to the contrary notwithstanding, Mortgagor may, in good faith and with due diligence, contest the validity or amount of any Lien, and defer payment and discharge thereof during the pendency of such contest, provided: (i) that such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such Lien; (ii) that, within ten (10) days after Mortgagor has first learned of the assertion of such Lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such Lien; (iii) that Mortgagor shall have obtained a title endorsement to Mortgagee's loan title policy, or have otherwise bonded against such Lien within fifteen (15) days after Mortgagor has first learned of the assertion of such Lien. If Mortgagor shall: (x) fail to prosecute such contest with reasonable diligence, or (y) fail to obtain such insurance or bond as hereinabove provided, then Mortgagee may, at its option, demand that Mortgagor deposit with Mortgagee a sum of money or other collateral adequate to pay in full such Lien and all interest that might become due thereon and Mortgagee shall have the right to apply the money so deposited in payment of or on account of such Lien, or that part thereof then unpaid, together with all interest thereon. If the amount of money so deposited shall be insufficient for the payment in full of such Lien, together with all interest thereon, Mortgagor shall forthwith, upon demand, deposit with Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full. Mortgagee shall, upon the final disposition of such contest, apply the money so deposited in full payment of such Lien or that part thereof then unpaid, together with all interest thereon (provided Mortgagor is not then in default hereunder) when so requested in writing by Mortgagor and when furnished by Mortgagor with sufficient funds to make such payment in full and with evidence satisfactory to Mortgagee of the amount of payment to be made. When Mortgagee is presented evidence reasonably acceptable to Mortgagee that the Lien for which money or other collateral has been deposited has been paid in full or otherwise discharged or released and provided there is no default under the Loan Documents, the remaining money or other collateral so deposited shall be returned to Mortgagor.

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## Payment of Taxes

3. (a) Mortgagor shall pay or cause to be paid, before the due date thereof, all general real estate taxes, special taxes, special assessments, water charges, sewer service charges, and other charges against the Premises, and shall, upon written request, promptly furnish to Mortgagee duplicate receipts evidencing such payment.

(b) Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes or assessments provided: (i) that such contest shall not have the effect of preventing the collection of the tax or assessment so contested and the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy the same; (ii) that such contest shall not have a materially adverse effect on Mortgagor's financial condition, in Mortgagee's reasonable opinion; and (iii) that Mortgagor shall deposit with Mortgagee a sum of money or other collateral acceptable to Mortgagee in its reasonable discretion deemed adequate by Mortgagee to pay such taxes and any penalty and interest thereon, increasing such deposit, as Mortgagee may from time to time require in its sole judgment. Mortgagee shall, upon the final disposition of such contest, apply the money so deposited in full payment of such taxes or that part thereof then unpaid, together with all interest thereon (provided Mortgagor is not then in default hereunder), when so requested in writing by Mortgagor and when furnished by Mortgagor with sufficient funds to make such payment in full and with evidence satisfactory to Mortgagee of the amount of payment to be made. When Mortgagee is presented evidence reasonably acceptable to Mortgagee that the taxes for which money or other collateral has been deposited has been paid in full or otherwise discharged or satisfied and provided there is no default under the Loan Documents, the remaining money or other collateral so deposited shall be returned to Mortgagor.

## Insurance

4. Mortgagor shall keep in full force and effect all insurance coverage required under the Credit Agreement.

## Adjustment of Losses with Insurer and Application of Proceeds of Insurance

5. In case of any fire or casualty, Mortgagee (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) shall have the sole right and discretion to (i) settle and adjust any claim under such insurance policies such right to be exercised in good faith using good business judgement or (ii) allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, Mortgagee is authorized to collect and receive any such insurance proceeds. Such insurance proceeds shall be first applied toward the reimbursement of all costs and expenses of Mortgagee in collecting the insurance proceeds. Any remaining insurance proceeds may, at the option of Mortgagee, be either (a) applied in payment, reduction or satisfaction of the indebtedness secured hereby whether due or not, or (b) held by Mortgagee and used to reimburse Mortgagor for the cost of replacing or repairing the Premises. If Mortgagee allows Mortgagor to use such proceeds to repair or replace the Premises, Mortgagor shall promptly repair or replace the Premises so that the repaired or replaced Premises is of equal or better value and utility than the

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initial value and utility of the damaged Premises. In the event of a casualty loss and (i) Mortgagor is required by any lease to repair or restore the Premises; (ii) there has been no occurrence of an Event of Default; and (iii) the insurance proceeds are sufficient to repair or restore the Premises to a condition substantially similar to the condition of the Premises prior to such casualty the insurance proceeds attributable to such casualty loss shall be applied toward the repair or restoration of the Premises. Mortgagee has the right, but not the obligation, to inspect such repairs or restoration at any time without the prior consent of Mortgagor. Notwithstanding the foregoing, Mortgagor without the need for Mortgagee's consent shall have the right to agree and settle with the insurance company or companies on losses, in the aggregate, of less than Five Hundred Thousand Dollars (\$500,000.00). Provided there has been no Mortgage Default, in the case of losses, in the aggregate, valued at less than Five Hundred Thousand Dollars (\$500,000.00), such proceeds of insurance shall be payable directly to Mortgagor.

## Stamp Tax

6. If, by the laws of the United States of America, or of any state having jurisdiction over Mortgagor, any stamp tax or similar tax is due or becomes due in respect of any of the Obligations or the recording of this Mortgage, Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agrees to indemnify Mortgagee, its successors or assigns, against any liability incurred by reason of the imposition of any stamp tax or similar tax on the issuance of the Obligations or the recording of this Mortgage.

## Effect of Changes in Laws Regarding Taxation

7. In the event of the enactment after this date of any law of the state in which the Premises are located deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the property, or the manner of collection of taxes so as to affect this Mortgage or the obligations then, and in any such event, Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee therefor; provided, however, that if in the opinion of counsel for Mortgagee (a) it shall be unlawful to require Mortgagor to make such payment, or (b) the making of such payment shall result in the imposition of interest beyond the maximum amount permitted by law, then, and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the Obligations to be and become due and payable sixty (60) days from the giving of such notice.

## Mortgagee's Performance of Defaulted Acts: Subrogation

8. In case of any Mortgage Default, Mortgagee shall have the right, but not the obligation, to make any payment or perform any act herein or with respect to any of the Obligations required of Mortgagor, in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien on title or claim

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thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. Anything to the contrary notwithstanding, Mortgagee may immediately take action to cure any default in the payment of taxes or insurance premiums or any other defaults that create an emergency regarding the priority or validity of the lien of this Mortgage or the physical condition of the Premises without regard to the Mortgagor's cure rights, if any. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including but not limited to reasonable attorneys' fees and expenses, and any other moneys advanced by Mortgagee to protect the Premises and the lien hereof, shall be additional Obligations secured hereby, and shall become immediately due and payable without notice and with interest thereon at the Default Rate as defined in the Note. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor under this Mortgage. Should the proceeds of the Obligations or any part thereof, or any amount paid out or advanced hereunder by Mortgagee, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof on a parity with or prior or superior to the lien hereof, then as additional security hereunder, the Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, however remote, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

## Mortgagee's Reliance on Tax Bills, Etc.

9. Mortgagee in making any payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any Lien, may do so without inquiry as to the validity or amount of such Lien or any claim for Lien which may be asserted.

## Default

10. The following shall be a default ("Mortgage Default") pursuant to this Mortgage: (i) an Event of Default pursuant to the Credit Agreement, or (ii) a default in the performance or observance of any covenants or conditions required to be performed or observed by Mortgagor under the terms of this Mortgage, which shall continue for a period of thirty (30) days after written notice to the Mortgagor specifying such default; provided, however, if such default cannot reasonably be cured within such thirty (30) days, Mortgagor shall not be deemed to be in default if Mortgagor commences curing such default within ten (10) days after written notice and thereafter diligently prosecutes the curing of such default, or (iii) an Event of Default occurs under any of the Other Loan Documents beyond applicable cure periods.

## Foreclosure; Expense of Litigation

11. When either (i) the indebtedness secured hereby or any part thereof shall become due after expiration of any applicable cure period, whether by lapse of time or otherwise, or (ii) a Mortgage Default shall have occurred (whether listed in Section 10 hereof or described



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elsewhere in this Mortgage), Mortgagee shall have the right to accelerate the maturity of all of the Obligations and to foreclose the lien hereof by judicial action. In any suit to foreclose the lien hereof or in any other action to enforce any other remedy of Mortgagee under this Mortgage or with respect to any of the other Obligations, there shall be allowed and included as additional indebtedness in the decree for sale, judgment of foreclosure or other judgment or decree all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, paralegals' fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title and value as Mortgagee may deem necessary either to prosecute such suit or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature in this Section 11 mentioned and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including but not limited to the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Obligations or the Premises, including bankruptcy proceedings, or in the preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate, and shall be secured by this Mortgage.

Upon any sale made under or by virtue of this Section 11 or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Premises or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness of Mortgagor secured by this Mortgage the sale price, after deducting therefrom the expenses of the sale and the cost of the action and any other sums which Mortgagor is required to pay or that Mortgagee is authorized to deduct under this Mortgage.

Mortgagor understands and agrees that in the event of a Mortgage Default, Mortgagee, to the extent this Mortgage constitutes a security agreement under the UCC, may exercise any and all rights and remedies of a Secured Party under the UCC, including but not limited to the taking possession of any Personal Property covered by this Mortgage and disposing of the same by sale or otherwise; provided that at least ten (10) days prior notice of such disposition must be given to the Mortgagor, all as provided for by the UCC, it being agreed that such ten (10) days notice shall constitute fair and reasonable notice to Mortgagor of such disposition.

## Application of Proceeds of Foreclosure Sale

12. The proceeds of any foreclosure sale of the Premises (or the sale of property under the last unnumbered paragraph of Section 11 hereof) shall be distributed and applied, in such order of priority as Mortgagee may determine in its sole and absolute discretion, to (a) all costs and expenses incident to the foreclosure proceedings (or sale, as the case may be), including all items as are mentioned in the preceding Section hereof, (b) to the repayment of the Obligations and all other items which under the terms hereof constitute secured indebtedness additional to that constituting the Obligations, with interest thereon as herein provided. Any



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remaining proceeds shall be paid to Mortgagor, its successors or assigns, as their rights may appear.

## Appointment of Receiver

13. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice if permitted by law, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Premises, and Mortgagee hereunder may be appointed as such receiver. Such receiver shall have power: (a) to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (b) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renewal terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, 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 Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from any judgment or decree of foreclosure, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (c) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part to: (x) the Obligations, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to any foreclosure sale; and (y) the deficiency in case of a sale and deficiency.

## Assignment of Rents and Leases

14. To further secure the Obligations, Mortgagor hereby sells, assigns and transfers unto Mortgagee all right, title and interest of the Mortgagor in and to all present leases affecting the Mortgaged Premises, and including and together with (i) any and all future leases upon all or any part of the Mortgaged Premises; (ii) all of the rents, income, receipts, revenues, issues and profits from or due or arising out of the Mortgaged Premises, including but not limited to all income and profits from guest rooms, meeting rooms, food and beverage facilities, vending machines, telephone and television systems, guest laundry, the provision or sale of other goods and services, as well as all room rents, accounts, accounts receivable and hotel receivables and all other payments and rights to payment of any nature whatsoever made for or with respect to hotel room occupancy by any person, which includes any payment or monies received or to be received in whole or in part, whether actual or deemed to be, for the sale of services or products in connection with such occupancy, advance registration fees by hotel guests, tour or junket proceeds or deposits for convention an/or party reservations, and other benefits, and all rights to

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payment with respect to conference facilities, dining or bar facilities or other facilities in any way connected with the Mortgaged Premises, all rights to payment from any consumer credit charge card organization or entity including, without limitation, payments arising from the use of the American Express Card, Discover Card, the Visa Card, the MasterCard or any other credit card, including those now existing or hereafter created, substitutions therefore; and (iii) all deposits given as security for the faithful performance of each of such leases, subject to the rights of tenants, and all guaranties of any or all of such leases, are hereby assigned simultaneously herewith to the Mortgagee as security for the payment of the Note. Except for Leases that are not material to Mortgagor's business operations and having a term of one (1) year or less, all approved and executed leases for a term of more than one (1) year (including renewal options) shall, at Mortgagee's option, be specifically assigned to Mortgagee by instrument in form satisfactory to Mortgagee. All or any such leases shall be subordinate to this Mortgage. Mortgagor, as lessor under such leases, shall comply with all material provisions in such leases with which the lessor is required to comply, and shall faithfully and fully enforce all material terms and conditions of such leases. If Mortgagor shall not comply with or enforce each such lease, Mortgagee may (without being required to), after ten (10) days prior written notice to Mortgagor, perform and enforce such leases, and all amounts expended by Mortgagee in connection therewith shall be immediately due Mortgagee and shall be secured by the lien hereof. Mortgagor has on the date hereof executed and delivered to Mortgagee a Third Assignment of Leases and Rents, which Assignment is a document separate and distinct from this Mortgage, and is not secondary to, but is on a parity and of equal dignity with this Mortgage.

Mortgagor agrees that no rent will hereafter be paid by any person in possession of any portion of the Premises for more than one month in advance, and Mortgagor further agrees that the payment of the rents to accrue for any portion of the Premises will not be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagor, Mortgagor agrees that hereafter it will not assign any of the rents or profits of the Premises, except to a purchaser or grantee of the Premises permitted under the provisions of this Mortgage.

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession of the Premises in the absence of the taking of actual possession of the Premises by Mortgagee pursuant to Section 15 hereof. In the exercise of the powers herein granted Mortgagee, no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor.

Mortgagor further agrees to assign and transfer to Mortgagee all future leases upon all or any part of the Premises and to execute and deliver, at the request of Mortgagee, all such further assurances and assignments in the Premises as Mortgagee shall from time to time require.

Although it is the intention of the parties that the assignment contained in this Section 14 shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it by this Section 14 until a Mortgage Default occurs. The rights of Mortgagee under this Section 14 shall continue and remain in full force and effect both before and after commencement of any action or proceeding to foreclose this Mortgage, after the foreclosure sale in connection with the foreclosure of this Mortgage, and until expiration of the period of

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redemption from any such foreclosure sale, whether or not any deficiency from the unsatisfied portion of the Obligations hereby exists after such foreclosure sale.

If any term or provision of this Mortgage conflicts or is inconsistent with any term or provision contained in the Third Assignment of Leases and Rents entered by and between Mortgagor and Mortgagee ("Assignment of Leases") of even date herewith, then the terms of the Assignment of Leases shall control.

## Mortgagee's Right of Possession in Case of Default

15. In any case in which under the provisions of this Mortgage, Mortgagee has a right to foreclose the lien hereof, Mortgagor shall, forthwith, upon demand by Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of, the Premises or any part thereof personally or by its agent or attorneys. In such event, Mortgagee in its discretion may, in accordance with law enter upon and take and maintain possession of all or any part of the Premises together with all documents, books, records, papers and accruals of Mortgagor or the then owner of the Premises relating thereto and may exclude Mortgagor, its agents or servants wholly therefrom and may, as attorney in fact, as agent for Mortgagor or in its own name as Mortgagee, and under the powers herein granted, hold, operate, manage and control the Premises and complete the construction, and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power subject to the rights of any tenant precluding the same: (a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (c) to extend or modify any then existing leases and to make new leases, 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 indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, 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 Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as to it may seem judicious; (e) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (f) to receive all of such avails, rents, issues and profits; Mortgagor hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor.

After occurrence of a Mortgage Default, Mortgagor shall be deemed to have constituted and appointed Mortgagee its true and lawful attorney-in-fact with full power of substitution either in the name of Mortgagee or in the name of Mortgagor, to exercise any of the powers

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granted to Mortgagee pursuant to this Section 15. Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss, cost (including attorneys fees and expenses), or damage (except for any such liability, loss or damage which may be caused by the willful misconduct or gross negligence of Mortgagee) which Mortgagee may or might incur by reason of its performance of any action authorized under this Section 15 and of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements of Mortgagor.

## Application of Income Received by Mortgagee

16. Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it by Section 14 and Section 15 hereof, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Mortgagee may determine:

(a) to the payment of the construction and operating expenses of the Premises, including but not limited to the cost of the management and leasing thereof, established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises;

(c) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements to the Premises and of placing the Premises in such condition as which, in the judgment of Mortgagee, make it readily rentable; and

(d) to the satisfaction of any Obligations or any deficiency which may result from any foreclosure sale.

## Mortgagee's Right of Inspection

17. Mortgagee shall have the right to inspect the Premises at all reasonable times upon twenty-four (24) hours' advance notice and access thereto shall be permitted for that purpose.

## Condemnation

18. Any and all rewards heretofore or hereafter made or to be made to the present or any subsequent owner of the Premises by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Premises (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 the payment thereof), are hereby assigned by Mortgagor to Mortgagee, which awards Mortgagee is hereby authorized to

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negotiate, collect, and receive from the condemnation authorities. Mortgagee is hereby authorized to give appropriate receipts and acquittances therefor. Mortgagor shall immediately notify Mortgagee of the actual or threatened commencement of any condemnation or eminent domain proceedings of which it has knowledge affecting all or a portion of the Premises (including severance of, consequential damage to or change in grade of streets) and shall immediately deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further agrees to make, execute and deliver to Mortgagee, free and clear of any encumbrance of any kind whatsoever, any and all further assignments and other instruments deemed necessary by Mortgagee 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 Premises in accordance with the provisions of and in the same manner as is provided for insurance proceeds in Section 5 hereof. Notwithstanding the foregoing, any expenses, including, without limitation, reasonable attorneys' fees and expenses incurred by Mortgagee in intervening in the condemnation or eminent domain proceedings or compromising, settling such action or claim or collecting such proceeds, shall be reimbursed to Mortgagee first out of such proceeds.

## Release upon Payment and Discharge of Mortgagor's Obligations

19. If Mortgagor shall fully pay all principal and interest on the indebtedness secured hereby and fully comply with, satisfy and discharge all of the other terms and provisions hereof and all other Obligations to be paid, performed and complied with by Mortgagor, then Mortgagee shall execute and deliver to Mortgagor a release of this Mortgage in recordable form.

## Giving of Notice

20. Any notice to be given hereunder shall be in writing, addressed to the party at the address stated below and shall be (i) delivered in person to the receiving party by the other party, its agent or a professional courier service, (ii) sent by United States certified or registered mail, postage prepaid, return receipt requested, or (iii) sent by telecopy to the receiving party at the telecopy phone number stated below. Any such notice shall be deemed effective upon the earlier of the actual receipt of the notice or (i) if delivered in person, then when such notice is delivered to an individual at the receiving party's address who is apparently authorized to accept deliveries, (ii) if sent by United States certified or registered mail, then one day after such notice or election is deposited with the United State Postal Service, or (iii) if sent by telecopy, then at the time sent and confirmed by the sender's transmitted copy of such notice.

Mortgagee:	M & I Marshall and Ilsley Bank 770 N. Water Street Milwaukee, WI 53202 Attention: Commercial Loan Department Facsimile: (414)-298-2719
Mortgagor:	WPH Arlington, LLC c/o Hexagon Investments, Inc.



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115 South 84<sup>th</sup> Street, Suite 221  
 Milwaukee, WI 53214  
 Facsimile: (414)-456-0606

Any party may change the address for notices to it by notices to the other parties.

## Waiver of Defenses; Remedies Not Exclusive; Time is of the Essence

21. Mortgagee shall be entitled to enforce payment and performance of any indebtedness secured hereby and to exercise all rights and powers under this Mortgage or under or with respect to any other obligations or any laws now or hereafter in force, notwithstanding that some or all of the said Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or other powers herein contained, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Mortgagee or to which it may be otherwise entitled, may be exercised, concurrently or independently, from time to time, and as often as it may be deemed expedient by Mortgagee, and Mortgagee may pursue inconsistent remedies. No waiver of any Mortgage Default shall be implied from any omission by the Mortgagee to take any action on account of such default if such default persists or be repeated, and no express waiver shall affect any such default other than the default specified in the express waiver and that only for the time and to the extent therein stated. No acceptance of any payment of any one or more delinquent installments which does not include interest at the Default Rate from the date of delinquency, together with any required late charge, shall constitute a waiver of the right of Mortgagee at any time thereafter to demand and collect payment of interest at such Default Rate or of late charges, if any. Time is of the essence of this Mortgage and each of the covenants and provisions hereof.

## Waiver of Statutory Rights

22. To the fullest extent permitted under applicable law, Mortgagor shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on its behalf and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date of this Mortgage. The foregoing waiver of the right of redemption is made pursuant to 735 ILCS 5/15-1601(b).

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## Default Rate

23. "Default Rate" as used herein shall have the meaning given to such term in the Note.

## Binding on Successors and Assigns

24. This Mortgage and all provisions hereof shall be binding upon Mortgagor and all persons claiming under or through Mortgagor and shall inure to the benefit of Mortgagee and its successors and assigns.

## Definitions of "Mortgagor" and "Mortgagee"

25. The word "Mortgagor" when used herein shall include: (a) the original Mortgagor named in the preambles hereof; (b) said original Mortgagor's successors and assigns; and (c) all owners from time to time of the Premises. The word "Mortgagee" when used herein shall include all successors and assigns of the Mortgagee identified in the preambles hereof.

## Captions

26. The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

## Business Loan Recital

27. Mortgagor agrees that the Obligations: (a) constitute a business loan which comes within the purview of subparagraph 1(c) of Section 4 of "An Act in relation to the rate of interest and other charges in connection with sales on credit and the lending of money" approved May 24, 1879, as amended (815 ILCS 205/4(1)(c)); and (b) are exempted transactions under the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 et seq.

## Filing and Recording Fees

28. Mortgagor shall pay all title insurance premiums, title endorsement charges, escrow charges, filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery and performance of this Mortgage and the obligations.

## Execution of Separate Security Agreement, Financing Statements, Etc.

29. Mortgagor, upon request by Mortgagee from time to time, shall execute, acknowledge and deliver to Mortgagee, a Security Agreement, Financing Statement or other similar security instruments, in form reasonably satisfactory to Mortgagee, covering all property of any kind whatsoever which Mortgagor may hereafter acquire, which in the opinion of

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Mortgagee is used in the operation of the Premises and which constitutes goods within the meaning of the UCC, and Mortgagor will further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement or certificate or other document as Mortgagee may reasonably request in order to perfect, preserve, maintain, continue and extend the security interest under and the priority of this Mortgage and such security instrument. Mortgagor further agrees to pay to Mortgagee on demand all costs and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and re-filing of any such document.

## Partial Invalidity; Maximum Allowable Rate of Interest

30. Mortgagor and Mortgagee intend and believe that each provision in this Mortgage comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Mortgage are found by a court of competent jurisdiction to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decisions, or public policy, and if such court should declare such portion, provision or provisions of this Mortgage to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent both of Mortgagor and Mortgagee that such portion, provision or provisions shall be given force to the fullest possible extent that it or they are legal, valid and enforceable, that the remainder of this Mortgage shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interests of Mortgagor and Mortgagee under the remainder of this Mortgage shall continue in full force and effect. All agreements herein and in the Note are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance of the Note, or otherwise, shall the amount paid or agreed to be paid to the holders of the Note for the use, forbearance or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Credit Agreement or of the Note or any other agreement referred to herein, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity and if from any circumstance the holders of the Note shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Note and not to the payment of interest.

## Loan Documents

31. All advances and indebtedness arising and accruing under any Loan Document from time to time shall be secured hereby to the full extent of the amount stated to be secured hereby and according to law.

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## Mortgagee's Lien for Service Charge and Expenses

32. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures (in addition to any loan proceeds disbursed from time to time) the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee in connection with the indebtedness to be secured hereby and which are to be reimbursed by Mortgagor under the terms of this Mortgage or any Loan Document.

## Maintenance of Mortgagor's and Hexagon's Interest

33. Notwithstanding anything herein to the contrary or stated in the Loan Documents to the contrary, in the event that (i) there is a voluntary or involuntary change in the legal or equitable ownership of the Premises or any part thereof, (ii) there is any voluntary or involuntary transfer, conveyance, encumbrance, sale, lease or other disposition of the Premises, or any part thereof except as permitted under the Credit Agreement, or (iii) there is any agreement to do any of the foregoing, a Mortgage Default shall have occurred and Mortgagee may declare the whole indebtedness secured hereby immediately due and payable, together with reasonable attorney fees and other expenses as set forth in the Loan Documents. Notwithstanding the foregoing, the membership interest of Mortgagor or any other form of beneficial ownership of Mortgagor may be sold, transferred or otherwise disposed of during the term of this Mortgage without the prior written consent of Mortgagee only so long as Hexagon Investments, LLC, throughout the term of this Note, continues to own and control the same percentage interest in ownership and voting shares of Mortgagor as of the effective date of this Mortgage.

## Applicable Law

34. The terms of this Mortgage, with respect to the obligations of Mortgagor to pay the Obligations or additional charges pursuant to the Loan Documents, and other matters related to the Credit Agreement, as defined in the Credit Agreement, and other matters related to the Note, as defined in the Note, and all other matters unrelated to this Mortgage, shall be governed by and construed in accordance with the laws of the State of Wisconsin, provided, however, all other provisions of this Mortgage, including the creation of this Mortgage, the attachment and perfection of the lien or security interest in the Premises, the rights and remedies of the Mortgagee and the enforcement thereof with respect to the Premises and procedural matters as provided herein shall be governed by and construed in accordance with the internal laws of the State of Illinois. It is the intention of Mortgagor and Mortgagee that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Illinois Mortgage Foreclosure Law (the "Act"), 735 ILCS 5/15-1101 et seq., and with respect to such Act, Mortgagor agrees and covenants that Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. Specifically, in the event of a foreclosure of this Mortgage, Mortgagee has the right to waive the right to judgment for deficiency and to hold the foreclosure sale within the time provided in the Act.

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## No offsets

35. No right of offset or claim that Mortgagor now has or may have in the future against Mortgagee shall relieve Mortgagor from paying any amounts due under or with respect to the Obligations or from performing any other duties contained herein or secured hereby.

## Future Advances

36. This Mortgage also secures all future advances made or to be made under any Loan Document ("Future Advances") which Future Advances shall have the same priority as if all such Future Advances were made on the date of execution hereof. Nothing in this Section 36 or in any other provision of this Mortgage shall be deemed either (a) an obligation on the part of Mortgagee to make any Future Advances other than in accordance with the terms and provisions of the Loan Documents, or (b) an agreement on the part of Mortgagee to increase the amount of the Loan. All Future Advances are cross-collateralized and cross-defaulted pursuant to Section 42 below. Under no circumstances shall the total indebtedness secured by this Mortgage exceed twice the face amount of the Note.

## Environmental Warranties and Indemnification

37. For the purposes of this Section 37, the following definitions shall apply:

(i) The Term "Environmental Laws" shall mean all federal, state and local laws including statutes, regulations and other governmental restrictions and requirements relating to the discharge of air pollutants, water pollutants or process wastewater or otherwise relating to the environment, toxic or hazardous substances, pesticides, herbicides or fertilizer including, but not limited to, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any state department of natural resources or state environmental protection agency now or at any time hereafter in effect.

(ii) The term "Loan" shall mean the obligation of Mortgagor to Mortgagee pursuant to the terms of the Credit Agreement and evidenced and secured by the Loan Documents.

(iii) "Environmental Reports" shall mean the environmental reports as set forth on that certain Environmental Report Schedule attached hereto and incorporated herein by reference.

37.1 In order to induce Mortgagee to make the Loan, Mortgagor represents and warrants to Mortgagee, except as disclosed in the Environmental Reports, the following:



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37.1.1. Mortgagor is not a party to any litigation or administrative proceeding and, so far as is known by Mortgagor, there is no litigation or administrative proceeding threatened against Mortgagor relating to the Premises, which in either case asserts or alleges (i) Mortgagor violated Environmental Laws, (ii) Mortgagor is required to clean up or take remedial or other response action due to the disposal, discharge or other release of any hazardous substance or materials, or (iii) Mortgagor is required to contribute to the cost of any past, present or future cleanup or remedial or other response action which arises out of or is related to the disposal, discharge or other release of any hazardous substances or materials.

37.1.2. With respect to the period during which Mortgagor owned or occupied the Premises and, to the Mortgagor's knowledge with respect to the time before Mortgagor owned or occupied the Premises, no person or entity has caused or permitted materials to be generated, stored, treated, recycled or disposed of on, under or at the Premises which materials, if known to be present, would require cleanup, removal or some other remedial action under Environmental Laws.

37.1.3. To the Mortgagor's knowledge (i) there are not now and there have not ever been any underground storage tanks on the Premises and (ii) there are not now and have never been any tanks or other facilities on, under or at the Premises now or at any time owned or occupied by the Mortgagor which contained materials which, if known to be present in soils or groundwater, would require cleanup, removal or some other remedial action under Environmental Laws.

37.1.4. To the Mortgagor's knowledge, there are no conditions existing currently or that are likely to exist during the term of the Loan which would subject Mortgagor to damages, penalties, fines, injunctive relief or cleanup or other costs or expenses under any Environmental Laws or which would require cleanup, remedial action or other response pursuant to Environmental Laws by Mortgagor.

37.1.5. Mortgagor is not subject to any judgment, decree, order or citation related to or arising out of any Environmental Laws and to the Mortgagor's knowledge, has not been named or listed as a potentially responsible party by any governmental body or agency in a matter arising under any Environmental Laws.

37.1.6. Mortgagor has timely obtained all permits, licenses and approvals required under all Environmental Laws; all such permits, licenses, and approvals are in full force and effect and any fees and/or conditions for such permits, licenses and approvals have been paid and/or complied with.

37.1.7. To Mortgagor's knowledge, no pesticides, herbicides, fertilizers or other materials have been used on, applied to or disposed of on the Premises in violation of any Environmental Laws.

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37.2. While any part of the principal of or interest on the Loan remains unpaid, Mortgagor shall:

37.2.1. Timely comply with all applicable Environmental Laws; provided, however, that Mortgagor shall not be required to comply with any Environmental Law so long as (i) Mortgagor shall, in good faith and with due diligence, contest the same or the validity or applicability thereof by appropriate legal proceedings which shall have the effect of preventing the immediate enforcement of the same against Mortgagor or the Premises, and (ii) pending the outcome of such legal proceedings Mortgagor shall give Mortgagee such reasonable security as may be requested by Mortgagee to insure compliance with the Environmental Law and all interest and maximum penalties for which Mortgagor could be responsible thereunder.

37.2.2. Provide Mortgagee, immediately upon receipt, copies of any correspondence, notice, pleading, citation, indictment, complaint, order, decree or other document from any source asserting or alleging violation by Mortgagor of any Environmental Law, or asserting or alleging a circumstance or condition which may require a financial contribution by Mortgagor or a cleanup, remedial action or other response by or on the part of Mortgagor under Environmental Laws.

37.2.3. Advise Mortgagee in writing as soon as Mortgagor becomes aware of any condition or circumstance which makes any of the representations or warranties contained herein incomplete or inaccurate.

37.2.4. Promptly undertake and diligently pursue to completion any legally required remedial containment or cleanup action in the event of any release or discharge or threatened release or discharge of any solid, hazardous or toxic substance or material or other health or environment threatening substance on, upon, into or from the Premises.

37.2.5. At all times while owning or operating the Premises, Mortgagor agrees to maintain and retain complete and accurate records of all releases, discharges or other use, handling, storage, disposal or transport of any toxic, hazardous or health or environment threatening substance on, onto, into or from the Premises, including without limitation, records of the quantity and type of any such substance disposed of on or off of the Premises, as required by Environmental Laws.

37.3. Mortgagor hereby agrees to indemnify, defend and hold harmless Mortgagee and each of its officers, directors, employees, agents, consultants, attorneys, and contractors (the "Agents") with respect to any and all loss, liability, damage, fines, penalties, costs and expenses of every kind and character, including reasonable attorneys' fees and court costs, incurred and expended by Mortgagee, and occasioned by or

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associated with any claims, demands, causes of action, suits and/or enforcement actions including any administrative or judicial proceedings and any remedial, removal or response actions ever asserted, threatened, instituted or requested by any person whatsoever arising out of or related to (i) the breach of any representation or warranty of Mortgagor set forth in this Section 37; or (ii) the failure of Mortgagor to perform any material covenant or obligation hereunder; or (iii) the ownership, construction, occupancy, operation or use of the Premises; unless caused by the bad faith or negligence of Mortgagee. The provisions of this Section 37 shall be in addition to and not in limitation of any other obligations and liabilities which Mortgagor may have to Mortgagee under applicable statutes or at common law and shall survive the term of this Mortgage and/or the Loan Documents and shall continue thereafter in full force and effect.

38. Mortgagor's Receipt. Mortgagor hereby acknowledges receipt of a true and correct copy of this instrument.

39. Regulation U. Mortgagor warrants that the proceeds of the Note secured hereby will not be used for the purchase of registered equity securities within the purview of Regulation U issued by the Board of Governors of the Federal Reserve System.

40. Force Majeure. If Mortgagor is delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws, regulations, orders or decrees, riots, insurrection, terrorism, war, acts of God, inclement weather, or other reason beyond Mortgagor's reasonable control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

41. Affiliates. For purposes of this Mortgage, all references to "Affiliates" of Mortgagor shall mean WPH Mount Laurel, LLC; WPH Cincinnati, WPH Cherry Valley, LLC; WPH Fitchburg, LLC; WPH Kansas City, LLC; WPH Omaha, LLC; WPH Rockford, LLC; or Waterbury Partners, LP.

42. Cross Collateralization and Default. The Other Loan Documents shall secure the Note, and this Mortgage shall secure all the Obligations evidenced by any promissory or mortgage notes that comprise a part of the Other Loan Documents. Upon the occurrence of an Event of Default under this Mortgage, Mortgagee may declare all the principal, interest and other sums which may be outstanding under the Note, the Obligations and any other obligations secured by the Other Loan Documents, to be immediately due and payable without further demand, and Mortgagee may exercise any and all rights and remedies provided in this Mortgage, the Note, the Loan Documents and the Other Loan Documents, or any of them. An Event of Default under this Mortgage shall be deemed an Event of Default under the Other Loan Documents. An Event of Default under any of the Other Loan Documents shall be an Event of Default under this Mortgage. All notice and cure periods, if any, in any of the Loan Documents or Other Loan Documents, shall run concurrently, and no additional notices need be given and

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no cure period need expire for an Event of Default under any of the Other Loan Documents to be an Event of Default under this Mortgage.

[SIGNATURE ON FOLLOWING PAGE]

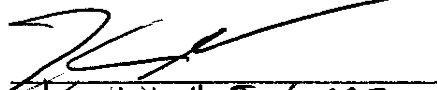
Property of Cook County Clerk's Office

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

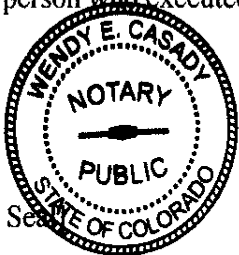
WPH ARLINGTON, LLC

By: Sage Hospitality Resources, LLC, Its Manager

By:   
 Name: KENNETH J. GEEST  
 Its: EXECUTIVE VICE PRESIDENT

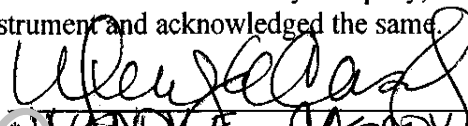
STATE OF ~~ILLINOIS~~ Colorado )  
 CITY AND ) SS  
 COUNTY OF DENVER )

Personally came before me this 24 day of June, 2009, the above-named Kenneth J. Geest, in his capacity as Executive VP of Sage Hospitality Resources, LLC, the Manager of WPH Arlington, LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Notarial Seal]

My Commission Expires Jan. 29, 2010

  
 \*WENDY E. CASADY  
 Notary Public, State of COLORADO  
 My Commission: January 29, 2010  
Expires

This instrument was drafted by and after recording should be returned to:

Mark E. O'Neill  
 Godfrey & Kahn, S.C.  
 780 North Water Street  
 Milwaukee, WI 53202



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## EXHIBIT A

### Legal Description

#### PARCEL 1:

Lot 17 in Arlington Park Office Centre, being a subdivision of part of the Northwest  $\frac{1}{4}$  of Section 25, and part of the Northeast  $\frac{1}{4}$  of Section 26, Township 42 North, Range 10 East of the third principal meridian, in Cook County, Illinois.

#### PARCEL 2:

A fill encroachment easement appurtenant to and for the benefit of Parcel 1 as delineated on the plat of subdivision of Arlington Park Office Centre recorded May 23, 1980 as document number 25466742 and as declared in Declaration of Easements dated September 19, 1980 and recorded September 19, 1980 as document number 25591285 made by and between American National Bank and Trust Company of Chicago, as Trustee under a Trust Agreement dated November 29, 1978 and known as Trust Number 45275, and American National Bank and Trust Company of Chicago, as Trustee under a Trust Agreement dated November 29, 1978 and known as Trust Number 45276, over the following described property:

The Westerly 15 feet of lot 12 in Arlington Park Office Centre, being a subdivision of part of the Northwest  $\frac{1}{4}$  of Section 25, and part of the Northeast  $\frac{1}{4}$  of Section 26, Township 42 North, Range 10 East of the third principal meridian, in Cook County, Illinois.

#### PARCEL 3:

An easement for underground utility purposes appurtenant to and for the benefit of Parcel 1 as delineated on the plat of subdivision of Arlington Park Office Centre Recorded May 23, 1980 as document number 25466742 and as declared in Declaration of Easements dated September 19, 1980 and recorded September 19, 1980 as document number 25591285 made by and between American National Bank and Trust Company of Chicago, as Trustee under a Trust Agreement dated November 29, 1978 and known as Trust Number 45275, and American National Bank and Trust Company of Chicago, as Trustee under a Trust Agreement dated November 29, 1978 and known as Trust Number 45276, over the following described property:

That portion of Lot 18 in Arlington Park Office Centre, a subdivision of part of the Northwest  $\frac{1}{4}$  of Section 25, and part of the Northeast  $\frac{1}{4}$  of Section 26, Township 42 North, Range 10 East of the Third Principal Meridian, in Cook County, Illinois, which lies northwesterly of the following described line: Commencing at a point on the easterly right of way line of Rohlwing Road at a point which is 30 feet Southerly of the Northwesterly corner of Lot 18, such point being the point of beginning; thence Northeasterly along a straight line of a point lying on the northerly lot line of Lot 18 which is 225 feet easterly of the northwesterly corner thereof, and there terminating.

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## EXHIBIT B

### Permitted Encumbrances

1. Taxes for the second half of 2008 and subsequent years.
2. Easements and the terms, provisions, covenants and conditions contained in the unrecorded electric service station agreement dated April 28, 1969 executed by Commonwealth Edison Company and Chicago Thoroughbred Enterprises, Inc.
3. A 30 foot easement for access for Lot 18 as shown on Plat of Subdivision recorded as Document 25466742 and as shown on Declaration of Easements recorded September 19, 1980 as Document 25591285 over part of Lot 17 for the purpose of ground level pedestrian and vehicular ingress and egress.
4. Building setback line of 25 feet as shown on Plat of Subdivision recorded as Document 25466742.
5. Easements for public utilities as shown on Plat of Subdivision recorded as Document 25466742 and the terms and provisions contained therein.
6. Easements for the purposes of installing, maintaining, operating and maintaining all equipment necessary for the purpose of serving the land and other property with communications and electric service and also with right of access thereto as contained in grant to Illinois Bell Telephone Company and Commonwealth Edison Company, their successors and assigns as shown on Plat of Subdivision recorded as Document 25466742.
7. Covenants, conditions and restrictions contained on Plat of Subdivision recorded as Document 25466742 relating to among other things maintenance of detention basins and compensatory flood storage area.
8. Utility Easement Agreement recorded January 2, 1979 as Document 24785936 concerning utilities located on the land the terms and provisions contained therein.
9. Terms, and conditions contained in Declaration of Easement recorded September 19, 1980 as Document 25591285 made by and between American National Bank and Trust Company as Trustee under Trust 45275 and American National Bank and Trust Company as Trustee under Trust 45276.
10. An Ordinance granting preliminary approval of an amendment to a Planned Unit Development, granting a Special Use Permit for an arcade and a variation from Chapter 28 of the Arlington Heights Municipal Code, a copy of which was recorded December 8, 2005 as Document 0534219011.

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11. An Ordinance granting final approval of an amendment to a Planned Unit Development a copy of which was recorded December 8, 2005 as Document 0534219016.
12. An Ordinance amending Planned Unit Development Ordinance Number 05-080, granting a Special Use Permit for a restaurant and granting variations from Chapter 28 of the Arlington Heights Municipal Code, a copy of which was recorded November 3, 2006 as Document 0630722034.
13. Mortgage, Security Agreement, Financing Statement and Assignment of Leases dated May 17, 2005 and recorded May 23, 2005 as Document No. 0514303004 made by WPH Arlington, LLC, a Wisconsin limited liability company to M&I Marshall and Ilsley Bank, a Wisconsin state chartered bank to secure an indebtedness in the amount of \$19,360,000.00.  
 First Amendment to Real Estate Mortgage, Security Agreement, Financing Statement dated August 11, 2005 and recorded August 29, 2005 as Document No. 0524127061.  
 Second Amendment to Real Estate Mortgage, Security Agreement, Financing Statement and Assignment of Leases dated October 6, 2005 and recorded November 9, 2005 as Document No. 0531355095.  
 Third Amendment to Real Estate Mortgage, Security Agreement, Financing Statement and Assignment of Leases dated October 26, 2005 and recorded November 23, 2005 as Document No. 0532732004.  
 Amended and Restated Mortgage, Security Agreement, Financing Statement and Assignment of Leases dated January 20, 2006 and recorded March 9, 2006 as Document No. 0606831127 made by WPH Arlington, LLC, a Wisconsin limited liability company to M&I Marshall and Ilsley Bank, a Wisconsin state chartered bank to secure an indebtedness in the amount of \$44,000,000.00.
14. Assignment of Rents recorded May 23, 2005 as Document No. 0514303005 made by WPH Arlington, LLC to M&I Marshall and Ilsley Bank.  
 First Amendment to Assignment of Leases and Rents dated August 11, 2005 and recorded August 29, 2005 as Document No. 0524127062.  
 Second Amendment to Assignment of Leases and Rents dated October 6, 2005 and recorded March 2, 2006 as Document 0606122095.  
 Third Amendment to Assignment of Leases and Rents dated October 26, 2005 and recorded November 23, 2005 as Document No. 0532732005.  
 Amended and Restated Assignment of Leases and Rents dated January 20, 2006 and recorded March 9, 2006 as Document 0606831128.

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15. Second Mortgage made as of February 12, 2009 and recorded March 9, 2009 as Document No. 0906819085 made by WPH Arlington, LLC to M&I Marshall & Ilsley Bank to secure an indebtedness in the amount of \$4,000,000.00.

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## ENVIRONMENTAL REPORT SCHEDULE

Phase I Environmental Site Assessment dated April 10, 2003, Job No. 100382, prepared by  
EMG.

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