

UNOFFICIAL COPY

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 1105322072 Fee: \$72.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/22/2011 01:21 PM Pg: 1 of 19

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 29-05-200-021-0000

Address:

Street: 13800 S. Halsted Street and 900 West 138th Street

Street line 2:

City: Riverdale

State: IL

ZIP Code: 60827

Lender: Standard Bank and Trust Company

Borrower: Standard Bank and Trust Company a/t/u/t/a dated 10/2/07 a/k/a Trust No. 17436

Loan / Mortgage Amount: \$9,284,563.41

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

Old Republic National Title
Insurance Company
20 S. Clark Street, Ste 2000
Chicago, IL 60603
(312) 779-7100



Certificate number: 30AC90D4-6D9C-41CC-9360-F9DBE23802B5

Execution date: 01/01/2011

02/11/2016 2

19

UNOFFICIAL COPY

LOAN NUMBER 6806349010

PREPARED BY:
 JAMES B. CARROLL, ESQ.
 7800 West 95th St 2nd Fl East
 Hickory Hills, IL 60457
 (708) 430-1300

MAIL TO:
 Standard Bank and Trust Company
 ATTN: PDC Department
 7725 W 98th St
 Hickory Hills, IL 60457

MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT ("Mortgage") is made by Standard Bank and Trust Company, 7800 West 95th Street, Hickory **October 2, 2002**, and known as **Trust No. 17436**, ("Mortgagor") in favor of STANDARD BANK AND TRUST COMPANY, its successors and assigns, 7800 West 95th Street, Hickory Hills, Illinois 60457, ("Lender"):

WITNESSETH:

THAT WHEREAS, Mubarak Ibrahim, 9124 S, Thomas Ave, Bridgeview, IL 60455 (referred to herein as the "Borrower") has concurrently herewith executed a Note (the "Note") payable to Lender, in the principal sum of **Nine Million Two Hundred Eighty-Four Thousand Five Hundred Sixty-Three and 41/100 Dollars (\$9,284,563.41)** with interest on the principal balance of the Note outstanding from time-to-time at the initial nominal rate of **Four and One-Half percent (4.50%)** from **January 1, 2011** until the earlier of (a) a Note Rate adjustment date as set forth below, or (b) the occurrence of an Event of Default; or (c) date of the maturity of the principal balance of the Note has occurred whether at the scheduled Maturity Date or such other date by acceleration or otherwise according to the terms of the Note or the terms of the Loan Agreement (collectively the "Maturity Date"), at which time all principal and accrued interest due on the Note ("Maturity Payment") is payable in full. The nominal interest rate on the outstanding principal balance of the Note as it changes from time to time is referred to herein as the "Note Rate". The Note will be payable in initial monthly installments of principal and interest of **Fifty One Thousand Nine Hundred Forty-Nine and 24/100 Dollars (\$51,949.24)** commencing **February 1, 2011** and on the first day of each subsequent month through and including **January 1, 2012** at which time the Note Rate will adjust to a nominal rate of **Five percent (5.0%)**. Upon adjustment of the Note Rate, the then outstanding principal balance of the Note will be reamortized over **29** years at the most recent adjusted Note Rate and will be payable in monthly installments of principal and interest **Fifty Four Thousand Six Hundred Eighty-One and 71/100 Dollars (\$54,681.71)** commencing **January 1, 2012** and on the first day of each subsequent month through and including **January 1, 2013** at which time the Note Rate will adjust to a nominal rate of **Five and One-Half percent (5.5%)**. Upon adjustment of the Note Rate, the then outstanding principal balance of the Note will be reamortized over **28** years at the most recent adjusted Note Rate and will be payable in monthly installments of principal and interest **Fifty Seven Thousand Four Hundred Two and 48/100 Dollars (\$57,402.48)** commencing **January 1, 2012** and on the first day of each subsequent month through and including **January 1, 2013** at which time at which

UNOFFICIAL COPY

LOAN NUMBER 6806349010

time any unpaid principal and all accrued interest, if not sooner paid, will be due in full. Interest on the Note will be computed on its principal balance outstanding from time-to-time on the basis of a **360-day year** and charged for the actual number of days elapsed. Interest on the principal balance of the Note outstanding from date of disbursement through and including the last day of the month of disbursement will be paid at disbursement of the Note. Upon the occurrence of an Event of Default that is not cured within any cure period set forth in the Loan Documents, interest will accrue on principal balance of the Note outstanding from time-to-time at a nominal rate equal to the Note Rate plus **five percent (5.0%)** ("Default Rate"); provided, however, in no event will the Default Rate exceed the maximum rate permitted by law. The Default Rate interest accruing hereunder will be deemed demanded and immediately due and payable by Borrower to the holder of the Note and will be additional Indebtedness evidenced by the Note and secured by the Collateral. If any installment payment or the Maturity Payment due under the Note is not paid within fifteen (15) days of the due date then such installment payment or Maturity Payment will be subject to a late charge in the amount of **five (5%) percent** of the installment or Maturity Payment then due. All payments of principal, interest or other fees, costs and expenses due Lender will be made in lawful money of the United States of America at such place as the holders of the Note may, from time to time in writing appoint, and in the absence of such appointment, then at the address of Lender set forth above.

THE NOTE SECURED BY THIS MORTGAGE CONTAINS A VARIABLE RATE FEATURE. THE MAXIMUM AMOUNT OF THIS MORTGAGE WILL NOT EXCEED **\$18,569,126.82**.

THAT, as partial consideration to Lender and to secure the payment of the indebtedness evidenced by the Note, or otherwise due Lender under the Loan Documents and the performance of the covenants and agreements of the Mortgagor herein contained, the Mortgagor does by these presents GRANT, CONVEY and MORTGAGE unto Lender, its successors and assigns, the real estate legally described on Exhibit "A" attached hereto and incorporated herein together with all of the following, which, collectively with the real estate described, will be referred to herein as "Premises", to wit:

All and singular the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, and the rents, issues and profits thereof; and also all the estate, right, title, interest, property, claim and demand whatsoever of the Mortgagor, of, in and to the same and of, in and to every part and parcel thereof; and

All buildings and improvements of every kind and description now existing or hereafter erected or placed thereon and all materials intended for construction, reconstruction, alteration and repairs of such improvements now or hereafter erected thereon, all of which materials will be deemed to be included within the Premises immediately upon the delivery thereof to the said real estate, and all fixtures now or hereafter owned by Mortgagor and attached to or contained in and used in connection with said real estate including but not limited to all machinery, motors, fittings, shades, screens, and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures and appurtenances thereto; and all items of furniture, furnishings, equipment and personal property used or useful in the operation of the said real estate; and all renewals, replacements or proceeds of sale of or insurance thereon and articles in substitution thereof, whether or not the same are or will be attached to said building or buildings in any manner; it being mutually agreed, intended and declared that all the aforesaid property owned by said Mortgagor and placed by Mortgagor on the real estate will, so far as permitted by law, be deemed to form a part and a parcel of the real estate, and covered by and conveyed under this Mortgage; and as to the balance of the property aforesaid, this Mortgage is hereby deemed to be as well a Security Agreement under the provisions of the Uniform Commercial Code for the purpose of creating hereby a security interest in said property, which is hereby granted to the Lender as secured party, securing said indebtedness and obligations. Mortgagor acknowledges and agrees that the within Mortgage will constitute a fixture filing financing statement within the meaning of the Illinois Uniform Commercial Code. Nothing herein will be deemed to create a Mortgage on tenant trade fixtures or property belonging to another person unless Mortgagor has acquired ownership of same. The Mortgagor further agrees to execute and deliver, from time-to-time, such further instruments as may be requested by the Lender to confirm the lien of this Mortgage on any or all of the aforementioned chattels and fixtures, including execution of financing statements or copies thereof where Lender deems appropriate; and

Any and all awards or payments, including interest thereon, and the right to receive the same, which may

UNOFFICIAL COPY

LOAN NUMBER 6806349010

be made with respect to the Premises as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, or (c) any other injury to or decrease in the value of the Premises, to the extent of all amounts which may be secured by this Mortgage, at the date of receipt of any such award or payments to the Lender, and of the reasonable counsel fees, costs and disbursements incurred by the Lender in connection with the collection of such award or payment.

TO HAVE AND TO HOLD the above granted and described Premises, with all and singular the rights and appurtenances thereto appertaining unto the Lender, its successors and assigns, forever, Mortgagor hereby releasing and waiving on its behalf and on behalf of all persons beneficially interested in the Trust estate all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

PROVIDED ALWAYS, and these presents are upon this express condition, that if the Borrower will well and truly pay unto the Lender, its successors or assigns, the sums of money due hereunder and in the Note with interest thereon, at the time and in the manner mentioned in the Note, and any and all other sums which may become due and payable hereunder, and will well and truly abide by and comply with each and every covenant and condition set forth herein or in the Note, then these presents and the estate hereby granted will cease, determine and be void, and Lender, its successor or assigns will, upon request, prepare, execute and deliver a release of the lien created hereunder upon tender to Lender of its then current release fee. No partial release of any of the Premises will be permitted except upon the terms and conditions as required by Lender in its sole discretion.

AND, the Mortgagor covenants with the Lender that:

1. Borrower will pay, or cause to be paid, the said sums of money due under the Note with interest thereon, at the time and in the manner provided in the Note, and will keep, perform and observe every covenant, term and condition of this Mortgage and the Note. The principal balance of the Note may be prepaid prior to maturity in full or in part at any time as set forth in the Note. Such prepayment of principal will be applied as set forth in the Note. If remittance be made in payment of principal, interest or other charges due Lender either by check or draft, said payment will be subject to the condition that such check or draft may be handled for collection in accordance with the practice of the collecting bank or banks, and that any receipt issued therefore will be void unless the amount payable thereon is actually received by the Lender. Receipt thereof will also be void if, by order of any court of competent jurisdiction, Lender is required to refund any sums paid to Lender by or on behalf of Borrower. Any such refund or other non-payment of a remittance occurring after release of the lien of this Mortgage and cancellation of the Note secured thereby will be deemed a pro tanto reinstatement of said Mortgage and Note for such sum and will bear interest at the Default Rate. Any partial payment received by Lender after acceleration or maturity of all sums due Lender under the Note or this Mortgage will not impair Lender's rights hereunder or at law or equity to proceed with foreclosure of this Mortgage or collection of the Note in full.

2. No building or other property now or hereafter covered by this Mortgage will be removed, demolished or materially altered, without the prior written consent of the Lender, except that the Mortgagor will have the right, without such consent, to remove and dispose of, free from the lien of this Mortgage, such equipment as from time-to-time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, any such equipment will be replaced with other equipment of equal or greater value and free from chattel Mortgage or such other encumbrance and from any reservation to title, and by such removal and replacement the Mortgagor will be deemed to have subjected such equipment to the lien of this Mortgage, or (b) any net cash proceeds received from such disposition will be paid over promptly to the Lender to be applied to the last installment due on the indebtedness secured, without any charge for prepayment, or applied otherwise at Lender's sole discretion.

3. Mortgagor will maintain the Premises in good condition and repair free from mechanics or other liens or claims for lien not expressly subordinated to the lien hereof, will not commit or suffer any waste of the Premises, and will comply with, or cause to be complied with, all statutes, ordinances, regulations and other legally enforceable requirements of any governmental authority relating to the Premises; a violation by Mortgagor or one of its tenants in the Premises of any statute, ordinance, regulation or other legally enforceable requirement of any

UNOFFICIAL COPY

LOAN NUMBER 6806349010

governmental authority relating to the Premises will be deemed waste; that the Mortgagor will promptly repair, restore, replace or rebuild any part of the Premises now or hereafter subject to this Mortgage which may be damaged or destroyed by any casualty whatsoever or which may be affected by any proceeding of the character referred to in Paragraph 9 hereof. Any proceeds of insurance paid as a result of an insured casualty will be delivered to Lender for deposit in an escrow account with Lender from which Mortgagor may withdraw such sums needed to restore, repair, replace or rebuild the Premises subject to the provisions of Paragraph 5(d) hereof.

4. Every provision herein requiring notice and demand or request will be deemed fulfilled by written notice and demand or request mailed to the last known address of the Mortgagor or Lender by postage prepaid first class mail, delivered by personal delivery or delivered by document delivery services.

5. (a) Mortgagor will keep all buildings and improvements on said real estate including heating plant, and plate glass, if any, insured against loss, damage and liability under policies of insurance covering fire and extended coverage, vandalism, malicious mischief, rental or business interruption, if applicable, liability and property damage, and flood insurance, if the Premises are in a flood hazard area, for the full insurable value of the Premises but in no case less than the amount of the Mortgage or in such other amounts as required by the Lender; and Mortgagor will also insure against casualty loss all furniture, fixtures, and equipment, used or useful in the operation of the Premises by Mortgagor. All such insurance is to be maintained during the life of the Mortgage. All insurance herein provided for will be in the form, and by companies approved by the Lender. The original policies of insurance required hereunder will be delivered to the Lender and will name Lender as insured under a Lender clause. If Mortgagor defaults in so insuring the Premises, or in so delivering the policies, the Lender may, at the option of the Lender, effect such insurance from year to year and pay the premium therefor, and Mortgagor will reimburse the Lender for any premiums so paid, with interest from time-to-time of payment at the Default Rate, on demand, and the same will be secured by this Mortgage. All such policies of insurance will require not less than thirty (30) days notice to Lender in the event of cancellation;

(b) No less than thirty (30) days prior to the expiration dates of each policy required of the Mortgagor pursuant to this Paragraph 5, the Mortgagor will deliver to the Lender certified copies of the renewal policy or policies marked "premium paid" or accompanied by other evidence of payment satisfactory to the Lender;

(c) In the event of a foreclosure of this Mortgage, Lender will succeed to all the rights of the Mortgagor, including any right to unearned premiums, in and to all policies of insurance delivered pursuant to the provisions of this Mortgage all such rights being hereby assigned to Lender by Mortgagor as additional security hereunder;

(d) If the Premises, or any part thereof, be destroyed or damaged by fire or by any other cause, Mortgagor will promptly restore, rebuild, repair and replace the same so that the value of the Premises will be at least equal to the value thereof prior to such loss or destruction, and that Mortgagor will promptly commence such restoration, rebuilding, repairing or replacement of the Premises and provide to Lender waivers of lien for work performed and material furnished. There will be, at all times during the progress of the restoration work, in the hands of the Lender sufficient monies to complete said restoration, and in the event of any deficit in the amount of insurance monies, the Mortgagor covenants and agrees forthwith to make up such deficit. In the event the Mortgagor will neglect, fail or refuse to proceed diligently with the restoration, rebuilding or replacement of any Premises destroyed or damaged by fire or other casualty, then the Lender will have the right to restore, rebuild or replace same and may use and apply any insurance monies for that purpose. If such insurance money will be insufficient to pay the entire cost of such work, the Mortgagor will pay the deficiency. If Mortgagor fails to pay said deficiency, Lender may, at its option, advance the funds required. All such advances will bear interest at the Default Rate and will be secured by the lien of this Mortgage and will be payable upon demand.

(e) Mortgagor's compliance with the insurance requirements of this Mortgage will not relieve Mortgagor of any liability to Lender hereunder or under the Note, a Security Instrument or any related loan documents

UNOFFICIAL COPY

LOAN NUMBER 6806349010

(hereinafter individually and collectively, as the context requires, referred to as "Loan Documents").

6. Mortgagor will pay or cause to be paid all real estate and other taxes, special assessments, association fees or assessments, water rates, sewer rents and other charges now or hereafter assessed or placed as a lien on or levied against the Premises or any part thereof, and in default thereof the Lender may, at the option of the Lender, pay the same, and the Mortgagor will repay the same on demand with interest at the Default Rate. All such payments by Lender will be secured by this Mortgage; that upon request of the Lender, the Mortgagor will exhibit to the Lender receipts for the payment of all items specified in this Paragraph prior to the date when the same will become delinquent; provided, however, that nothing in this Mortgage will require the Mortgagor to pay, discharge or remove any tax, assessment, water rate, sewer rent or other charge now or hereafter assessed or placed as a lien on or levied against the Premises, or any part thereof (which tax, assessment, water rate, sewer rent, other charge or lien is hereafter sometimes referred to as "imposition") so long as the Mortgagor in good faith will proceed to contest the same or the validity thereof by appropriate legal or other proceedings to be prosecuted with due diligence, and which contest will operate to prevent the collection of the imposition so contested and the sale or loss of possession of the Premises or any part thereof to satisfy the same, and Mortgagor will have deposited with the Lender or such person or corporation as Lender may in writing direct, as security for the satisfaction, in the sole judgment of the Lender, an amount to pay said imposition together with all interest and penalties in connection therewith, and all charges that may or might be assessed against or become a charge on the Premises, or any part thereof in said legal proceedings. The Mortgagor will have the right to cause the funds so deposited, or any part thereof, to be deposited with or paid to the person or public authority claiming said imposition on account of any such imposition, or to be appropriated as security for any bond required in order to enable the Mortgagor to prosecute such contest. Upon the termination of such legal proceedings or at any time when the Lender will deem the monies deposited with it to be insufficient security for the purpose for which they are deposited, the said monies so deposited will be applied to the payment, removal and discharge of said imposition and the interest and penalties in connection therewith, and the charges accruing to such legal proceedings and the balances, if any, will be paid to the Mortgagor, provided that the Mortgagor is not in default under this Mortgage. In the event that such monies will be insufficient, the Mortgagor will forthwith pay over to the Lender an amount of money sufficient, together with the monies so deposited pursuant to this Paragraph to pay the same. In the event of any default by the Mortgagor under this Mortgage, the Lender is authorized to use the money deposited under this Paragraph to apply on account of such default or to pay the said imposition. The Mortgagor will not be entitled to interest on the monies deposited pursuant to this Paragraph.

7. In the event of the passage after the date of this Mortgage of any law of the State of Illinois or its political subdivisions deducting from the value of the Premises for the purpose of taxation any lien thereon or changing in any way the laws for the taxation of the mortgages or debts secured by Mortgage for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly (other than the imposition of any income tax liability on Lender), on this Mortgage or the Note, the holder of this Mortgage and the Note which it secures will have the right to declare the amount thereof and the interest thereon due on a date to be specified by Lender not less than thirty (30) days after written notice is given to the Mortgagor by the Lender, provided, however, that such election will be ineffective if the Mortgagor is permitted by law to pay the whole of such tax in addition to all other payments required hereunder and if, prior to such specified date, does pay such tax and agrees to pay any such tax when thereafter levied or assessed against the Premises or this Mortgage and the Note secured thereby, and such agreement will constitute a modification of this Mortgage.

8. If at any time the United States of America or other governmental authority will require internal revenue or comparable stamps to be affixed to the Note or this Mortgage, the Mortgagor will pay for the same with any interest or penalties imposed in connection therewith.

9. Notwithstanding any taking by eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the Mortgagor will continue to pay the installment payments required by the Note and this Mortgage. Any reduction in the principal sum resulting from the application by the Lender of such award or payment as hereinafter set forth will be deemed to take effect only on the date of such receipt, that said award or payment may be applied in such proportions and

UNOFFICIAL COPY

LOAN NUMBER 6806349010

priority as the Lender in the Lender's sole discretion may elect to the payment of principal, whether or not then due and payable, or any sums secured by this Mortgage provided, however, that the Mortgagor will be permitted to use the proceeds of any award received to restore the remaining portion of the Premises. If prior to the receipt by the Lender of any such award or payment the Premises will have been sold on foreclosure of this Mortgage, the Lender will have the right to receive said award or payment to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage will have been sought, recovered or denied, and counsel fees, costs and disbursements incurred by the Lender in connection with the collection of such award or payment. The receipt of any such award by Lender will not result in a change in the amount of the installment payments due under the Note and this Mortgage.

10. Mortgagor will transfer and assign to the Lender, at any time and from time-to-time, in form satisfactory to the Lender, the Mortgagor's interest in all leases of the Premises or portions thereof, whether now in existence or hereafter entered into, and that the Mortgagor will not assign the whole or any part of leases of the Premises or any portions thereof, whether now in existence or hereafter entered into, nor the whole or any part of the rents, issues and profits arising from the Premises, without the prior written consent of the Lender and any assignments made in violation hereof will be null and void. Further, as additional consideration for the Note hereby secured and on a parity with this Mortgage, the Mortgagor has, concurrently herewith, executed and delivered to the Lender a separate Assignment of Rents (herein called the "Assignment") dated as of the date hereof, wherein and whereby, among other things, the Mortgagor has absolutely assigned to the Lender all of the rents, issues and profits and any and all leases and the rights of management of the Premises, all as therein more specifically set forth, which said Assignment is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length. The Mortgagor agrees that it will duly perform and observe all of the terms and provisions on its part to be performed and observed under the Assignment. The Mortgagor further agrees that it will duly perform and observe all of the terms and provisions on lessor's part to be performed and observed under any and all leases of the Premises to the end that no default on the part of lessor will exist thereunder. Nothing herein contained will be deemed to obligate the Lender to perform or discharge any obligation, duty or liability of lessor under any lease of the Premises, and the Mortgagor will and does hereby agree to defend, indemnify and hold the Lender harmless from any and all liability, loss or damage which the Lender may or might incur under any lease of the Premises or by reason of the Assignment; and any and all such liability, loss or damage incurred by the Lender, together with the costs and expenses, including reasonable attorney's fees, incurred by the Lender in the defense of any claims or demands therefor (whether successful or not), will be so much additional indebtedness hereby secured, and the Mortgagor will reimburse the Lender therefor on demand, together with interest at the Default Rate from the date of disbursement to the date of payment.

11. Mortgagor will keep proper books of record and account in accordance with generally accepted principles of accounting; that the Lender will have the right to review the affairs, finances and accounts of the Mortgagor and to be informed as to the same by Mortgagor, all at such reasonable times and intervals as the Lender may desire; and that the Mortgagor will furnish to the Lender within ninety (90) days after the end of each fiscal year of the Mortgagor, copies of statements of income and expense of the Mortgagor for such fiscal year showing separately and in adequate detail the income and expense of the Premises, all in reasonable detail and stating in comparative form the figures as of the end of and for the previous fiscal year and certified by Mortgagor.

12. Mortgagor, upon written request, will certify within ten (10) days after such request, by a writing duly acknowledged, to the Lender or to any proposed assignee of this Mortgage, the amount of principal, interest and other charges then owing on the Note and this Mortgage and whether any offsets or defenses exist against the mortgage debt. In the event Mortgagor fails to timely so certify, Mortgagor irrevocably appoints any agent or officer of Lender, its successors and assigns as Mortgagor's attorney in fact, to so certify and which certification will be binding on Mortgagor, its successors and assigns.

13. This Mortgage will operate as a security agreement under the provisions of the Uniform Commercial Code, as now or hereafter amended, with respect to the fixtures on the Premises, or any replacements thereof, or additions thereof, all proceeds of insurance on or sale thereof, and the Mortgagor will execute and deliver such financing statements as the Illinois Uniform Commercial Code requires with respect to such security; and that the

UNOFFICIAL COPY

LOAN NUMBER 6806349010

Mortgagor will execute and deliver from time-to-time such further instruments including renewal Mortgages, security agreements, financing statements, certificates, extensions and renewals thereof, and such other documents as may be required by the Lender to preserve, confirm and maintain the lien of this Mortgage on the said fixtures whether now or hereafter acquired, and the Mortgagor will pay to the Lender on demand any expenses incurred by the Lender in connection with the preparation and filing of such documents. Fixtures and equipment which the lessee of a portion of Premises has the right to remove, are specifically excluded from the provisions of this clause except to the extent that lessee's right to remove such fixtures and equipment will be forfeited under terms of all leases assigned by the Assignment, bearing even date herewith.

14. In the event of any default by Mortgagor in the performance of any of the covenants or conditions herein, the Lender may, at the option of the Lender, perform the same and the cost thereof or any other costs, expenses or fees paid or incurred by Lender as a result of a default of Mortgagor with interest at the Default Rate from date of disbursement will immediately be due from the Mortgagor to the Lender and secured by this Mortgage.

15. If any action or proceeding be threatened or commenced (except an action to foreclose this Mortgage or to collect the debt secured hereby), to which action or proceeding the Lender is or may become a party or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by the Lender for the expenses of any such threatened or commenced action or proceeding (including reasonable counsel fees) to prosecute or defend the right and lien created by this Mortgage will on notice and demand be paid by the Mortgagor, together with the interest thereon at the Default Rate from date of disbursement, and will be secured by this Mortgage; that in any action or proceeding to foreclose this Mortgage, or to recover or collect the debt secured hereby, the provisions of law respecting the recovery of costs, disbursements and allowances will prevail unaffected by this covenant. Additionally, in the event that Lender incurs any attorney fees or costs in dealing with any matter which directly or indirectly effects this Mortgage, Mortgagor agrees to pay it upon demand all such costs and expenses, including reasonable attorney fees incurred by Lender, together with interest thereon at the Default Rate and which sums will be deemed also secured by the lien of this Mortgage.

16. Lender and any persons authorized by the Lender will have the right to enter and inspect the Premises at all reasonable times and, if Mortgagor is a land trust, to inspect and receive copies of said land trust file at any time.

17. Lender will have the right from time-to-time to sue Mortgagor for any sums due Lender hereunder whether interest, damages for failure to pay principal or any installment thereof, taxes, the costs of Lender's performance of the covenants or conditions provided herein, or any other sums required to be paid under the terms of this Mortgage or the Note, as the same becomes due, without regard to whether or not the principal sum secured by the Mortgage will be due and without prejudice to the right of the Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced.

18. No assignment, sale, lease for a term of more than three (3) years or a lease of any duration which includes an option to purchase, or conveyance or contract to sell all or part of the Premises or all or part of the beneficial interest in and to any land trust holding title to the Premises, (collectively "Transfer") will be made without Lender's prior written consent, or, if the Mortgagor or the beneficiary of Mortgagor is a corporation, a limited liability company or a partnership, no sale, issuance or assignment of shares, member or partnership interests will be made without Lender's prior written consent. Without first obtaining Lender's written consent, the making of a Transfer or the sale, issuance or assignment of shares, member or partnership interests, if Mortgagor is a corporation, limited liability company or partnership, will be an additional event of default and all principal and interest due under the Note will be accelerated and immediately due and payable at the option of Lender. Lender's execution of a letter of direction to Trustee directing Trustee to sign contracts of assignment or sale, leases or other documents will evidence Lender's consent. Lender will consent to the sale of individual Parcels identified on Exhibit A attached hereto and release of such Parcel from the lien of a Security Document provided Lender receives full net proceeds of sale to be applied to sums due Lender under the Note, a Security Document or other Related Document.

UNOFFICIAL COPY

LOAN NUMBER 6806349010

19. Mortgagor covenants and agrees to deposit at Lender's request at such place as the holder of the Note secured by this Mortgage may, from time-to-time, in writing appoint and, in the absence of such appointment then at the office of Lender commencing with the first monthly payment due pursuant to the Note secured hereby, and on the first day of each and every succeeding month thereafter until the indebtedness secured by this Mortgage is fully paid, a sum of money equal to 1/12th of the last total annual real estate taxes and assessments last assessed (general and special) on the Premises (unless said taxes are based upon assessments which exclude the improvements or any part thereof, now constructed or to be constructed, in which event the amount of such deposits will be based upon the reasonable estimate of the holder of the Note as to the amount of taxes and assessments to be levied or assessed). Mortgagor, concurrently with the initial disbursement of the proceeds of the Note secured hereby or as subsequently requested at the option of Lender, will also deposit with Lender an amount based upon such taxes and assessments so ascertainable, or so estimated by Lender as the case may be for such taxes and assessments on the Premises on an accrual basis for the period from January 1, succeeding the year for which all taxes and assessments have been paid to an including the date of the first deposit in this Paragraph hereinabove mentioned or any part thereof upon request of Lender but in no event in an amount greater than otherwise allowed by law. Such deposits are to be held in escrow without allowance of interest and are to be used for the payment of such taxes and assessments (general and special) on said Premises next due and payable when they become due. If the sums so deposited are insufficient to pay any such taxes or assessments (general or special) for any year when the same will become due and payable, Mortgagor will, within ten (10) days after notice and demand, thereafter deposit with Lender such additional funds as may be necessary to pay such taxes and assessments (general and special) for any year. Any excess deposit will be retained in escrow. In the event sums on deposit are insufficient to make a required tax payment, Lender, at Lender's sole option, may advance the additional sums needed. Any such advance will be deemed secured by the lien of this Mortgage and will be due and payable on demand with interest at the Default Rate. The creation of a tax escrow and the holding of deposits therein will not relieve Mortgagor of its responsibility pursuant to Paragraph 6 hereof to obtain tax and assessment bills and to timely pay any such taxes or assessments on the Premises or to timely tender same to Lender for payment from the escrow. Notwithstanding any provision of law, in the event Lender forecloses the lien of this Mortgage, the balances of any such tax escrow account will be set off against sums due Lender from Mortgagor hereunder.

20. Together with, and in addition to, the monthly payments of interest or principal payable under the terms of the Note secured hereby, and in addition to the deposits for general and special real estate taxes and assessments pursuant to the terms of Paragraph 19 of this Mortgage, Mortgagor will deposit monthly with Lender, upon request, a sum of money equal to one-twelfth (1/12th) of the premiums that will next become due and payable on policies of fire, extended coverage and other hazard insurance, covering the Premises. Such sums are to be held in escrow without interest to pay said insurance premiums. In the event sums on deposit are insufficient to make a required insurance premium payment, Lender, at its sole option, may advance the additional funds needed. Any such advance will be deemed secured by the lien of this Mortgage and will be due and payable on demand with interest at the Default Rate. The creation of an insurance escrow and the holding of deposits therein will not relieve Mortgagor of its responsibility pursuant to Paragraph 5 hereof to obtain any required insurance insuring the Premises and to timely pay the premiums thereof or to timely tender to Lender the premium billings for payment from the escrow. Notwithstanding any provision of law, in the event Lender forecloses the lien of this Mortgage, the balances of any such insurance escrow account will be set off against sums due Lender from Mortgagor hereunder.

21. In the event that one or more of the following Events of Default occur:

- A. Default, and continuance thereof for **fifteen (15) days** after receipt of written notice from Lender, in payment of any principal of, or any interest on, this Note or any other indebtedness due Lender from Borrower, Collateral Pledgor or Guarantor, if any; or
- B. Any indebtedness of Borrower, Collateral Pledgor or Guarantor, if any, becomes or is declared to be due and payable prior to its expressed maturity by reason of any default by Borrower or Guarantor, if any, in the performance or observance of any obligation or condition; or
- C. Borrower, Collateral Pledgor or Guarantor, become insolvent or admit in writing its or his inability

UNOFFICIAL COPY

LOAN NUMBER 6806349010

to pay debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee or receiver for Borrower, Collateral Pledgor or Guarantor, or any Collateral; or, in the absence of such application, consent or acquiescence, a trustee or receiver is appointed for reorganization, debt arrangement, or other proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding is instituted by or against Borrower, Collateral Pledgor or Guarantor and, if instituted by or against Borrower, Collateral Pledgor or Guarantor, are consented to or acquiesced in by Borrower, Collateral Pledgor or Guarantor or remains pending for **ninety (90) days**, or Borrower, Collateral Pledgor or Guarantor, if any, will make an assignment for the benefit of creditors; or

D. Borrower, Collateral Pledgor or Guarantor, if any, will fail within **sixty (60) days** after filing or entry to pay or bond or otherwise discharge any attachment or judgment not covered by insurance which is not stayed on appeal, or otherwise which involves money or property of a value in excess of **\$25,000.00**; or

E. There will occur an abandonment of any construction of any improvements or buildings on any Collateral or stoppage thereof for more than **ninety (90) consecutive days** (subject to matters beyond the control of Borrower, Guarantor, if any, or third party Collateral pledgor, if any); or

F. A default occurs by Borrower, Guarantor, if any, or third party Collateral pledgor, if any, in the performance of any of the agreements or covenants in a Loan Document (and not constituting an event of default under any of the preceding subsections of this paragraph) and the continuance of such default for **thirty (30) days** after notice in writing thereof to Borrower, Guarantor, if any, or third party Collateral pledgor, if any, from Lender except, in the event the same cannot reasonably be cured within said **thirty (30) day** period, and Borrower, Guarantor, if any, or third party Collateral pledgors, if any, commences to cure and diligently prosecutes the same to completion, such **thirty (30) day** period will be extended for a reasonable time to cure such default; or

G. Any representation made in a Loan Document is untrue in any material respect, or any schedule, statement, report, notice, assignment or other writing furnished to Lender is untrue in any material respect on the date as of which the facts set forth are stated or certified; or

H. Lender, or regulatory authority will disapprove at any time of any construction work on the Premises as not being in compliance with the provisions of the Loan Agreement or applicable law and Borrower, Guarantor, if any, or third party Collateral pledgors, if any, will fail to cause same to be corrected to the reasonable satisfaction of Lender and the satisfaction of regulatory authority within **thirty (30) days** after notification thereof except, in the event the same cannot reasonably be cured within said **thirty (30) day** period, and Borrower, Guarantor, if any, or third party Collateral pledgors, if any, commences to cure and diligently prosecutes the same to completion, such **thirty (30) day** period will be extended for a reasonable time to cure such default; or

I. The occurrence of the bankruptcy or insolvency of any contractor of Borrower, Guarantor, if any, or third party Collateral pledgors, if any, constructing any improvements or buildings on any Collateral and failure of Borrower, Guarantor, if any, or third party Collateral pledgors, if any, to procure a contractor with a new contract satisfactory to Lender with **sixty (60) days** from the occurrence of such bankruptcy or insolvency; or

J. Failure of Borrower, Collateral Pledgor or Guarantor, if any, or third party Collateral pledgors, if any, for a period of **sixty (60) days** after Lender's demand to procure to Lender's satisfaction dismissal or disposition of any proceedings seeking to enjoin or otherwise prevent or declare invalid or unlawful any construction, occupancy, maintenance or operation of the improvements or any portion thereof, of any Collateral or of any proceedings which could or might affect the validity of the title of Borrower, Guarantor, if any, or third party Collateral pledgors, if any, to any Collateral or of the lien of Lender thereon, or which could or might materially affect the ability of Borrower, Guarantor, if any, or third party Collateral pledgors, if any, to perform this Loan Agreement; or

K. Such a change occurs in the financial condition or affairs of Borrower, Guarantor, if any, or third party Collateral pledgors, if any, which, in the opinion of Lender in Lender's sole discretion, materially impairs Lender's security or increases Lender's risk; or

UNOFFICIAL COPY

LOAN NUMBER 6806349010

L. The failure of Borrower, Guarantor, if any, or third party Collateral pledgors, if any, to establish and maintain and cause to be established and maintained Borrower's general operating accounts in form and substance reasonably satisfactory to Lender while any sums remain due Lender under the Loan Agreement;

M. Any prior or subordinate liens or encumbrances, except those in favor of Lender, are recorded against the Premises except the lien of real estate taxes not yet due and payable and any lien to Lender;

N. Borrower violates any Financial Covenant or Ratio contained in a Loan Document. Lender will impose a Financial Covenants and Ratios Violation Fee equal to an amount not less than 1% of the aggregate amount of the principal balance of the Loan plus any undisbursed principal balance of the Loan as of the evaluation date for each violation of a required Financial Covenant or Ratio. For all purposes herein, in addition to compliance with specific Financial Covenants and Ratios, failure of Borrower, Guarantors and others as set forth herein to maintain their respective principal deposit accounts with Lender in a manner acceptable to Lender in Lenders sole discretion or failure of Borrower, Collateral Pledgor or Guarantor to comply with the Covenants set forth herein will be deemed a violation of a required Financial Covenant. The Financial Covenants and Ratios Violation Fee is intended as liquidated damages to compensate Lender for additional costs and additional risk incurred as a result of such violations and represents the parties' reasonable estimate of such additional costs and compensation for such additional risk. The assessment and payment of a Financial Covenant and Ratio Violation Fee does not relieve Borrower, Collateral Pledgor or Guarantor of the obligations of compliance with the required Financial Covenant or Ratio that was violated and will not preclude Lender from declaring an Event of Default;

O. A default occurs by Borrower, Guarantor or any Collateral Pledgor not a party to this Loan Agreement in the performance of any term, provision or covenants in a Loan Document (and not constituting an Event of Default under any of the preceding subsections of this Paragraph) and the continuance of such default for **twenty (20) days** after notice in writing thereof to Borrower, Guarantor or any such Collateral Pledgor not a party to this Loan Agreement from Lender;

then Lender may exercise any rights available to Lender under the Loan Documents including, but not limited to, declaring the Note to be immediately due and payable, time being the essence of the Note, all without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived. Lender will advise Borrower and of any such declaration, but failure to do so promptly will not impair the effect of such declaration.

22. When the indebtedness secured hereby will become due whether by acceleration or otherwise, the Lender will have the right to foreclose the lien hereof; that in any suit to foreclose the lien hereof, there will be allowed and included as additional indebtedness in the decree for sale all reasonable expenditures and expenses which may be paid or incurred by or on behalf of the Lender for the preservation, protection, repair, management and sale of the Premises, and for attorney's fees, appraiser's fees, outlay for documentary and expert evidence, stenographer's charges, publication costs and other 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, guarantee policies and similar data and assurances with respect to title as Lender may deem to be necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises; that all such expenditures will become so much additional indebtedness secured hereby and immediately due and payable with interest thereon at the Default Rate from payment thereof; and that the proceeds of any foreclosure sale of the Premises will be distributed and applied in the following order of priority; First, on account of all such costs and expenses incident to the foreclosure proceedings; Second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note with interest thereon as herein provided; Third, all interest and then principal remaining unpaid on the indebtedness secured hereby; and Fourth, any overplus to Borrower, its successors or assigns, as their rights may appear.

23. 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 Lender as Mortgagee in possession or appoint a receiver of the Premises; that such appointment may be made either before or after sale, without notice and without requiring bond (notice and bond being hereby waived) without regard to the solvency or insolvency of the Borrower at the time of application

UNOFFICIAL COPY

LOAN NUMBER 6806349010

for such Mortgagee in possession order or receiver and without regard to the then value of the Premises or whether the same will be then occupied as a homestead or not; that such Mortgagee in possession or receiver will have power to collect and impose rents, and collect 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 the Mortgagor, except for the intervention of such Mortgagee in possession order or receiver, would be entitled to collect such rents, issues and profits, and all other power 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; and that the Mortgagee in possession or receiver, out of such rents, issues and profits may pay any costs incurred in the management and operation of the Premises, prior and coordinate liens, if any, taxes, assessments and insurance, and may pay all or any part of the indebtedness secured hereby or any deficiency decree.

24. Upon any sale by virtue of any judicial proceedings or otherwise for the enforcement of this Mortgage the Premises may be sold in one parcel as an entirety, at the option of Lender, Mortgagor hereby waiving any requirement of law to the contrary, and the Mortgagor, to the full extent that it may lawfully do so, for itself and for all who may claim through or under them hereby expressly waives and releases all right to have the Premises or any part thereof marshaled upon any foreclosure sale, or other enforcement hereof, and any court at the time foreclosure of this Mortgage is sought will have the right and is hereby authorized and directed to sell the entire Premises as a whole in a single parcel. Mortgagor for itself and on behalf of Mortgagor's successors and assigns hereby expressly waives any right at law or at equity to bar Lender from being the purchaser at any foreclosure sale of the Premises.

25. Any failure by the Lender to insist upon the strict performance by the Mortgagor of any of the terms and provisions hereof will not be deemed to be a waiver of any of the terms and provisions hereof, and the Lender, notwithstanding any such failure, will have the right thereafter to insist upon the strict performance by the Mortgagor of any and all of the terms and provisions of this Mortgage to be performed by the Mortgagor; that neither the Mortgagor nor any other person now or hereafter obligated for the payment of the whole or any part of the Note or any obligation secured by this Mortgage will be released from liability for repayment of the Note or any obligations secured by this Mortgage (1) by reason of the failure of the Lender to comply with any request of the Mortgagor or of any other person, to take action to foreclose this Mortgage or of any obligations secured by this Mortgage, or (2) by reason of any agreement or stipulation between any subsequent owner or owners of the Premises and the Lender extending the time of payment or modifying the terms of the Note or Mortgage (whether or not first having obtained the prior written consent of the Mortgagor or the other person obligated to pay the Note or any obligation secured by this Mortgage); that the Lender may release, regardless of consideration, this Mortgage in whole or in part without, as to the remainder of the security, in any way impairing or affecting the lien of this Mortgage or the obligations of Mortgagor or any other person on the Note secured hereby or the priority of such lien over any subordinate lien; and that the Lender may resort for the payment of the indebtedness secured hereby to any other security therefor held by the Lender in such order and manner as the Lender may elect.

26. The rights of the Lender arising under the clauses and covenants contained in this Mortgage will be separate, distinct and cumulative and none of them will be in exclusion of the others; that no act of the Lender will be construed as an election to proceed under any one provision thereof to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.

27. Execution of Separate Security Agreement, Financing Statements, etc. Mortgagor, upon request by Lender from time-to-time will execute, acknowledge and deliver to Lender, a Security Agreement, Financing Statement or other similar security instruments, in form satisfactory to Lender, covering all property of any kind whatsoever owned by Mortgagor, which in the sole opinion of Lender is essential to the operation of the Premises and which there may be any doubt whether the title to same has been conveyed by or security interest perfected by this Mortgage under the laws of the State of Illinois and 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 Lender may request in order to perfect, preserve, maintain, continue and extend the security interest under the priority of this Mortgage and such security instrument. Mortgagor further agrees to pay to Lender

UNOFFICIAL COPY

LOAN NUMBER 6806349010

on demand all costs and expenses incurred by Lender in connection with the preparation, execution, recording, filing and re-filing of any such document.

28. Any and all other documents conferring easement rights or other appurtenant rights upon the owner of the Premises in land lying within or beyond the perimeters of the Premises are herein collectively called the "Appurtenant Agreements" and such rights collectively will be considered appurtenances.

Mortgagor hereby grants, conveys, assigns, transfers and mortgages to Lender, as additional security for the indebtedness secured hereby, all right and benefit of Mortgagor under the Appurtenant Agreements and all easement rights and other benefits arising thereunder, in favor of the Premises. With respect to the Appurtenant Agreements, Mortgagor further agrees with Lender as follows:

- A. Mortgagor will perform and comply with all obligations of Mortgagor or which are otherwise imposed upon the Mortgagor or which are otherwise imposed upon the Premises thereunder;
- B. Mortgagor will keep the same in good standing and in effect and enforce observance and compliance by other parties thereto with their respective obligations thereunder affecting the Premises;
- C. Mortgagor will not, without first having obtained the written approval and consent of Lender:
 - i. modify or agree to any Termination of the Appurtenant Agreements or waive or relinquish any of Mortgagor's rights thereunder or any benefits thereunder which affect the Premises;
 - ii. exercise any right of approval or consent conferred upon Mortgagor under the Appurtenant Agreements; it being understood and agreed, however, that after the occurrence of any default hereunder, Lender may exercise all such powers of consent or approval on Mortgagor's behalf, full power and authority so to do being herein conferred upon Lender by Mortgagor;
- D. In the event Mortgagor will receive notice from any other parties thereto of any claimed default thereunder by Mortgagor or acquire any knowledge of the assertion or intended assertion of any claim against Mortgagor arising thereunder, Mortgagor will promptly advise Lender thereof;
- E. In the event Mortgagor will receive notice or acquire any knowledge of any action or proceedings taken or initiated, with respect to the Appurtenant Agreements or any laws or ordinances which could affect the Premises, Mortgagor will promptly advise Lender thereof;
- F. Appropriate licenses, approvals and permits for the use or operation of the Premises or the Appurtenant Agreements will at all times be obtained and kept in full force and effect, including those of the U.S. and Illinois Environmental Protection Agency any other governmental regulatory body having jurisdiction.

29. Operation of Premises. Mortgagor agrees that: (a) the Premises will be operated in accordance with applicable zoning and the highest standards of operation; (b) the Premises will at all times be properly equipped for such purpose; (c) Mortgagor will procure, maintain and comply with all governmental permits and licenses required for such operation; and (d) Mortgagor will comply with all governmental laws, ordinances, rules and regulations relating to such operation.

30. Hazardous Waste and Related Matters. Mortgagor is currently in compliance with, and will manage and operate and cause Mortgagor's agents and representatives to manage and operate the Premises and will cause any tenant to occupy such tenant's demised portion of the Premises in compliance with, all federal, state and local laws, rules, regulations, orders and ordinances regulating health, safety and environmental matters, including, without limitation, air pollution, soil and water pollution, and the use, generation, storage, handling or disposal of Hazardous Material (hereinafter defined) including, without limitation, raw materials, products, supplies, asbestos

UNOFFICIAL COPY

LOAN NUMBER 6806349010

or polychlorinated biphenyl compounds ("PCBs").

A. Mortgagor will send to the Lender no later than two (2) days after receipt by Mortgagor, any report, citation, notice or other writing by to or from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities. If required pursuant to any of such laws, rules, regulations, orders or ordinances, Mortgagor will rectify, dispose of or remove from the Premises any Hazardous Materials in a manner consistent with and in compliance with the same and will pay immediately when due any costs incurred or sustained therefor. Mortgagor will keep the Premises free of any lien imposed pursuant to said laws, rules, regulations, orders, or ordinances. In the event Mortgagor fails to comply with any of the foregoing within fifteen (15) days after demand by the Lender to Mortgagor, this Lender may either (i) declare a default under this Mortgage or (ii) cause the removal of the Hazardous Material from the Premises, or both. The costs of the removal will constitute additional indebtedness hereunder secured by this Mortgage and which costs will be due and payable without notice or demand with interest thereon at the Default Rate from date of disbursement.

B. Except in compliance with all federal, state and local laws, rules, regulations, orders and ordinances regulating health, safety and environmental matters, including, without limitation, air pollution, soil and water pollution, Mortgagor will not generate, handle, use, store, treat, discharge, release or dispose of any Hazardous Material at the Premises or permit any Tenant of all or part of the Premises to generate, handle, use, store, treat, discharge, release or dispose of any Hazardous Material at the Premises without the express written approval of the Lender. Lender will have the right at any time to conduct an environmental audit of the Premises at Mortgagor's sole cost and Mortgagor will cooperate in the conduct of such environmental audit. After the occurrence of a default hereunder, Mortgagor will give Lender, its agents and employees access to the Premises to remove any Hazardous Material, provided nothing herein will obligate the Lender to take any action to remove any Hazardous Waste or to correct any violation of law on the subject Premises.

C. Mortgagor will indemnify, defend with counsel reasonably acceptable to the Lender, and hold the Lender free and harmless from and against all losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, attorneys' and experts' fees and disbursements) which may at any time be imposed upon, incurred by or asserted or awarded against the Lender in connection with or arising from or out of the breach of any warranty, covenant or agreement or the inaccuracy of any representation contained or referred to in this Paragraph, and any violation by Mortgagor of any of the foregoing laws, regulations, orders or ordinances described in this Paragraph. The foregoing indemnification will survive repayment of all sums due Lender hereunder.

D. For the purpose of this Mortgage, "Hazardous Material" will mean and will include any hazardous, toxic or dangerous waste, substance or material defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, ordinance, code, rule, regulation, order, decree or other requirement of any governmental authority regulation, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material as is now or at any time hereafter may be in effect including the laws, ordinances and regulations of the State of Illinois, its agencies and political subdivisions.

31. Wherever used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the word "Mortgagor" will mean and include "the undersigned and/or any subsequent owner or owners of the Premises"; the word "Lender" will mean "Lender or any subsequent holder or holders of this Mortgage"; that the word "person" will mean "a Trust, individual, corporation, partnership or unincorporated association"; and the word "Premises" will include the real estate hereinbefore described, together with all improvements thereon, fixtures and equipment therein, condemnation awards and any other rights or property interests at any time made subject to the lien of this Mortgage by the terms hereof; pronouns of any gender will include the other gender, and either the singular or plural will include the other. A term capitalized in one Related Document will have the same meaning in all Related Documents.

UNOFFICIAL COPY

LOAN NUMBER 6806349010

32. TO THE FULLEST EXTENT PERMITTED BY LAW MORTGAGOR HEREBY WAIVES ANY AND ALL RIGHTS OF (A) REINSTATEMENT OF THIS MORTGAGE AND (B) REDEMPTION FROM ANY ORDER OR JUDGMENT OF FORECLOSURE OF THIS MORTGAGE ON MORTGAGOR'S OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE.

33. This Mortgage cannot be changed except by an agreement in writing, signed by the party against whom enforcement of the change is sought.

34. This Mortgage is made pursuant to the terms and provisions of a certain Loan Agreement among Trustee, Lender and others dated the same date herewith. Said Loan Agreement is incorporated herein by reference.

35. Any part of the security herein described may be released by the Lender without affecting the lien hereof on the remainder. The liability of the Borrower and any maker, guarantor, co-signer, surety or endorser of the Note will continue in full force and effect until all sums due Lender hereunder are paid in full and any contingent or other unliquidated liabilities are liquidated and paid. Lender may, by written and signed agreement with the then record owner of the Premises, or with the heirs, executors, administrators, devisees, successors or assigns of such record owner, or with any one or more persons liable, whether primarily or secondarily, for the payment of any indebtedness secured hereby, without notice to any other person, extend the time of payment of said indebtedness, or any part hereof, without thereby modifying or affecting the lien of this Mortgage or releasing any such person from any liability for such indebtedness, and this Mortgage will be security for all additional interest under any such extension agreement; and the granting of any extension or extensions of time payment of the Note or interest thereof either to the maker or to any other person, or the releasing of a portion of the security hereof, or taking other or additional security for payment of said indebtedness, or waiver of or failure to exercise any right to mature or to enforce the whole debt under any covenant or stipulation herein contained, or extending the time of payment of any other indebtedness or liability secured hereby, will not in any way affect this Mortgage or the rights of the Lender hereunder, or operate as a release from any liability upon said Note or said indebtedness under any covenant or stipulation herein contained.

36. Borrower and Lender agree: (a) that this Mortgage will constitute a Security Agreement and financing statement within the meaning of Uniform Commercial Code, (the "Code") of the State of Illinois with respect to all sums on deposit with the Lender pursuant hereto ("Deposits") and with respect to any property included in the definition herein of the word "Premises" which property may not be deemed to form a part of the real estate described in Exhibit A attached hereto or may not constitute a "fixture" (within the meaning of the Code), and all replacements of such property, substitutions for such property, additions to such property, books and records relating to the Premises and operations thereof and the proceeds thereof (said property, replacements, substitutions, additions and the proceeds thereof being sometimes herein collectively referred to as the "Premises Collateral"); and (b) that a security interest in and to the Premises Collateral and the Deposits is hereby granted to the Lender; and (c) that the Deposits and all of Borrower's right, title and interest therein are hereby assigned to Lender; all to secure payment of the Note and any other sums due Lender under the Note or this Mortgage and to secure performance by the Borrower of the terms, covenants and provisions hereof.

In the event of a default hereunder, Lender, pursuant to the appropriate provisions of the Code, will have an option to proceed with respect to both the Premises and the Premises Collateral in accordance with its rights, powers and remedies with respect to the Premises, in which event the default provisions of the Code will not apply. Lender and Borrower agree that if Lender will elect to proceed with respect to the Premises Collateral separately from the Premises, ten (10) days notice of the sale of the Premises Collateral will be reasonable notice. The expenses of retaking holding, preparing for sale, selling and the like incurred by the Lender, will include, but not be limited to, attorneys' fees and legal expenses incurred by Lender including the expenses of in-house staff. Borrower agrees that, without the written consent of the Lender, Borrower will not remove or permit to be removed from the Premises any of the Premises Collateral except that so long as Borrower is not in default hereunder, Borrower will be permitted to sell or otherwise dispose of the Premises Collateral when obsolete, worn out, inadequate, unserviceable or unnecessary for use in the operation of the Premises, but only upon replacing the same

UNOFFICIAL COPY

LOAN NUMBER 6806349010

or substituting for the same other Premises Collateral at least equal in value and utility to the initial value and utility of that disposed of in such a manner that said replacement or substituted Premises Collateral will be subject to the security interest created hereby. The security interest of Lender will be perfected and first in priority, it being expressly understood and agreed that all replacements, substitutions and additions to the Premises Collateral will be and become immediately subject to the security interest of this Mortgage and covered hereby.

Borrower will, from time to time, upon written notice of Lender and at Borrower's sole cost, deliver to Lender: (i) such further financing statements and security Instruments and assurances as Lender may require, to the end that the Liens and security interest created hereby will be and remain perfected and protected in accordance with the requirements of any present or future law; and (ii) an inventory of the Premises Collateral in reasonable detail. Borrower represents and covenants that all Premises Collateral now is, and that all replacements thereof, substitutions thereof or additions thereof, unless the Lender otherwise consents, will be free and clear of Liens, encumbrances, title retention devices and security interests of others. Borrower and Lender agree, to the extent permitted by law, that this Mortgage, upon recording in the real estate records of the proper office, constitute a "fixture filing" within the meaning of the Code.

If the Premises Collateral is sold in connection with a sale of the Premises, Borrower will obtain Lender's prior consent to such sale.

37. Upon payment in full of all sums due Lender under this Mortgage and the Note secured thereby and upon written request of Borrower, the Lender will cause a release of this Mortgage and any related Security Instruments to be prepared and issued to Borrower upon the payment to Lender of its then reasonable charges and costs for preparation and issuance. In the event that this Mortgage is released and contingent or other unliquidated liabilities hereunder of Borrower to Lender will become liquidated, then this Mortgage and the Note secured hereby along with related Security Instruments will be deemed reinstated.

38. In the event any provisions of this Mortgage is ruled invalid or unenforceable in whole or in part, by a court of competent jurisdiction, such invalid or unenforceable provision will be deleted or modified to the extent required to make such provision valid and enforceable as if such invalid or unenforceable provisions had never been included herein or were included herein only to the extent that said provisions are valid and enforceable. This Mortgage will remain fully effective according to its terms after such deletions or modifications.

39. This Mortgage is executed by Trustee, not personally, but as Trustee aforesaid, in the exercise of the power and authority conferred and vested in it as such Trustee and is payable only out of the property specifically described in this Mortgage or other assets securing the payment hereof by enforcement of the provisions contained in this Mortgage or in related security agreements. No personal liability will be asserted or be enforceable against the Borrower, all such liability, if any, being expressly waived by each taker and holder hereof, but nothing herein contained will modify or discharge the personal liability expressly assumed by any maker, guarantor, co-signor, surety or endorser of the Note secured hereby, if any, and each original and successive holder of this Mortgage accepts the same upon the express conditions that no duty will rest upon the Borrower to sequester the rents, issues and profits arising from the Premises described in this Mortgage, or the proceeds arising from the sale or other disposition thereof, unless the Borrower has executed an Assignment of Rents in favor of Lender. In case of default hereunder, including default in the payment of the Note or of any installment thereof, the remedy of the holder hereof against the Borrower will be by foreclosure of this Mortgage or other security interest given to secure the Note, in accordance with the terms and provisions in this Mortgage or other such security agreement, the enforcement of any Assignment of Rents made by the Borrower or by action to enforce the personal liability of the maker of the Note or the guarantor, co-signor, surety or endorser, if any, of the payments due under the Note, concurrently or consecutively.

UNOFFICIAL COPY

LOAN NUMBER 6806349010

IN WITNESS WHEREOF, Mortgagor, at the direction of its beneficiary, has caused this Mortgage to be signed and attested and its corporate seal to be hereunder affixed by its duly authorized Officers and delivered to Lender as of **January 31, 2011 effective as of January 1, 2011.**

STANDARD BANK AND TRUST COMPANY,
not personally, but as Trustee under a Trust Agreement
dated **October 2, 2002**, and known as **Trust No. 17436**

BY: *Thomas Clifford*
Thomas Clifford, SRVP & SRO

ATTEST: *Donna Diviero*
Donna Diviero, ATO

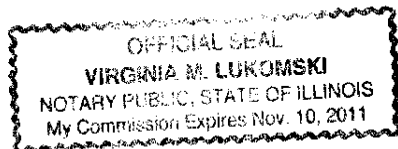
This instrument is signed, sealed and delivered by STANDARD BANK AND TRUST COMPANY, solely in its capacity as Trustee as aforesaid. Any and all duties, obligations and liabilities of the Trustee hereunder are to be performed by said STANDARD BANK AND TRUST COMPANY only as such Trustee. Any claims, demands and liabilities which may at any time be asserted against the Trustee hereunder shall be paid, collected or satisfied against only the property or assets in the possession of said STANDARD BANK AND TRUST COMPANY as Trustee as aforesaid, and the said STANDARD BANK AND TRUST COMPANY does not undertake, nor shall it have any personal or individual liability or obligation of any nature whatsoever by virtue of the execution and delivery hereof; nor shall STANDARD BANK AND TRUST COMPANY, either individually or as Trustees, be under any duty or obligation to sequester the rents, issues and profits arising from the property described or any other property which it may hold under the terms and conditions of said Trust Agreement.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The undersigned, a notary public in and for said County and State aforesaid, DOES HEREBY CERTIFY that Thomas Clifford and Donna Diviero, personally known to me to be an Officer of Standard Bank and Trust Company, Hickory Hills, Illinois, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Officer of said Corporation, he signed and delivered the said instrument pursuant to authority given by the Board of Directors of said Corporation, as his free and voluntary act, and as the free and voluntary act and deed of said Corporation AS TRUSTEE, for the uses and purposes therein set forth.

GIVEN under my hand and official seal as of **January 31, 2011 effective as of January 1, 2011.**

Virginia M. Lukomski
NOTARY PUBLIC



UNOFFICIAL COPY

LOAN NUMBER 6806349010

JOINDER BY BENEFICIARY


The undersigned, as the sole beneficiary of Trust No. **17436** created pursuant to the terms and conditions of a trust agreement dated **October 2, 2002**, with Standard Bank and Trust Company, Hickory Hills, Illinois, hereby executes this Joinder for the purpose of joining in the Mortgage with Trustee and making the assignments, grants of security interests, transfers and conveyances hereunder, and making, undertaking and agreeing to the covenants, agreements, obligations and representations herein, including but not limited to the following:

A. The undersigned hereby grants to Lender, as security for the indebtedness, a security interest in the Premises and all of the property and improvements and other property mortgaged hereunder which constitute fixtures under the Uniform Commercial Code and also all of said property which constitutes personal property not constituting a part and parcel of the real estate, as more fully described in Paragraph 36 of the Mortgage.

B. The undersigned hereby assigns to Lender, as security for the indebtedness, all of the rents, issues, and profits and all of the leases, letting, and other agreements for the use and occupancy of the Premises, now or hereafter made, as more fully described in Paragraph 10 of the Mortgage.

C. The undersigned hereby covenants and agrees to be bound by, and to be deemed to have entered into and made, all of the Trustee's grants, conveyances, mortgages, covenants, agreements, obligations and representations (which will constitute representations and warranties of the undersigned) under the Mortgage with the same force and effect as if they were fully set forth herein verbatim.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Joinder to Lender as of **January 31, 2011 effective as of January 1, 2011.**



Mubarak Ibrahim




Sawsan Homsy

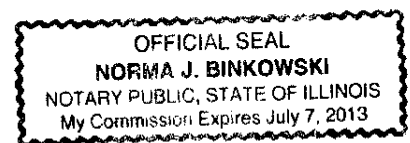
STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, does hereby certify that **Mubarak Ibrahim** and **Sawsan Homsy**, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act for the uses and purposes set forth above.

GIVEN under my hand and official seal as of January 31, 2011 effective as of **January 1, 2011.**



Notary Public



UNOFFICIAL COPY

LOAN NUMBER 6806349010

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

THAT PART OF THE NORTHEAST 1/4 OF FRACTIONAL SECTION 5, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF HALSTED STREET (AS PER DOCUMENT NO. 19627351 RECORDED OCTOBER 25, 1965) 268.0 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST 1/4, THENCE NORTH ALONG THE WEST LINE OF HALSTED STREET, AFORESAID, A DISTANCE ON 174.85 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ALONG SAID CURVE CONVEX NORTHEAST HAVING A RADIUS OF 60 FEET; A DISTANCE OF 94.40 FEET TO A POINT OF TANGENCY WITH THE SOUTH LINE OF 138TH STREET, BEING A LINE 33 FEET SOUTH OF A PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST 1/4; THENCE WEST ALONG THE SOUTH LINE OF 138TH STREET, A DISTANCE OF 107.85 FEET TO A LINE 208.0 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHEAST 1/4; THENCE SOUTH ALONG SAID PARALLEL LINE A DISTANCE OF 100.0 FEET; THENCE EAST ON A LINE PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 50.0 FEET; THENCE SOUTH ALONG A LINE PARALLEL WITH THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 135.00 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST 1/4, A DISTANCE OF 118.00 FEET TO THE POINT OF BEGINNING, (EXCEPTING THEREFROM THAT PART THEREOF TAKEN IN CASE NO. 78L10972) IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE NORTH 268.0 FEET OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 5, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, SOUTH OF THE INDIAN BOUNDARY LINE, LYING EAST OF THE RIGHT OF WAY OF LOTZ DRIVE, DEDICATED BY DOCUMENT 9001874 AND LYING SOUTH OF THE SOUTH LINE OF 138TH STREET (EXCEPT THE EAST 158.0 FEET THEREOF) AND ALSO EXCEPT THE NORTH 100.0 FEET OF THE WEST 50.0 FEET OF THE EAST 208.0 FEET THEREOF), ALL IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 13800 S. Halsted St and
900 W. 138th St., Riverdale, IL 60827-1606

PIN: Parcel I: 29-05-200-021-0000
PIN: Parcel II: 29-05-200-027-0000