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8893477028K@all

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 122226056 Fee: \$78.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/09/2012 10:44 AM Pg: 1 of 21

Report Mortgage Fraud
800-532-8785

The property identified as: **FIN:** 03-04-301-031-0000

Address:

Street: 686-830 SOUTH BUFFALO GROVE ROAD

Street line 2:

City: BUFFALO GROVE

State: IL

ZIP Code: 60089

Lender: THE NORTHERN TRUST COMPANY

Borrower: NEWPORT EQUITIES LLC

Loan / Mortgage Amount: \$8,500,000.00

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

Box 400-CTCC

Certificate number: 8A6293EA-F106-4F59-84E0-75FD6D685EAB

Execution date: 08/01/2012

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THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN
TO:

Edward F. Dobbins
Fischel & Kahn, Ltd.
155 N. Wacker Drive
Suite 1950
Chicago, Illinois 60606

LEASEHOLD MORTGAGE

THIS LEASEHOLD MORTGAGE ("**Mortgage**"), made as of August 1, 2012, is made and executed by NEWPORT EQUITIES, LLC (the "**Beneficiary**"), an Illinois limited liability company, having its principal offices at 830 S. Buffalo Grove Road, Suite 102, Buffalo Grove, Illinois 60089 (the "**Mortgagor**") in favor of THE NORTHERN TRUST COMPANY, an Illinois banking association, having an office at 120 South LaSalle Street, Chicago, Illinois 60603 ("**Bank**").

RECITALS

1. Pursuant to the terms of the Loan Agreement, Bank has agreed to make (i) a term loan to Mortgagor in the principal amount of \$8,500,000 (collectively, the "**Loan**"). The Loan is evidenced by a certain Term Note, dated as of the date hereof, with an initial scheduled maturity date of August 1, 2017 (said Term Note, together with all allonges, amendments, supplements, modifications and replacements thereof, being referred to in this Mortgage as, the "**Note**"), made by Mortgagor. The terms of the Loan are governed by a certain Loan and Security Agreement, dated of even date herewith (said Loan Agreement, together with all amendments, supplements, modifications and replacements thereof, being referred to in this Mortgage as, the "**Loan Agreement**"), by and between Beneficiary, and the Bank. The terms and provisions of the Note and the Loan Agreement are hereby incorporated by reference in this Mortgage.
2. Pursuant to the terms of that ISDA (International Swaps and Derivatives Association, Inc.) 2002 Master Agreement, dated June 13, 2012, between Mortgagor and Mortgagee (the "**ISDA Master Agreement**"), the Mortgagee entered into an interest rate swap transaction in the notional principal amount of \$8,500,000 maturing on August 1, 2017.
3. Mortgagor owns the real property located at 686-830 South Buffalo Grove Road, in the Village of Buffalo Grove, Illinois commonly known as the Plaza at Buffalo Grove, which is legally described in Exhibit A attached hereto, as defined herein.
4. The Mortgagor has informed the Mortgagee that pursuant to the terms of that Shopping Center Ground Lease, dated February 22, 2001, the Mortgagor leased to Dominick's Finer Foods, Inc. ("**Dominick's**") the Dominick's Parcel, as defined therein, on which Dominick's constructed a store building and related improvements which Dominick's now owns (the "**Dominick's Building**").
5. To secure the Mortgagor's obligations under the Loan Agreement, the Note, Swap Documents, as defined in Section 2(a)(iii) below, the Mortgagor and Mortgagee have agreed to execute this Mortgage amending and restating the terms of the Existing Mortgage.

GRANTING CLAUSES

To secure the payment by Mortgagor of the indebtedness evidenced and arising under the following instrument(s) or agreement(s):

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(i) The Loan Agreement which provides for extensions of credit in an aggregate principal amount not exceeding Eight Million and Five Hundred Thousand and 00/100 Dollars (\$8,500,000.00). The maturity date of the Loan is August 1, 2017 except as may be accelerated pursuant to the terms of the Debt Instrument(s) or hereof; provided, that to the extent that the maturity date of the Loan is extended, amended or modified from time to time under the Debt Instrument(s) or any related document, the maturity date hereunder shall also be so extended, amended or modified, but in no circumstances will this Mortgage secure the Swap Obligations beyond 20 years from the maturity date set forth above unless this Mortgage is modified to reflect a new maturity date. The Loan shall bear interest from time to time at a rate of interest equal to the LIBOR Rate as in effect from time to time and as defined in Section 1.1 of the Loan Agreement (LIBOR plus 1.75% for one month Interest Periods, which terms are defined in the Loan Agreement).

(ii) A Term Note, dated as of the date hereof, payable by Mortgagor as maker in the stated principal amount of Eight Million and Five Hundred Thousand Dollars (\$8,500,000) to the order of Mortgagee.

(iii) Payment and performance of all Swap Obligations (as defined herein) of Mortgagor in the notional principal amount of \$8,500,000 under (a) the ISDA Master Agreement; (b) any "Confirmations" executed pursuant to such Master Agreement or in which such Master Agreement or any form thereof is incorporated by reference; (c) any additional Confirmations entered into pursuant thereto and (d) any and all rights of the Mortgagor under any and all swap agreements as defined in 11 USC 1, Ch. 101 executed and delivered in connection with any loan transaction between the Mortgagor and any party related to or affiliated with Mortgagee (collectively, "Swap Obligations"), Mortgagor hereby acknowledges that TNTC has appointed Mortgagee as TNTC's collateral agent ("Collateral Agent") to hold and manage all security for the Swap Obligations, with full power and authority to manage, enforce, administer, modify, renew, amend, satisfy, release, subordinate and otherwise deal with such security, including the Mortgage, without the consent of TNTC. Without limitation of the foregoing, Mortgagor hereby acknowledges and agrees that Collateral Agent shall have full power and authority to enforce the obligations of this Mortgage, and all other Swap Documents, including, without limitation, by an action to foreclose this Mortgage, in its own name and without the necessity to join TNTC as a party to any such proceeding with respect to which there is a writing evidencing the parties' agreement that said Swap. "Swap Documents" means any document, instrument or agreement with Mortgagee, in connection with the ISDA Master Agreement now existing or entered into in the future, relating to an interest rate swap transaction, forward rate transaction, interest rate cap, floor or collar transaction, any similar transaction, any option to enter into any of the foregoing, and any combination of the foregoing, which agreement may be oral or in writing, including, without limitation, any master agreement relating to or governing any or all of the foregoing and any related schedule or confirmation, each as amended from time to time; and

(iv) Payment and performance of all obligations of Mortgagor under this Mortgage;

(v) Payment and performance of all future advances and other obligations that Mortgagor (or any successor in interest to Mortgagor) or Obligor (if different from Mortgagor) may agree to pay and/or perform (whether as principal, surety or guarantor) to or for the benefit of Mortgagee.

The above Note, the Loan Agreement, the Swap Documents, this Mortgage, such other mortgages, security agreements, assignments of leases and rents, guaranties, letters of credit, and any other documents and instruments now or hereafter executed and delivered in connection with the Loan, and any and all amendments, renewals, extensions and replacements hereof and thereof, being sometimes referred to collectively as the "Loan Instruments" and individually as a "Loan Instrument") and to secure the payment of any and all other indebtedness and obligations of Mortgagor or any party related thereto or

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affiliated therewith to Bank, whether now existing or hereafter created, absolute or contingent, direct or indirect, liquidated or unliquidated, or otherwise (all indebtedness and liabilities secured hereby being hereinafter sometimes referred to as "**Borrower's Liabilities**" which indebtedness and liabilities being secured hereby shall, in no event, exceed \$17,000,000) Mortgagor does hereby convey, mortgage, warrant, assign, transfer, pledge and deliver to Bank the following described property subject to the terms and conditions herein:

(A) The rights, title and interest of the "**Lessee**" under or pursuant to that Shopping Center Ground Lease, dated February 22, 2001, between Mortgagor and Dominick Finer Foods, Inc. together with all amendments, supplements, modifications and replacements thereof, collectively the "**Subject Lease**") relating to the leasehold interest in the property located at 686-830 S. Buffalo Grove Road, Buffalo Grove in Cook County, Illinois 60089, legally described in attached Exhibit A ("**Land**") (such interest of Mortgagor being sometimes referred to herein as the "**Leasehold Estate**");

(B) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land and all machinery, appliances, equipment, furniture and all other personal property of every kind or nature which constitute fixtures with respect to the Land, together with all extensions, additions, improvements, substitutions and replacements of the foregoing ("**Improvements**");

(C) All easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired ("**Appurtenances**");

(D) (i) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto;

(ii) All compensation, awards, damages, claims, rights of action and proceeds of or on account of (a) any damage or taking, pursuant to the power of eminent domain, of the Land, Improvements or Appurtenances or any part thereof, (b) damage to all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances or of other property, or (c) the alteration of the grade of any street or highway on or about the Land, Improvements, Appurtenances or any part thereof; and, except as otherwise provided herein, Bank is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and, except as otherwise provided herein, to apply the same toward the payment of the indebtedness and other sums secured hereby; and

(iii) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements or Appurtenances;

(E) All rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Leasehold Estate, Land, Improvements or Appurtenances (the "**Rents**"); it being intended that this Granting Clause shall constitute an absolute and present assignment of the Rents, subject, however, to the conditional permission given to Mortgagor to collect and use the Rents as provided in this Mortgage;

(F) Any and all sub-leases, licenses and other occupancy agreements now or hereafter affecting the Leasehold Estate, Land, Improvements or Appurtenances, together with all security therefor and guaranties thereof and all monies payable thereunder, and all books and records owned by Mortgagor which contain evidence of payments made under the Sub-Leases and all security given therefor (collectively, the "**Sub-Leases**"), subject, however, to the conditional permission given in this Mortgage to Mortgagor to collect the Rents arising under the Sub-Leases as provided in this Mortgage;

(G) Any and all after-acquired right, title or interest of Mortgagor in and to any of the property described in the preceding Granting Clauses; and

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(H) The proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding Granting Clauses;

All of the mortgaged property described in the Granting Clauses, together with all real and personal, tangible and intangible property pledged in, or to which a security interest attaches pursuant to, any of the Loan Instruments is sometimes referred to collectively as the "**Mortgaged Property**." The Rents and Sub-Leases are pledged on a parity with the Land and Improvements and not secondarily.

ARTICLE ONE COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Bank as follows:

Performance under Note, Mortgage and Other Loan Instruments. Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof, of the Loan Agreement and of the Note, every other Loan Instrument and every instrument evidencing or securing Borrower's Liabilities.

General Covenants and Representations. Mortgagor covenants, represents and warrants that as of the date hereof and at all times thereafter during the term hereof: (a) Mortgagor has good and absolute title to all of the Leasehold Estate and the balance of the Mortgaged Property free and clear of all liens, security interests, charges and encumbrances whatsoever except those expressly permitted in writing by Bank, if any (such liens, security interests, charges and encumbrances expressly permitted in writing being hereinafter referred to as the "**Permitted Encumbrances**"); (b) Mortgagor has good right, full power and lawful authority to mortgage and pledge the Mortgaged Property as provided herein; (c) upon the occurrence of an Event of Default (hereinafter defined), Bank may at all times peaceably and quietly enter upon, hold, occupy and enjoy the Mortgaged Property in accordance with the terms hereof; and (d) Mortgagor will maintain and preserve the lien of this Mortgage as a first and paramount lien on the Mortgaged Property subject only to the Permitted Encumbrances until Borrower's Liabilities have been paid in full.

Compliance with Laws and Other Restrictions. Mortgagor covenants and represents that the Land and the Improvements and the use thereof presently comply with, and will during the full term of this Mortgage continue to comply with, all applicable restrictive covenants, zoning and subdivision ordinances and building codes, licenses, health and environmental laws and regulations and all other applicable laws, ordinances, rules and regulations.

Taxes and Other Charges.

Taxes and Assessments. Mortgagor shall pay promptly when due all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations, liens and encumbrances of every kind and nature whatsoever now or hereafter imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon or against this Mortgage or Borrower's Liabilities or upon or against the interest of Bank in the Mortgaged Property, as well as all taxes, assessments and other governmental charges levied and imposed by the United States of America or any state, county, municipality or other taxing authority upon or in respect of the Mortgaged Property or any part thereof; provided, however, that Mortgagor may in good faith contest the validity, applicability or amount of any asserted tax, assessment or other charge in accordance with the provisions set forth in the Loan Agreement regarding the contest of taxes and pending such contest Mortgagor shall not be deemed in default hereunder if on or before the due date of the asserted tax or assessment, Mortgagor shall first obtain an endorsement, in form and substance satisfactory to Bank, to the loan policy of title insurance issued to Bank insuring the lien of this Mortgage, insuring over such tax or assessment. Upon Bank's request, Mortgagor will promptly file, if it has not theretofore filed, such petition, application or other instrument as is necessary to cause the Land and Improvements to be taxed as a separate parcel or parcels which include no property not a part of the Mortgaged Property.

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Taxes Affecting Bank's Interest. If any state, federal, municipal or other governmental law, order, rule or regulation, which becomes effective subsequent to the date hereof, in any manner changes or modifies existing laws governing the taxation of mortgages or debts secured by mortgages, or the manner of collecting taxes, so as to impose on Bank a tax by reason of its ownership of any or all of the Loan Instruments or measured by the principal amount of the Note, requires or has the practical effect of requiring Bank to pay any portion of the real estate taxes levied in respect of the Mortgaged Property to pay any tax levied in whole or in part in substitution for real estate taxes or otherwise affects materially and adversely the rights of Bank in respect of the Note, this Mortgage or the other Loan Instruments, Borrower's Liabilities and all interest accrued thereon shall, upon thirty (30) days' notice, become due and payable forthwith at the option of Bank, whether or not there shall have occurred an Event of Default, provided, however, that if Mortgagor may, without violating or causing a violation of such law, order, rule or regulation, pay such taxes or other sums as are necessary to eliminate such adverse effect upon the rights of Bank and does pay such taxes or other sums when due, Bank may not elect to declare due Borrower's Liabilities by reason of the provisions of this Section 1.4.2.

Tax Escrow. Upon the Bank's written request, Mortgagor shall, in order to secure the performance and discharge of Mortgagor's obligations under this Section 1.4, but not in lieu of such obligations, deposit with Bank on the first day of each calendar month throughout the term of the Loan, deposits, in amounts set by Bank from time to time by written notice to Mortgagor, in order to accumulate funds sufficient to permit Bank to pay all annual ad valorem taxes, assessments and charges of the nature described in Section 1.4.1 at least thirty (30) days prior to the date or dates on which they shall become delinquent. The taxes, assessments and charges for purposes of this Section 1.4.3 shall, if Bank so elects, include, without limitation, water and sewer rents. Mortgagor shall procure and deliver to Bank when issued all statements or bills for such obligations. Upon demand by Bank, Mortgagor shall deliver to Bank such additional monies as are required to satisfy any deficiencies in the amounts necessary to enable Bank to pay such taxes, assessments and similar charges thirty (30) days prior to the date they become delinquent. Bank shall pay such taxes, assessments and other charges as they become due to the extent of the funds on deposit with Bank from time to time and provided Mortgagor has delivered to Bank the statements or bills therefor. In making any such payments, Bank shall be entitled to rely on any bill issued in respect of any such taxes, assessments or charges without inquiry into the validity, propriety or amount thereof and whether delivered to Bank by Mortgagor or otherwise obtained by Bank. Any deposits received pursuant to this Section 1.4.3 shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Bank and Bank shall have no obligation to pay interest on amounts deposited with Bank pursuant to this Section 1.4.3. If any Event of Default occurs, any part or all of the amounts then on deposit or thereafter deposited with Bank under this Section 1.4.3 may at Bank's option be applied to payment of Borrower's Liabilities in such order as Bank may determine.

No Credit Against the Indebtedness Secured Hereby. Mortgagor shall not claim, demand or be entitled to receive any credit against the principal or interest payable under the terms of the Note or the Loan Agreement or on any of Borrower's Liabilities for any of the taxes, assessments or similar impositions assessed against the Mortgaged Property or any part thereof or that are applicable to Borrower's Liabilities or to Bank's interest in the Mortgaged Property.

Mechanic's and Other Liens. Mortgagor shall not permit or suffer any mechanic's, laborer's, materialman's, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due) to be created upon or against the Mortgaged Property, provided, however, that Mortgagor may in good faith, by appropriate proceeding, contest the validity, applicability or amount of any asserted lien and, pending such contest, Mortgagor shall not be deemed to be in default hereunder if Mortgagor shall first obtain an endorsement, in form and substance satisfactory to Bank, to the loan policy of title insurance issued to Bank insuring the lien of this Mortgage, insuring over such lien. Mortgagor shall pay the disputed amount and all interest and penalties due in respect thereof on or before the date any adjudication of the validity or amount thereof becomes final and, in any event, no less than thirty (30) days

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prior to any foreclosure sale of the Mortgaged Property or the exercise of any other remedy by such claimant against the Mortgaged Property.

Insurance and Condemnation.

Hazard Insurance. Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Bank, until Borrower's Liabilities are paid in full, policies of hazard insurance in an amount which shall be not less than 100% of the full insurable replacement cost of the Mortgaged Property (other than the Land) insuring, on a replacement cost basis, the Mortgaged Property against loss or damage on a "special cause of loss" form, such insurable hazards, casualties and contingencies as are included therein and otherwise as Bank may require, including without limitation fire, windstorm, rainstorm, vandalism, earthquake and, if all or any part of the Mortgaged Property shall at any time be located within an area identified by the government of the United States or any agency thereof as having special flood hazards and for which flood insurance is available, flood. Mortgagor shall pay promptly when due any premiums on such insurance policies and on any renewals thereof. The form of such policies and the companies issuing them shall be acceptable to Bank. If any such policy shall contain a co-insurance clause it shall also contain an agreed amount or stipulated value endorsement. All such policies and renewals thereof shall be held by Bank and shall contain a "Lender's loss payable" clause making losses payable to Bank. Losses shall not be payable to any other party without Bank's prior written consent. In the event of loss, Mortgagor will give immediate written notice to Bank and Bank may make proof of loss if not made promptly by Mortgagor (for which purpose Mortgagor hereby irrevocably appoints Bank as its attorney-in-fact). In the event of the foreclosure of this Mortgage or any other transfer of title to the Mortgaged Property in full or partial satisfaction of Borrower's Liabilities, all right, title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force shall pass to the purchaser or grantee. All such policies shall provide that they shall not be modified, canceled or terminated without at least thirty (30) days' prior written notice to Bank from the insurer.

Other Insurance. Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of, Bank, until Borrower's Liabilities are paid in full, such other policies of insurance as may be reasonably required by the terms of the Loan Agreement.

Adjustment of Loss. Except as permitted by the Loan Agreement, Bank is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies covering the Mortgaged Property and to collect and receive the proceeds from any such policy or policies (which proceeds shall be disposed of in the manner provided in Section 1.6.5). Mortgagor hereby irrevocably appoints Bank as its attorney-in-fact for the purposes set forth in the preceding sentence. Each insurance company is hereby authorized and directed to make payment of 100% of all such losses directly to Bank alone. After deducting from such insurance proceeds any expenses incurred by Bank in the collection and settlement thereof, including without limitation attorneys' and adjusters' fees and charges, Bank shall apply the net proceeds as provided in Section 1.6.5.

Condemnation Awards. Bank shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Mortgaged Property or any part thereof, (ii) damage to the Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of other property, or (iii) the alteration of the grade of any street or highway on or about the Mortgaged Property. Bank is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any such compensation, awards, damages, claims, rights of action and proceeds and to settle or compromise any claim in connection therewith. Mortgagor hereby irrevocably appoints Bank as its attorney-in-fact for the purposes set forth in the preceding sentence. Bank after deducting from such compensation, awards, damages, claims, rights of action and proceeds all its expenses, including attorneys' fees, may apply such net proceeds (except as otherwise provided in Section 1.6.5 of this Mortgage) to payment of Borrower's Liabilities in such order and manner

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as Bank may elect. Mortgagor agrees to execute such further assignments of any compensation awards, damages, claims, rights of action and proceeds as Bank may require.

Repair; Proceeds of Casualty Insurance and Eminent Domain. If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Section 1.6.4, Mortgagor shall promptly and with all due diligence restore and repair the Mortgaged Property whether or not the proceeds, award or other compensation are sufficient to pay the cost of such restoration or repair. Except as otherwise provided by the Loan Agreement, the entire amount of such proceeds, award or compensation shall be applied to Borrower's Liabilities in such order and manner as Bank may elect. To the extent permitted by the Loan Agreement, such proceeds, award or other compensation shall be made available to Mortgagor, on such terms and conditions as Bank may impose, for the purpose of financing the cost of restoration or repair with any excess to be applied to Borrower's Liabilities. Notwithstanding any other provision of this Section 1.6.5, if an Event of Default shall be existing at the time of such casualty, taking or other event or if an Event of Default occurs thereafter, Bank shall have the right to immediately apply all insurance proceeds, awards or compensation to the payment of Borrower's Liabilities in such order and manner as Bank may determine.

Renewal of Policies. At least thirty (30) days prior to the expiration date of any policy evidencing insurance required under this Section 1.6, a renewal thereof satisfactory to Bank shall be delivered to Bank or substitution therefor, together with receipts or other evidence of the payment of any premiums then due on such renewal policy or substitute policy.

Insurance Escrow. Mortgagor shall, in order to secure the performance and discharge of Mortgagor's obligations under this Section 1.6, but not in lieu of such obligations, deposit with Bank on the first day of each calendar month throughout the term of the Loan, a sum in an amount determined by Bank from time to time by written notice to Mortgagor, in order to accumulate funds sufficient to permit Bank to pay all premiums payable in connection with the insurance required hereunder at least thirty (30) days prior to the date or dates on which they shall become due. Upon demand by Bank, Mortgagor shall deliver to Bank such additional monies as are required to satisfy any deficiencies in the amounts necessary to enable Bank to pay such premiums thirty (30) days prior to the date they shall become due.

Non-Impairment of Bank's Rights. Nothing contained in this Mortgage shall be deemed to limit or otherwise affect any right or remedy of Bank under any provision of this Mortgage or of any statute or rule of law to pay and, upon Mortgagor's failure to pay the same, Bank may pay any amount required to be paid by Mortgagor under Sections 1.4, 1.5 and 1.6. Mortgagor shall pay to Bank on demand the amount so paid by Bank together with interest at the rate payable under the Loan Agreement after an "Event of Default" as such term is defined in the Loan Agreement (the "Default Rate") and the amount so paid by Bank together with interest, shall be added to Borrower's Liabilities.

Care of the Mortgaged Property.

Mortgagor shall preserve and maintain the Mortgaged Property in good and first class condition and repair. Mortgagor shall not, without the prior written consent of Bank, permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or of any part thereof.

Except as otherwise provided in the Loan Agreement or this Mortgage, no part of the Mortgaged Property shall be removed, demolished or altered in any material manner without the prior written consent of Bank.

Transfer or Encumbrance of the Mortgaged Property. Except as permitted by the Loan Agreement, Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease (other than Sub-Leases made in accordance with the provisions of this Mortgage) or

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encumbrance of, or any contract for any of the foregoing on an installment basis or otherwise pertaining to, the Mortgaged Property, any part thereof, any interest therein, the beneficial interest in Mortgagor, any interest in the beneficial interest in Mortgagor or in any trust holding title to the Mortgaged Property, or any interest in a corporation, partnership or other entity which owns all or part of the Mortgaged Property or such beneficial interest, whether by operation of law or otherwise, without the prior written consent of Bank having been obtained.

Further Assurances. At any time and from time to time, upon Bank's request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Bank, and where appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, re-registered and refiled at such time and in such offices and places as shall be deemed desirable by Bank, any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Bank may consider necessary or desirable in order to effectuate or perfect, or to continue and preserve the obligations under, this Mortgage.

Assignment of Rents.

The assignment of rents, income and other benefits contained in Section (E) of the Granting Clauses of this Mortgage shall be fully operative without any further action on the part of either party, and, specifically, Bank shall be entitled, at its option, upon the occurrence of an Event of Default hereunder, to all rents, income and other benefits from the Mortgaged Property, whether or not Bank takes possession of such property. Such assignment and grant shall continue in effect until Borrower's Liabilities are paid in full, the execution of this Mortgage constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Mortgaged Property by Bank pursuant to such grant, whether or not foreclosure proceedings have been instituted. Notwithstanding the foregoing, so long as no Event of Default has occurred or is continuing, Mortgagor shall have the right and authority to continue to collect the rents, income and other benefits from the Mortgaged Property as they become due and payable but not more than thirty (30) days prior to the due date thereof.

After-Acquired Property. To the extent permitted by, and subject to, applicable law, the lien of this Mortgage shall automatically attach, without further act, to all property hereafter acquired by Mortgagor located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

Sub-Leases Affecting Mortgaged Property.

Mortgagor shall comply with and perform in a complete and timely manner all of its obligations as landlord under all Sub-Leases affecting the Mortgaged Property or any part thereof. The assignment contained in Section (E) of the Granting Clauses shall not be deemed to impose upon Bank any of the obligations or duties of the landlord or Mortgagor provided in any lease.

Management of Mortgaged Property. Mortgagor shall cause the Mortgaged Property to be managed at all times in accordance with sound business practice.

Execution of Sub-Leases. Mortgagor shall not permit any Sub-Leases to be made of the Mortgaged Property, or to be modified, terminated, extended or renewed, without the prior written consent of Bank.

Expenses. Without limitation of any obligation of Mortgagor set forth in the Loan Agreement, Mortgagor shall pay when due and payable, and otherwise on demand made by Bank, all loan fees, appraisal fees, recording fees, taxes, brokerage fees and commissions, abstract fees, title insurance fees, escrow fees, reasonable attorneys' fees, court costs, documentary and expert evidence, fees of inspecting architects and engineers, and all other costs and expenses of every character which have been incurred or which may hereafter be incurred by Bank in connection with the Loan, including the preparation, execution, delivery and performance of this Mortgage. If Mortgagor fails to pay said costs and expenses as above provided, Bank may elect, but shall not be obligated, to pay the costs and expenses described in this

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Section 1.16, and if Bank does so elect, then Mortgagor will, upon demand by Bank, reimburse Bank for all such expenses which have been or shall be paid or incurred by it. The amounts paid by Bank shall bear interest at the Default Rate and such amounts, together with interest, shall be added to Borrower's Liabilities, shall be immediately due and payable and shall be secured by the lien of this Mortgage and the other Loan Instruments. In the event of foreclosure hereof, Bank shall be entitled to add to the indebtedness found to be due by the court a reasonable estimate of such expenses to be incurred after entry of the decree of foreclosure.

To the extent permitted by law, Mortgagor agrees to hold harmless Bank against and from, and reimburse it for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses, including without limitation attorneys' fees, which may be imposed upon, asserted against, or incurred or paid by it by reason of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Mortgaged Property through any cause whatsoever, or asserted against it on account of any act performed or omitted to be performed hereunder, or on account of any transaction arising out of or in any way connected with the Mortgaged Property, this Mortgage, the other Loan Instruments, any of the indebtedness evidenced by the Note or any of Borrower's Liabilities.

Bank's Performance of Mortgagor's Obligations. If Mortgagor fails to pay any tax, assessment, encumbrance or other imposition, or to furnish insurance hereunder, or to perform any other covenant, condition or term in this mortgage, the Note, the Loan Agreement or any other Loan Instrument, Bank may, but shall not be obligated to, pay, obtain or perform the same. All payments made, whether such payments are regular or accelerated payments, and costs and expenses incurred or paid by Bank in connection therewith shall be due and payable immediately. The amounts so incurred or paid by Bank shall bear interest at the Default Rate and such amounts, together with interest, shall be added to Borrower's Liabilities and secured by the lien of this Mortgage and the other Loan Instruments. Bank is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any covenant, condition or term that Mortgagor has failed to perform or observe, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor. Performance or payment by Bank of any obligation of Mortgagor shall not relieve Mortgagor of such obligation or of the consequences of having failed to perform or pay the same and shall not effect the cure of any Event of Default.

Payment of Superior Liens. To the extent that Bank after the date hereof, pays any sum due under any provision of law or instrument or document creating any lien superior or equal in priority in whole or in part to the lien of this Mortgage, Bank shall have and be entitled to a lien on the premises equal in parity with that discharged, and Bank shall be subrogated to and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Bank to secure the Note, the Loan Agreement and all obligations and liabilities secured hereby. Bank shall be subrogated, notwithstanding their release of record, to mortgages, trust deeds, superior liens, vendors' liens, mechanics' and materialmen's liens, charges, encumbrances, rights and equities on the Mortgaged Property to the extent that any obligation under any thereof is paid or discharged with proceeds of disbursements or advances under the Note or other indebtedness secured hereby.

Use of the Mortgaged Property. Mortgagor shall not suffer or permit the Mortgaged Property, or any portion thereof, to be used for any purpose other than for the purposes for which it is currently being used and, without limitation of the foregoing, Mortgagor shall not use or permit the use of the Mortgaged Property or any portion thereof for any unlawful purpose.

Environmental Conditions.

Mortgagor covenants, warrants and represents that there are no, nor will there, for so long as any of Borrower's Liabilities remain outstanding, be, any Hazardous Materials (as hereinafter defined) generated, released, stored, buried or deposited over, beneath, in or upon the Mortgaged Property except as such Hazardous Materials may be required to be used, stored or transported in connection with the permitted uses of the Mortgaged Property and then only to the extent permitted by law after obtaining all necessary permits and licenses therefor. For purposes

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of this Mortgage, "**Hazardous Materials**" shall mean and include any pollutants, flammables, explosives, petroleum (including crude oil) or any fraction thereof, radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of toxic or hazardous substances, wastes, or materials under any federal, state or local laws, ordinances, regulations or guidances which regulate, govern, prohibit or pertain to the generation, manufacture, use, transportation, disposal, release, storage, treatment of, or response or exposure to, toxic or hazardous substances, wastes or materials. Such laws, ordinances and regulations are hereinafter collectively referred to as the "**Hazardous Materials Laws**."

Mortgagor shall, and Mortgagor shall cause all employees, agents, contractors and subcontractors of Mortgagor and any other persons from time to time present on or occupying the Mortgaged Property to, keep and maintain the Mortgaged Property in compliance with, and not cause or knowingly permit the Mortgaged Property to be in violation of, any applicable Hazardous Materials Laws. Neither Mortgagor nor any employees, agents, contractors or subcontractors of Mortgagor or any other persons occupying or present on the Mortgaged Property shall use, generate, manufacture, store or dispose of on, under or about the Mortgaged Property or transport to or from the Mortgaged Property any Hazardous Materials, except as such Hazardous Materials may be required to be used, stored or transported in connection with the permitted uses of the Mortgaged Property and then only to the extent permitted by law after obtaining all necessary permits and licenses therefor.

Mortgagor shall immediately advise Bank in writing of: (i) any notices received by Mortgagor (whether such notices are from the Environmental Protection Agency, or any other federal, state or local governmental agency or regional office thereof) of the violation or potential violation occurring on or about the Mortgaged Property of any applicable Hazardous Materials Laws; (ii) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened pursuant to any Hazardous Materials Laws; (iii) all claims made or threatened by any third party against Mortgagor or the Mortgaged Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i), (ii) and (iii) above are hereinafter referred to as "**Hazardous Materials Claims**"); and (iv) Mortgagor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Property that could cause the Mortgaged Property or any part thereof to be subject to any Hazardous Materials Claims. Bank shall have the right but not the obligation to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and Mortgagor shall pay to Bank, upon demand, all attorneys' and consultants' fees incurred by Bank in connection therewith.

Mortgagor shall be solely responsible for, and shall indemnify and hold harmless Bank, its directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence (whether prior to or during the term of the Loan or otherwise and regardless of by whom caused, whether by Mortgagor or any predecessor in title or any owner of land adjacent to the Mortgaged Property or any other third party, or any employee, agent, contractor or subcontractor of Mortgagor or any predecessor in title or any such adjacent land owner or any third person) of Hazardous Materials on, under or about the Mortgaged Property; including, without limitation: (i) claims of third parties (including governmental agencies) for damages, penalties, losses, costs, fees, expenses, damages, injunctive or other relief; (ii) response costs, clean-up costs, costs and expenses of removal and restoration, including fees of attorneys and experts, and costs of determining the existence of Hazardous Materials and reporting same to any governmental agency; and (iii) any and all expenses or obligations, including attorneys' fees, incurred at, before and after any trial or appeal therefrom whether or not taxable as costs, including, without limitation, attorneys' fees, witness fees, deposition costs, copying and telephone charges and other expenses.

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Mortgagor hereby represents, warrants and certifies that: (i) the execution and delivery of the Loan Instruments is not a transfer of "real property" under and as defined in the Illinois Responsible Property Transfer Act (765 ILCS 90/1 et seq), as amended from time to time ("RPTA"); (ii) there are no underground storage tanks located on, under or about the Mortgaged Property which are subject to the notification requirements under Section 9002 of the Solid Waste Disposal Act, as now or hereafter amended (42 U.S.C. § 6991); and (iii) there is no facility located on or at the Mortgaged Property which is subject to the reporting requirements of Section 312 of the federal Emergency Planning and Community Right to Know Act of 1986 and the federal regulations promulgated thereunder (42 U.S.C. § 11022), as "facility" is defined in RPTA.

Any loss, damage, cost, expense or liability incurred by Bank as a result of a breach or misrepresentation by Mortgagor or for which Mortgagor is responsible or for which Mortgagor has indemnified Bank shall be paid to Bank on demand, and, failing prompt reimbursement, such amounts shall, together with interest thereon at the Default Rate from the date incurred by Bank until paid by Mortgagor, be added to Borrower's Liabilities, be immediately due and payable and be secured by the lien of this Mortgage and the other Loan Instruments.

Bank may, in its sole discretion, but with justifiable reasonable cause, require Mortgagor, at its sole cost and expense, from time to time to perform or cause to be performed, such studies or assessments of the Mortgaged Property, as Bank may deem necessary or appropriate or desirable, to determine the status of environmental conditions on and about the Mortgaged Property, which such studies and assessments shall be for the benefit of, and be prepared in accordance with the specifications established by, Bank.

Mortgagor hereby grants to Bank, its agents, employees and contractors, access to the Mortgaged Property, from time to time upon prior written notice, for the purpose of either (i) taking such action as Bank shall determine to be appropriate to respond to a release, threatened release, or the presence of Hazardous Materials, or any related condition, on or about the Mortgaged Property; or (ii) conducting such studies or assessments of the Mortgaged Property, as Bank may deem necessary or appropriate or desirable.

Subject Lease. For so long as Borrowers' Liabilities shall remain outstanding and Bank's obligations under the Loan Agreement have not been terminated, Mortgagor hereby covenants, warrants and represents as follows:

The Subject Lease is and shall be maintained in full force and effect, unmodified by any writing or otherwise, except such modifications as are permitted by Bank (not to be unreasonably withheld, conditioned or delayed).

All rent, additional rent and other charges payable under the Subject Lease have been and will be paid when due, or if not paid, Mortgagor shall diligently pursue receipt of same.

There are, as of the date hereof, are no defenses to Mortgagor's enforcement of its rights under the Subject Lease.

Mortgagor is not in default in the performance of any of its obligations under the Subject Lease, and there are no circumstances which, alone or with the passage of time or the giving of notice or both, would constitute an event of default thereunder.

To the best of Mortgagor's knowledge, as of the date hereof, Lessor is not in default in the performance of any of its material obligations under the Subject Lease.

Mortgagor will promptly and faithfully materially observe, perform and comply with all the terms, covenants and provisions of the Subject Lease, on its part to be observed, performed and complied with, at the times set forth therein, and will enforce the material

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obligations of Lessor under the Subject Lease, to the end that Mortgagor may enjoy all of the material rights granted it under the Subject Lease.

Mortgagor will not knowingly do, permit, suffer or refrain from doing, anything, as a result of which, there would be a default or breach of any of the terms of the Subject Lease.

Without Bank's prior written consent (not to be unreasonably withheld, delayed or conditioned), Mortgagor will not cancel or surrender the Subject Lease, nor sublet or assign any of its interest under the Subject Lease, nor modify or amend any provision of the Subject Lease.

Mortgagor will give Bank prompt notice of any default by anyone under the Subject Lease, if applicable, and promptly deliver to Bank copies of each notice of default and all other notices of any default by anyone under the Subject Lease, if applicable.

Mortgagor will furnish to Bank such information and evidence as Bank may reasonably request concerning Mortgagor's due observance, performance and compliance with the terms, covenants and provisions of the Subject Lease.

Fee title to the Land and the estate conveyed by the Subject Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates in either Lessor, Mortgagor or a third party, whether by purchase or otherwise and accordingly: (i) if Mortgagor acquires the fee title or any other estate, title or interest in the Land demised by the Subject Lease, or any part thereof, the lien of this Mortgage shall attach to, cover and be a lien upon such acquired estate, title or interest and same shall thereupon be and become a part of the Mortgaged Property with the same force and effect as if specifically encumbered herein; and (ii) Mortgagor agrees to execute all instruments and documents which Bank may reasonably require to ratify, confirm and further evidence Bank's lien on the acquired estate, title or interest.

Bank shall have no liability or obligation under the Subject Lease by reason of its acceptance of this Mortgage.

ARTICLE TWO DEFAULTS

Event of Default. The term "Event of Default," wherever used in this Mortgage, shall mean any one or more of the following events:

The failure by Mortgagor: (i) to pay or deposit when due any deposit or taxes and assessments due hereunder or any other sums to be paid by Mortgagor hereunder; or (ii) to keep, perform, or observe any covenant, condition or agreement contained in Sections 1.4.1, 1.6.1, 1.6.2, 1.9 or 1.20 hereof; or (iii) to keep, perform or observe any other covenant, condition or agreement on the part of Mortgagor in this Mortgage.

The occurrence of an "Event of Default" under and as defined in the Loan Agreement or any of the other Loan Instruments.

The untruth of any warranty or representation made herein.

An uninsured loss, damage, destruction or taking by eminent domain or other condemnation proceedings of any part of the Mortgaged Property.

The occurrence of any default by Mortgagor under the Subject Lease beyond any applicable cure period, or any termination, whether or not voluntary, of the Subject Lease.

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ARTICLE THREE REMEDIES

Acceleration of Maturity. If an Event of Default shall have occurred, Bank may declare Borrower's Liabilities to be immediately due and payable, and upon such declaration Borrower's Liabilities shall immediately become and be due and payable without further demand or notice. The foregoing shall not be in limitation of any provision contained in any other Loan Instrument, including without limitation any such provision pursuant to which Borrower's Liabilities become immediately due and payable without action or election by Bank.

Bank's Power of Enforcement. If an Event of Default shall have occurred, Bank may, either with or without entry or taking possession as provided in this Mortgage or otherwise, and without regard to whether or not Borrower's Liabilities shall have been accelerated, and without prejudice to the right of Bank thereafter to bring an action of foreclosure or any other action for any default existing at the time such earlier action was commenced or arising thereafter, proceed by any appropriate action or proceeding: (a) to enforce payment of the Note and/or any other of Borrower's Liabilities or the performance of any term hereof or any of the other Loan Instruments; (b) to foreclose this Mortgage and to have sold, as an entirety or in separate lots or parcels, the Mortgaged Property; and (c) to pursue any other remedy available to it. Bank may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Bank may determine. Without limitation of the foregoing, if an Event of Default shall have occurred, as an alternative to the right of foreclosure for the full indebtedness evidenced by the Note and the interest accrued thereon and any other Borrower's Liabilities, after acceleration thereof, Bank shall have the right to institute partial foreclosure proceedings with respect to the portion of Borrower's Liabilities so in default, as if under a full foreclosure, and without declaring all of Borrower's Liabilities to be immediately due and payable (such proceedings being referred to herein as "partial foreclosure"), and provided that, if Bank has not elected to accelerate all of Borrower's Liabilities and a foreclosure sale is made because of default in payment of only a part of Borrower's Liabilities, such sale may be made subject to the continuing lien of this Mortgage for the unmatured part of Borrower's Liabilities. Any sale pursuant to a partial foreclosure, if so made, shall not in any manner affect the unmatured portion of Borrower's Liabilities, but as to such unmatured portion, this Mortgage and the lien thereof shall remain in full force and effect just as though no foreclosure sale had been made. Notwithstanding the filing of any partial foreclosure or entry of a decree of sale therein, Bank may elect, at any time prior to a foreclosure sale pursuant to such decree, to discontinue such partial foreclosure and to accelerate Borrower's Liabilities by reason of any Event of Default upon which such partial foreclosure was predicated or by reason of any other defaults, and proceed with full foreclosure proceedings. Bank may proceed with one or more partial foreclosures without exhausting its right to proceed with a full or partial foreclosure sale for any unmatured portion of Borrower's Liabilities, it being the purpose to permit, from time to time a partial foreclosure sale for any matured portion of Borrower's Liabilities without exhausting the power to foreclose and to sell the Mortgaged Property pursuant to any partial foreclosure in respect of any other portion of Borrower's Liabilities, whether matured at the time or subsequently maturing, and without exhausting at any time the right of acceleration and the right to proceed with a full foreclosure.

Bank's Right to Enter and Take Possession, Operate and Apply Income.

If an Event of Default shall have occurred, (i) Mortgagor, upon demand of Bank, shall forthwith surrender to Bank the actual possession of the Mortgaged Property, and to the extent permitted by law, Bank itself, or by such officers or agents as it may appoint, is hereby expressly authorized to enter and take possession of all or any portion of the Mortgaged Property and may exclude Mortgagor and its agents and employees wholly therefrom.

If Mortgagor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after Bank's demand, Bank may obtain a judgment or decree conferring on Bank the right to immediate possession or requiring Mortgagor to deliver immediate possession of all or part of the Mortgaged Property to Bank, to the entry of which judgment or decree Mortgagor hereby specifically consents. Mortgagor shall pay to Bank, upon demand, all costs and expenses of obtaining such judgment or decree and reasonable compensation to Bank, its attorneys and agents, and all such costs, expenses and compensation shall, until paid, be secured by the lien of this Mortgage.

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Upon every such entering upon or taking of possession, Bank, to the extent permitted by law, may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof.

Sub-Leases. Bank is authorized to foreclose this Mortgage subject to the rights, if any, of any or all tenants of the Mortgaged Property, even if the rights of any such tenants are or would be subordinate to the lien of this Mortgage. Bank may elect to foreclose the rights of some subordinate tenants while foreclosing subject to the rights of other subordinate tenants.

Purchase by Bank. Upon any foreclosure sale, Bank may bid for and purchase all or any portion of the Mortgaged Property and, upon compliance with the terms of the sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

Application of Foreclosure Sale Proceeds. The proceeds of any foreclosure sale of the Mortgaged Property or any part thereof received by Bank shall be applied by Bank to the indebtedness secured hereby in such order and manner as Bank may elect.

Application of Indebtedness Toward Purchase Price. Upon any foreclosure sale, Bank may apply any or all of the indebtedness and other sums due to Bank under the Note, this Mortgage or any other Loan Instrument to the price paid by Bank at the foreclosure sale.

Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws. Mortgagor hereby waives any and all rights of redemption. Mortgagor further agrees, to the full extent permitted by law, that in case of an Event of Default, neither Mortgagor nor anyone claiming through or under it will set up, claim or seek to take advantage of any reinstatement, appraisal, valuation, stay or extension laws now or hereafter in force, or take any other action which would prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat. Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof and agrees that Bank or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq., (herein called the "Act")) or residential real estate (as defined in Section 15-1219 of the Act), and to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 15-1601 of the Act.

Receiver - Bank in Possession. If an Event of Default shall have occurred, Bank, to the extent permitted by law and without regard to the value of the Mortgaged Property or the adequacy of the security for the indebtedness and other sums secured hereby, shall be entitled as a matter of right and without any additional showing or proof, at Bank's election, to either the appointment by the court of a receiver (without the necessity of Bank posting a bond) to enter upon and take possession of the Mortgaged Property and to collect all rents, income and other benefits thereof and apply the same as the court may direct or to be placed by the court into possession of the Mortgaged Property as mortgagee in possession with the same power herein granted to a receiver and with all other rights and privileges of a mortgagee in possession under law. The right to enter and take possession of and to manage and operate the Mortgaged Property, and to collect all rents, income and other benefits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law and may be exercised concurrently therewith or independently thereof. Bank shall be liable to account only for such rents, income and other benefits actually received by Bank, whether received pursuant to this Section 3.9 or Section 3.3. Notwithstanding the appointment of any receiver or other custodian, Bank shall be entitled as pledgee to the possession and control of any cash, deposits or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Bank.

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Mortgagor to Pay Borrower's Liabilities in Event of Default; Application of Monies by Bank.

Upon occurrence of an Event of Default, Bank shall be entitled to sue for and to recover judgment against Mortgagor for Borrower's Liabilities due and unpaid together with costs and expenses, including, without limitation, the reasonable compensation, expenses and disbursements of Bank's agents, attorneys and other representatives, either before, after or during the pendency of any proceedings for the enforcement of this Mortgage; and the right of Bank to recover such judgment shall not be affected by any taking of possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

In case of a foreclosure sale of all or any part of the Mortgaged Property and of the application of the proceeds of sale to the payment of Borrower's Liabilities, Bank shall be entitled to enforce all other rights and remedies under the Loan Instruments.

Mortgagor hereby agrees, to the extent permitted by law, that no recovery of any judgment by Bank under any of the Loan Instruments, and no attachment or levy of execution upon any of the Mortgaged Property or any other property of Mortgagor, shall (except as otherwise provided by law) in any way affect the lien of this Mortgage upon the Mortgaged Property or any part thereof or any lien, rights, powers or remedies of Bank hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before until Borrower's Liabilities are paid in full.

Any monies collected or received by Bank under this Section 3.10 shall be applied to the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of Bank, and the balance remaining shall be applied to the payment of Borrower's Liabilities, in such order and manner as Bank may elect, and any surplus, after payment of all Borrower's Liabilities, shall be paid to Mortgagor.

Remedies Cumulative. No right, power or remedy conferred upon or reserved to Bank by the Note, the Loan Agreement, this Mortgage or any other Loan Instrument or any instrument evidencing or securing Borrower's Liabilities is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note or any other Loan Instrument or any instrument evidencing or securing Borrower's Liabilities, or now or hereafter existing at law, in equity or by statute.

ARTICLE FOUR MISCELLANEOUS PROVISIONS

Heirs, Successors and Assigns Included in Parties. Whenever Mortgagor or Bank is named or referred to herein, heirs and successors and assigns of such person or entity shall be included, and all covenants and agreements contained in this Mortgage shall bind the successors and assigns of Mortgagor, including any subsequent owner of all or any part of the Mortgaged Property and inure to the benefit of the successors and assigns of Bank. This Section 4.1 shall not be construed to permit an assignment, transfer, conveyance, encumbrance or other disposition otherwise prohibited by this Mortgage.

Notices. All notices, requests, reports demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Bank shall be directed to Mortgagor or Bank, as the case may be, in the manner set forth in the Loan Agreement at the following addresses:

If to Bank:

The Northern Trust Company
50 South LaSalle Street
Chicago, Illinois 60603

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Attention: Steve Imhof

If to Mortgagor:

830 S. Buffalo Grove Road,

Suite 106

Buffalo Grove, Illinois 60089

Attention: Kourosh T. Youshaei

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

Invalid Provisions. In the event that any of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein (or the application of the covenant, agreement, term held to be invalid, illegal or unenforceable, to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.

Changes. Neither this Mortgage nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought. To the extent permitted by law, any agreement hereafter made by Mortgagor and Bank relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance. Any holder of a lien or encumbrance junior to the lien of this Mortgage shall take its lien subject to the right of Bank to amend, modify or supplement this Mortgage, the Note, the Loan Agreement or any of the other Loan Instruments, to extend the maturity of Borrower's Liabilities or any portion thereof, to vary the rate of interest chargeable under the Note and/or the Loan Agreement and to increase the amount of the indebtedness secured hereby, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

Governing Law. This Mortgage shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Illinois.

Required Notices. Mortgagor shall notify Bank promptly of the occurrence of any of the following: (i) receipt of notice from any governmental authority relating to the violation of any rule, regulation, law or ordinance, the enforcement of which would materially and adversely affect the Mortgaged Property; (ii) material default by any tenant in the performance of its obligations under any lease of all or any portion of the Mortgaged Property or receipt of any notice from any such tenant claiming that a default by landlord in the performance of its obligations under any such lease has occurred; or (iii) commencement of any judicial or administrative proceedings by or against or otherwise adversely affecting Mortgagor or the Mortgaged Property.

Future Advances. This Mortgage is given to secure not only existing indebtedness, but also future advances (whether such advances are obligatory or are to be made at the option of Bank, or otherwise) made by Bank under the Note or the Loan Agreement, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but all indebtedness secured hereby shall, in no event, exceed \$17,000,000.

Release. Upon full payment and satisfaction of Borrower's Liabilities, Bank shall issue to Mortgagor an appropriate release deed in recordable form.

Attorneys' Fees. Whenever reference is made herein to the payment or reimbursement of attorneys' fees, such fees shall be deemed to include compensation to staff counsel, if any, of Bank in addition to the fees of any other reasonable attorneys engaged by Bank.

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Compliance with Illinois Mortgage Foreclosure Law. In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois statutes regarding foreclosures of this Mortgage (the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Bank any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Bank under the Act in the absence of said provision, Bank shall be vested with the rights granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Bank to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

Loan Agreement. The Loan is governed by terms and provisions set forth in the Loan Agreement and in the event of any conflict between the terms of this Mortgage and the terms of the Loan Agreement, the terms of the Loan Agreement shall control.


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IN WITNESS WHEREOF, Mortgagor has caused this instrument to be executed by its duly authorized officers as of the day and year first above written.

MORTGAGOR:

NEWPORT EQUITIES LLC, an Illinois limited liability company

By 
Name Kourosh T. Youshaei
Its Manager

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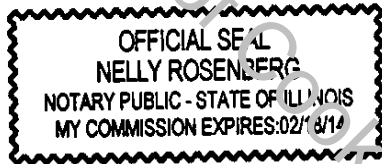
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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Nelly Rosenberg, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT KOUROSH T. YOUSHA EI the Manager of NEWPORT EQUITIES LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary acts and as the free and voluntary act of said company for said uses and purposes.

GIVEN under my hand and notarial seal this 27th day of ~~August~~^{July}, 2012.



Nelly Rosenberg
Notary Public

My Commission Expires: 2/18/14

County Clerk's Office

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EXHIBIT A

LEGAL DESCRIPTION

LOT 1 IN RANCH MART SUBDIVISION, BEING A SUBDIVISION IN THE WEST $\frac{3}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DECLARATION OF EASEMENT DATED AUGUST 14, 1975 AS DOCUMENT NUMBER 23197042, MODIFIED BY INSTRUMENT RECORDED MAY 6, 1976 AS DOCUMENT NUMBER 23476589 AND BY SECOND MODIFICATION OF DECLARATION OF EASEMENTS RECORDED MARCH 5, 1985 AS DOCUMENT NUMBER 27463770.0

ADDRESS: 686-830 SOUTH BUFFALO GROVE ROAD, BUFFALO GROVE, ILLINOIS.
PIN: 03-04-301-031-0000

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