

# UNOFFICIAL COPY



## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption

Doc#: 1525115062 Fee: \$106.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 09/08/2015 03:14 PM Pg: 1 of 35

Report Mortgage Fraud  
800-532-8785

The property identified as: **PIN:** 07-12-400-010-0000

**Address:**

**Street:** 1800 E. Golf Road

**Street line 2:**

**City:** Schaumburg

**State:** IL

**ZIP Code:** 60173

**Lender:** MIDCAP Financial Trust, a Delaware statutory trust

**Borrower:** Woodfield Hospitality, LLC, an Illinois limited liability company


**Loan / Mortgage Amount:** \$25,000,000.00

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.

**Certificate number:** 39F44EF4-2164-4627-82C3-EB8A5352FB87

**Execution date:** 9/3/2015

682801 AK 2 of 2

  
CCRD REVIEWER

# UNOFFICIAL COPY

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

Kevan W. Ventura  
GOLDBERG KOHN LTD.  
55 East Monroe Street  
Suite 3300  
Chicago, Illinois 60603  
(312) 201-4000

SPACE ABOVE THIS LINE FOR RECORDER'S USE.

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND  
FIXTURE FILING**

**MADE BY**

**WOODFIELD HOSPITALITY, LLC,  
an Illinois limited liability company**

**as "Mortgagor"**

**to**

**MIDCAP FINANCIAL TRUST,  
a Delaware statutory trust**

**as "Agent"**

# UNOFFICIAL COPY

## MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

Project Commonly Known As

"Woodfield Hyatt Regency Schaumburg"

**THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING** (this "Security Document") is made as of this 3rd day of September, 2015, by **WOODFIELD HOSPITALITY, LLC**, an Illinois limited liability company, having its principal place of business at 205 W. Wacker Drive, Suite 901, Chicago, IL 60606, as mortgagor ("Mortgagor"), for the benefit of **MIDCAP FINANCIAL TRUST**, a Delaware statutory trust, its successors and assigns (in its individual capacity as a lender, "**MCF**"), having an address at c/o MidCap Financial Services, LLC, as servicer, 7255 Woodmont Avenue, Suite 200, Bethesda, Maryland 20814, as mortgagee, in its capacity as agent (and in such capacity "Agent" for Lenders (as defined below)). All capitalized terms not defined herein shall have the respective meanings set forth in the Credit Agreement (defined below).

### RECITALS:

A. This Security Document is given to secure a certain loan (the "Loan") in the principal sum of Twenty Five Million and No/100 Dollars (\$25,000,000.00) advanced pursuant to that certain Credit and Security Agreement dated as of the date hereof (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Mortgagor, Agent, MCF, and the other financial institutions who are or hereafter become parties to the Credit Agreement (together with MCF, collectively or individually, as the context may require, referred to herein as "Lenders"); and evidenced by that that certain Term Loan Note, dated the date hereof, made by Mortgagor in favor of Lenders (such Term Loan Note, together with all extensions, renewals, replacements, restatements or modifications thereof being hereinafter referred to as the "Note"; together with the Credit Agreement, this Security Document, such 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 "Financing Documents").

B. Mortgagor desires to secure the payment and performance of the Secured Obligations by Mortgagor.

C. This Security Document is given pursuant to the Credit Agreement, and payment, fulfillment, and performance by Mortgagor of obligations thereunder and under the other Financing Documents are secured hereby.

D. Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Credit Agreement.

# UNOFFICIAL COPY

E. The Recitals and Exhibits to this Security Document are hereby incorporated in this Security Document.

THIS SECURITY DOCUMENT IS GIVEN TO SECURE THE (i) payment of the Note, together with all interest, premiums, prepayment fees, exit fees and any other amounts and obligations, if any, due in accordance with the terms of the Note (including the Loan) and/or the Credit Agreement, as well as the payment of any additional indebtedness accruing to Agent or the Lenders on account of any future payments, advances or expenditures made by Agent or the Lenders pursuant to the Note, the Credit Agreement, this Security Document, or any other Financing Document or otherwise in connection with the Loan (all such payment obligations are hereinafter referred to as the "Indebtedness") and (ii) the performance of all other obligations and covenants under the Financing Documents.

## ARTICLE ONE SECURITY

1.1 Granting Clause. To secure the payment of the Indebtedness and performance of the Secured Obligations (as defined in Section 1.2) incurred pursuant to the Financing Documents and the payment of all amounts due under and the performance and observance of all covenants and conditions contained in this Security Document, the Financing Documents, and any other documents and instruments now or hereafter executed by Mortgagor, to evidence, secure or guarantee the payment of all or any portion of the Secured Obligations, Mortgagor does hereby unconditionally mortgage and warrant, bargain, sell, convey, grant, assign, transfer, pledge and deliver to Agent and grant to Agent, for its benefit and the benefit of the Lenders, a security interest in Mortgagor's interests (now owned or hereafter acquired) in the following described property, subject to the terms and conditions herein:

(a) The land located in the Village of Schaumburg, County of Cook, State of Illinois, commonly known as 1800 E. Golf Road, Schaumburg, IL 60173, and legally described in attached Exhibit A ("Land");

(b) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land and all of the Mortgagor's interests (now owned or hereafter acquired) in 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");

# UNOFFICIAL COPY

(d) Subject to the terms and provisions of the Credit Agreement: (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, Agent 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 Secured Obligations; 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 Land, Improvements or Appurtenances (the "Rents"); it being intended that this Section 1.1(c) shall constitute an absolute and present assignment of the Rents, subject, however, to the license given to Mortgagor to collect and use the Rents as provided in this Security Document;

(f) Any and all leases, licenses and other occupancy agreements now or hereafter affecting the 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 leases and all security given therefor (collectively, the "Leases"), subject, however, to the license given in this Security Document to Mortgagor to collect the Rents arising under the Leases as provided in this Security Document;

(g) All of Mortgagor's right, title and interest in all goods, materials, supplies, work in process, chattels, furniture, fixtures, equipment, appliances, machinery and other personal property of any kind, now or later to be attached to, incorporated into, placed in, on or about, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Land and the Improvements, whether stored on the Land or elsewhere, including but not limited to elevators, beds, bureaus, chiffonniers, chests, chairs, desks, lamps, mirrors, bookcases, tables, rugs, carpeting, drapes, draperies, curtains, shades, venetian blinds, screens, paintings, hangings, pictures, divans, couches, luggage carts, luggage racks, stools, sofas, chinaware, flatware, tableware, towels, sheets, linens, pillows, blankets, glassware, food carts, cookware, dry cleaning facilities, dining room wagons, keys or other entry systems, bars, bar fixtures, liquor and alcoholic beverages, liquor and beverage dispensers (to the extent, and only to the extent, permitted under applicable law and regulations, but only so long as such security interest, pledge or assignment does not result in a forfeiture of, or diminution to, any of Agent's rights or remedies otherwise available at law or under the Financing Documents), icemakers, radios, television sets, intercom and paging

# UNOFFICIAL COPY

equipment, electric and electronic equipment, dictating equipment, private telephone systems, telephones, medical equipment, potted plants, heating, lighting, and plumbing fixtures, fire prevention and extinguishing apparatus, fittings, plants, apparatus, microwaves, coffee makers, laundry machines, systems, floor cleaning, waxing and polishing equipment, call systems, brackets, electrical signs, bulbs, bells, ash and fuel, conveyors, cabinets, lockers, shelving, spotlighting equipment, dishwashers, garbage disposals, washers and dryers, other furnishings, other customary hotel equipment, all of which shall be considered to the fullest extent of the law to be real property, fixtures or personal property (as defined and governed by the Code (as hereinafter defined)) for purposes of this Security Document;

(h) Any rights of Mortgagor arising from or held in connection with the ownership or operation of the Project, including without limitation, to the extent not prohibited or restricted under applicable law, any rights to payment for goods sold or leased or to be sold or leased or for services rendered or to be rendered;

(i) All interest in and to all operating accounts relating to the Land, all funds on deposits in any escrow or reserve required under the Credit Agreement, and any other accounts held by Mortgagor or monies on deposit with or for the benefit of Agent and/or Lenders, including (i) deposits for the payment of real estate taxes and insurance relating to the Land, (ii) tenant improvement and leasing commissions relating to the Land and (iii) any cash collateral account or bank accounts of Mortgagor relating to the Land;

(j) To the extent assignable and related to the Land, all management contracts, permits, licenses (including business licenses, food service licenses, liquor licenses and all such other permits, licenses and rights, obtained from any governmental, quasi-governmental or private person or entity whatsoever concerning ownership, operation, use or occupancy of the Mortgaged Property), applications, approvals, plans, specifications and drawings, contracts, purchase and sale agreements, purchase options, entitlements, soil test reports, other reports of examination or analysis of the Land or the Improvements, development rights and authorizations, however characterized with respect to any of the foregoing, issued or in any way furnished for the acquisition, construction, development, operation and use of the Land, Improvements and/or Leases, including building permits, environmental certificates, certificates of operation, warranties and guaranties;

(k) To the extent related to the Land or Mortgagor's operation thereof, all of the following types of collateral arising from the ownership and operation of the Land, as defined in the Uniform Commercial Code as in effect from time to time in the State of Illinois (the "Code"): accounts, but only in the manner permitted by applicable law as to any government accounts, general intangibles, chattel paper, documents, instruments, inventory, goods, equipment, investment property, deposit accounts, letter(s) of credit and any rights associated therewith, commercial tort claims, and all books and records relating to the foregoing, provided that Mortgagor will cooperate with Agent in obtaining "control" as defined in the Code with respect to collateral consisting of deposit accounts, investment property, letter of credit rights and electronic chattel paper;

# UNOFFICIAL COPY

(l) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory ("Books and Records");

(m) All right, title or interest in and to all intangible personal property relating to the Property (including, without limitation, all trade names, trademarks and logos used in the operation or identification of the Improvements, and the domain name or website for the Property and the Improvements);

(n) All rights to collect all rents, earnings, income, profits, deposits, reserves, fees, charges and accounts for the use and occupancy of the Project and of rooms and other public facilities in or on the Project, including all rents, income, security deposits, tax, insurance and replacement reserve deposits, charges, receipts, royalties, profits, issues, service reimbursements, fees, accounts receivables, revenues and prepayments of any of the same (including termination, cancellation, option and similar payments), from or related to the Project from time to time accruing in the operation of the Project, including all revenues and credit card receipts collected from guest rooms and suites, restaurants, bars, cocktail lounges, meeting rooms, banquet rooms and recreational facilities, and any other operations of the hotel constructed on the Premises, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the property or rendering of services by Mortgagor or any operator or manager of the hotel or the commercial space located in the Improvements or acquired from others (including from the rental of any office space, retail space, parking, guest rooms or other space, halls, stores, and offices, and deposits securing reservations of such space), license, lease, sublease and concession fees and rentals, health club facilities, health club membership fees, food and beverage wholesale and retail sales generated or received by Mortgagor, other department revenues, service charges (including late charges, termination, cancellation, option and similar payments), vending machine sales, other payments, profits and proceeds;

(o) Any and all after-acquired right, title or interest of Mortgagor in and to any of the property described in the preceding subsections within this Section 1.1; and

(p) The proceeds and products and renewals 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 this Section 1.1 is hereinafter referred to as the "Mortgaged Property."

1.2 Secured Obligations. Mortgagor makes the grant, conveyance, and mortgage set forth in Section 1.1 hereof, and grant(s) the security interest set forth in Section 2.18 below for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Agent may choose:

(a) Payment and performance of the Indebtedness and all other Obligations of Mortgagor, and any other Credit Party (as defined in the Credit Agreement);

# UNOFFICIAL COPY

(b) Payment and performance of all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Mortgaged Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Agent, when a writing evidences the parties' agreement that the advance or obligation be secured by this Security Document;

(c) Payment of any and all loan commissions, service charges, liquidated damages, fees, advances due to or incurred by Agent regardless of whether any Loan proceeds have been disbursed and any advance(s) made by any Lender to protect its interest in any portion of the Mortgaged Property; and

(d) Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations set forth above.

1.3 Future Advances. This Security Document is given to secure not only the existing Secured Obligations, but also any Secured Obligations incurred on or after the date hereof, including but not limited to any future advances (whether such advances are obligatory or are made at the option of Agent, or otherwise) made by Agent and/or the Lenders pursuant to and under the Credit Agreement, the Note or any other Financing Document or this Security Document, to the same extent as if such future advances were made on the date of the execution of this Security Document. Funds disbursed that, in the reasonable exercise of Agent's judgment, are needed to complete Improvements or to protect Agent's and Lenders' security interest in the Mortgaged Property, are to be deemed obligatory advances hereunder, and will be added to the Indebtedness and shall be part of the Secured Obligations secured by this Security Document, and the Indebtedness shall be increased accordingly. The total amount of Indebtedness secured hereby may increase or decrease from time to time. This Security Document shall be valid and have priority to the extent of the maximum amount secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Mortgaged Property given priority by law.

1.4 Successors. All persons who may have or acquire an interest in all or any part of the Mortgaged Property will be considered to have notice of, and will be bound by, the terms of the Financing Documents and each other agreement or instrument made or entered into in connection with each of the Financing Documents. Such terms include any provisions in the Note or the Credit Agreement which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

## ARTICLE TWO COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Agent and Lenders as follows:



# UNOFFICIAL COPY

2.1 Performance under Credit Agreement, Security Document and Other Financing Documents. 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 Credit Agreement, every Financing Document and every instrument evidencing or securing the Secured Obligations.

2.2 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 is seized of an indefeasible estate in fee simple in that portion of the Mortgaged Property which is real property, and has good and absolute title to it and the balance of the Mortgaged Property free and clear of all liens, security interests, charges and encumbrances whatsoever, except Permitted Liens under the Credit Agreement and those otherwise permitted in writing by Agent (such liens, security interests, charges and encumbrances being hereinafter referred to as the "Permitted Encumbrances"); and (b) Mortgagor will maintain and preserve the lien of this Security Document as a first and paramount lien on the Mortgaged Property, subject only to the Permitted Encumbrances, until the Secured Obligations have been paid in full and Agent's obligations under the Credit Agreement have been terminated.

2.3 Compliance with Laws and Other Restrictions. Mortgagor covenants and represents that to the best of its knowledge, the Land and the Improvements and the use thereof presently comply with, and, to the extent required by the Credit Agreement, will 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 if the failure to so comply would have a Material Adverse Effect, provided that the Mortgagor may contest any acts, rules, regulations, orders and directions of such bodies or officials in any reasonable manner which Agent determines, in the exercise of its reasonable business judgment, will not materially and adversely affect Agent's or the Lenders' rights or priorities in the Mortgaged Property.

## 2.4 Taxes and Other Charges.

(a) 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 Security Document or the Secured Obligations; provided, however, that Mortgagor may in good faith contest the validity, applicability or amount of any tax, assessment or other charge, if, on or before the due date of the asserted tax, assessment, or other charge, Mortgagor shall obtain an endorsement, in form and substance satisfactory to Agent, to the loan policy of title insurance issued to Agent insuring the lien of this Security Document, insuring over such tax, assessment or other charge and if Mortgagor otherwise complies with any provisions which may be set forth in the Credit Agreement regarding the contest of taxes.

# UNOFFICIAL COPY

(b) Taxes Affecting Agent'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 Agent a tax by reason of its ownership of any or all of the Financing Documents or measured by the principal amount of the Secured Obligations, requires or has the practical effect of requiring Agent to pay any portion of the real estate taxes levied in respect of the Mortgaged Property or 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 Agent or any Lender in respect of the Secured Obligations, this Security Document or the other Financing Documents, the Secured Obligations and all interest accrued thereon shall, upon thirty (30) days' notice, become due and payable forthwith at the option of Agent, 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 Agent or any Lender and does pay such taxes or other sums when due, Agent may not elect to declare due the Secured Obligations by reason of the provisions of this Section 2.4(b).

2.5 Construction and Other Liens. Except as expressly permitted by the Credit Agreement, Mortgagor shall not permit or suffer any construction, 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 except Permitted Encumbrances; provided, however, that Mortgagor may in good faith, by appropriate proceedings, contest the validity, applicability or amount of any asserted lien, if Mortgagor shall first obtain an endorsement, in form and substance satisfactory to Agent, to the loan policy of title insurance issued to Agent insuring the lien of this Security Document, insuring over such asserted lien and if Mortgagor otherwise complies with any provisions which may be set forth in the Credit Agreement regarding the contest of liens.

2.6 Insurance and Condemnation.

(a) Insurance Policies. Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Agent, until the Secured Obligations are paid in full, such policies of insurance as are required by the Credit Agreement.

(b) Adjustment of Loss; Application of Proceeds. Except as otherwise may be provided by the Credit Agreement, Agent is hereby authorized and empowered, in its reasonable business judgment, 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. Mortgagor hereby irrevocably appoints Agent as its attorney-in-fact for the purposes set forth in the preceding sentence. The entire amount of such proceeds, award or compensation shall be applied as provided in the Credit Agreement.

(c) Condemnation Awards. Subject to the terms of the Credit Agreement, Agent, as agent for the Lenders, shall be entitled to all compensation, awards, damages,

# UNOFFICIAL COPY

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, but in any case not in an amount in excess of the Secured Obligations. Subject to the terms of the Credit Agreement, Agent 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 Agent as its attorney-in-fact for the purposes set forth in the preceding sentence. In the event that Mortgagor acquires any real estate to replace all or any portion of the Mortgaged Property which became subject to any such action or proceeding, Mortgagor shall execute and deliver to Agent a mortgage covering such replacement property, which mortgage shall be in substantially the same form as this Security Document, and Mortgagor shall deliver to Agent a survey and a title insurance policy and such other items in connection with such replacement property as Agent may reasonably require, all in form and substance reasonably satisfactory to Agent.

(d) Obligation to Repair. 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 2.6(c), Mortgagor shall promptly and with all due diligence restore and repair, to the extent required by and in accordance with the Credit Agreement, the Mortgaged Property whether or not the proceeds, award or other compensation are made available to Mortgagor or are sufficient to pay the cost of such restoration or repair.

2.7 Agent May Pay; Default Rate. Upon Mortgagor's failure to pay any amount required to be paid by Mortgagor under any provision of this Security Document within the time period set forth in the Credit Agreement, Agent may pay the same. Mortgagor shall pay to Agent immediately upon demand the amount so paid by Agent together with interest at the default rate of interest set forth in the Credit Agreement and the amount so paid by Agent, together with interest, shall be added to the Secured Obligations.

2.8 Care of the Mortgaged Property. Mortgagor shall be responsible for preserving and maintaining the Mortgaged Property in good operating condition. Mortgagor shall not, without the prior written consent of Agent, permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or of any part thereof.

2.9 Transfer or Encumbrance of the Mortgaged Property. Except as permitted by the Credit Agreement, Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease or encumbrance of the Mortgaged Property, any part thereof, or any interest therein, without the prior written consent of Agent having been obtained.

# UNOFFICIAL COPY

2.10 Further Assurances. At any time and from time to time, upon Agent's request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Agent, 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 Agent, any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Agent may consider reasonably necessary in order to effectuate or perfect, or to continue and preserve the Secured Obligations under, this Security Document.

2.11 Assignment of Rents.

(a) As additional security for the payment of the Indebtedness and payment and performance of all Secured Obligations, Mortgagor hereby assigns to Agent, for its benefit and the benefit of the Lenders, all of Mortgagor's right, title and interest in and to the Leases, but without Agent thereby becoming liable for the performance of the lessor's obligations under the Leases. The assignment of rents, income and other benefits contained in Section 1.1 of this Security Document shall be absolute and effective immediately as of the date hereof, and fully operative without any further action on the part of either party. Notwithstanding the foregoing, Mortgagor shall have a license to receive, collect and enjoy the Rents until the occurrence of an Event of Default hereunder. Upon the occurrence of an Event of Default that continues beyond any applicable notice and cure period, the aforesaid license shall cease automatically, without notice, possession, foreclosure or any other act or procedure, the right of Mortgagor to receive, collect and enjoy the Rents shall belong exclusively to Agent, and all Rents assigned by this Security Document shall thereafter be paid directly to Agent. Such rights and this assignment shall be operative during any period of redemption following foreclosure. In the event of any sale or foreclosure which shall result in a deficiency, this assignment shall stand as security during the redemption period for the payment of such deficiency. Mortgagor hereby further grants to Agent, for its benefit and for the benefit of the Lenders, the right effective upon the occurrence of an Event of Default, and so long as the Event of Default exists and during the pendency of any foreclosure proceedings and period of redemption to do any or all of the following, at Agent's option: (i) enter upon and take possession of the Mortgaged Property either personally or through a receiver for the purpose of collecting the Rents; (ii) dispossess by the usual summary proceedings any tenant defaulting in the payment thereof to Agent; (iii) lease the Mortgaged Property or any part thereof; (iv) repair, restore and improve the Mortgaged Property; and (v) apply the Rents after payment of certain expenses and capital expenditures relating to the Mortgaged Property, on account of the Secured Obligations in such order and manner as Agent may elect. Such assignment and grant shall continue in effect until the Secured Obligations are paid in full, the execution of this Security Document constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Mortgaged Property by Agent and to the appointment of a receiver if requested by Agent pursuant to such grant, whether or not foreclosure proceedings have been instituted. Neither the exercise of any rights under this section by Agent nor the application of any such Rents to payment of the Secured Obligations shall cure or waive any Event of Default or notice provided for hereunder, or invalidate any act done pursuant hereto or pursuant to any

# UNOFFICIAL COPY

such notice, but shall be cumulative of all other rights and remedies. This assignment is given as collateral security only and shall not be construed as obligating Agent to perform any of the covenants or undertakings required to be performed by Mortgagor contained in the Leases. No action taken by Agent hereunder shall make Agent a "mortgagee-in-possession" or obligate Agent to attempt to collect rent or other amounts from any tenant or to perform any obligations of landlord under any of the Leases.

(b) Mortgagor shall not permit Rents under any of the Leases to be collected more than thirty (30) days in advance of the due date thereof and, upon any receiver, Agent, anyone claiming by, through or under Agent or any purchaser at a foreclosure sale coming into possession of the Mortgaged Property, no tenant shall be given credit for any rent paid more than thirty (30) days in advance of the due date thereof.

2.12 After-Acquired Property. To the extent permitted by, and subject to, applicable law, the lien of this Security Document 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.

2.13 Leases Affecting Mortgaged Property. Mortgagor shall comply with and perform in a complete and timely manner all of its obligations as landlord under the Leases. The assignment contained in Sections 1.1(e) and 1.1(f) shall not be deemed to impose upon Agent any of the obligations or duties of the landlord or Mortgagor provided in any of the Leases.

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

2.15 Reserved.

2.16 Expenses. In the event of foreclosure hereof, Agent shall be entitled to add to the Secured Obligations found to be due by the court a reasonable estimate of expenses to be incurred by or on behalf of Agent in connection therewith after entry of the decree of foreclosure.

2.17 Reserved.

2.18 Security Agreement.

(a) This Security Document shall also constitute a Security Agreement, as that term is used in the Code, with respect to any portion of the Mortgaged Property which are now or hereafter deemed to be personal property, fixtures or property other than real estate and all replacements, additions and substitutions thereto (the "UCC Collateral"). Mortgagor hereby grants a security interest and assigns to Agent, for its benefit and the benefit of the Lenders in all of Mortgagor's right, title and interest in and to the UCC Collateral to secure the payment of the indebtedness secured by and the performance of the

# UNOFFICIAL COPY

Secured Obligations. Agent shall have, in addition to the rights and remedies granted to Agent under this Security Document, all of the rights and remedies of a secured party under the Code with respect to the UCC Collateral and Mortgagor hereby agrees that in the event Agent shall exercise any right or remedy under the Code following a default by Mortgagor under this Security Document, whether to dispose of the UCC Collateral or otherwise, ten (10) days' notice by Agent to Mortgagor shall be deemed to be reasonable notice under any provision of the Code requiring such notice. Mortgagor shall, immediately upon request by Agent, execute and deliver to Agent, in a form prescribed by Agent, any financing statement, continuation statement, certificate or other document covering all or any portion of the UCC Collateral designated by Agent that, in the opinion of Agent, may be required to perfect, continue, affirm or otherwise maintain the existence and priority of the security interest in the UCC Collateral created under this Security Document. Mortgagor, if requested by Agent, shall also execute and deliver to Agent a Security Agreement covering the UCC Collateral and containing such covenants, conditions and agreements in addition or as a supplement to those contained in this Security Document as may be reasonably requested by Agent. Upon an Event of Default, Mortgagor shall gather all of the Mortgaged Property which is UCC Collateral, at a location designated by Agent for sale pursuant to the terms hereof.

(b) Agent shall have all the rights, remedies and recourses with respect to the UCC Collateral, Leases and Rents afforded a secured party by the Code, now or hereafter in effect, in addition to, and not in limitation of, the other rights, remedies and recourses afforded by the Financing Documents and at law.

(c) The assignment and security interest herein granted shall not be deemed or construed to constitute Agent as a trustee in possession of the Mortgaged Property, to obligate Agent to operate the Mortgaged Property or attempt to do the same, or take any action, incur expenses or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

2.19 Fixture Filing. This Security Document shall be effective from the date of its recording as a financing statement filed as a "fixture filing", as that term is used in the Code, with respect to all goods constituting part of the Mortgaged Property which are or are to become fixtures. The mailing address of Mortgagor, as debtor, and the address of Lender, as secured party, from which information concerning the security interests may be obtained are set forth above. Mortgagor's organizational identification number is 05096928.

## ARTICLE THREE DEFAULTS

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

(a) The failure by Mortgagor to keep, perform, or observe any covenant, condition or agreement on the part of Mortgagor in any of Section 2.4 and Section 2.6 of this Security Document.

# UNOFFICIAL COPY

(b) The failure by Mortgagor to keep, perform or observe any covenant, condition or agreement on the part of Mortgagor in this Security Document, other than as set forth in clause (a) above, which failure continues for more than thirty (30) days after the earlier of the date on which Mortgagor knew of such failure or the date that Mortgagor received notice from Agent of such failure; provided, however, in the case of a default of a covenant, condition or agreement which is capable of cure but cannot reasonably be cured within such thirty (30) day period, and provided Mortgagor shall have given Agent a written undertaking to, and shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for an additional thirty (30) days; and provided further that if a different notice or grace period is specified under Section 11.1 of the Credit Agreement (or elsewhere in this Security Document or the Credit Agreement) after which such particular breach will become an Event of Default, the specific provision elsewhere in this Security Document or in the Credit Agreement shall control.

(c) The occurrence of an "Event of Default" under and as defined in the Credit Agreement or event of default under any of the other Financing Documents.

(d) The failure by Mortgagor to keep, perform or observe any covenant, condition or agreement on the part of Mortgagor within any applicable notice and cure period in connection with that certain Environmental Indemnity Agreement of even date herewith made by Mortgagor and Guarantors (as defined in the Credit Agreement) in favor of Agent and Lenders.

## ARTICLE FOUR REMEDIES

4.1 Acceleration of Maturity. If an Event of Default shall have occurred, Agent may declare the Indebtedness and Secured Obligations to be immediately due and payable, without further demand or notice.

4.2 Agent's Power of Enforcement.

(a) If an Event of Default shall have occurred, Agent may, either with or without entry or taking possession as provided in this Security Document or otherwise, and without regard to whether or not the Secured Obligations shall have been accelerated, and without prejudice to the right of Agent thereafter to bring an action of foreclosure or any other action for any Event of Default existing at the time such earlier action was commenced or arising thereafter, proceed by any appropriate action or proceeding: (i) to enforce the payment or performance of the Secured Obligations; (ii) to foreclose this Security Document through judicial proceedings or by advertisement and to have sold either as a whole or in parcels, as Agent shall elect, the Mortgaged Property; and (iii) to pursue any other remedy available to it. Agent may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Agent may determine. Mortgagor agrees that Agent may elect to foreclose and select any redemption period authorized by law.

# UNOFFICIAL COPY

(b) Upon the occurrence of an Event of Default, in accordance with applicable law, Agent shall have the option and is hereby authorized and empowered to enforce this Security Document and to commence foreclosure proceedings against the Mortgaged Property through judicial proceedings or by advertisement, pursuant to the statutes in such case made and provided, and to sell the Mortgaged Property or to cause the same to be sold at public sale, and to convey the same to the purchaser, in accordance with said statutes in a single parcel or in several parcels. The commencement of foreclosure proceedings by Agent shall be deemed an exercise of its option to accelerate the Secured Obligations, unless the proceedings on its face specifically indicates otherwise. It is intended hereby to give Agent the widest possible discretion permitted by law with respect to all aspects of any such sale or sales. The sale or sales by Agent of less than the whole of the Mortgaged Property shall not exhaust the power of sale herein granted, and Agent is specifically empowered to make successive sale or sales under such power until the whole of the Mortgaged Property shall be sold; and if the proceeds of such sale or sales of less than the whole of the Mortgaged Property shall be less than the aggregate of the Secured Obligations and the expenses thereof, this Security Document and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property just as though no sale or sales had been made; provided, however, that Mortgagor shall never have any right to require the sale or sales of less than the whole of the Mortgaged Property, but Agent shall have the right, at its sole election, to sell less than the whole of the Mortgaged Property. If sale is made because of a default in the payment of a portion of the Secured Obligations, such sale may be made subject to the unmatured part of the Secured Obligations; and it is agreed that such sale, if so made, shall not in any manner affect the unmatured part of the Secured Obligations, but as to such unmatured part, this Security Document shall remain in full force and effect as though no sale had been made hereunder without exhausting the right of sale for any unmatured part of the Secured Obligations. At any such sale (i) Mortgagor hereby agrees, on its behalf and on behalf of its heirs, executors, administrators, successors, personal representatives and assigns, that any and all recitals made in any deed of conveyance given by Agent with respect to the identity of Agent, the occurrence or existence of any Event of Default, the acceleration of the maturity of the Secured Obligations, the request to sell, the notice of sale, the giving of notice to all debtors legally entitled thereto, the time, place, terms, and manner of sale, and receipt, distribution and application of the money realized therefrom, or the due and proper appointment of a substitute agent, and, without being limited by the foregoing, with respect to any other act or thing having been duly done by Agent or by Agent hereunder, shall be taken by all courts of law and equity as prima facie evidence that the statements or recitals state facts and are without further question to be so accepted, and Mortgagor hereby ratifies and confirms every act that Agent may lawfully do in the premises by virtue hereof; (ii) the purchaser may disaffirm any easement granted, or rental, lease or other contract made, in violation of any provision of this Security Document, and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such grant of easement and rental or lease contract; and, (iii) Agent may bid and become the purchaser of all or any part of the Mortgaged Property at any foreclosure sale hereunder. Subject to applicable law, power is hereby granted to Agent, if default is made in the payment of the Secured Obligations or any part thereof, or in the payment of any other sums provided for herein, or



# UNOFFICIAL COPY

in the performance of any covenants or condition of the Secured Obligations or as provided herein, in each case after the expiration of any applicable grace or cure period, to grant, bargain, sell, release and convey the Mortgaged Property at public auction or venue, and on such sale to execute and deliver to the purchaser or purchasers, his, her, its or their heirs, successors and assigns, good ample and sufficient deed or deeds of conveyance in law, pursuant to the statute in such case made and provided, and to apply the proceeds of such sale in the manner hereafter provided.

(c) Upon foreclosure sale of the Mortgaged Property or any part thereof, the proceeds of such sale shall be applied in the following order:

- (i) to the payment of all costs of the suit or foreclosure, including reasonable attorneys' fees and the costs of title searches and abstracts;
- (ii) then, to the payment of all other expenses of Agent, including all monies expended by Agent and all other amounts payable by Mortgagor to Agent hereunder, with interest thereon;
- (iii) then, to the payment of the Secured Obligations; and
- (iv) then, to the payment of the surplus, if any, to Mortgagor or to whomsoever shall be entitled thereto.

(d) Upon any foreclosure sale of the Mortgaged Property, as same may be sold either as a whole or in parcels, as Agent may elect, and if in parcels, the same be divided as Agent may elect, and at the election of Agent may be offered first in parcels and then as a whole, that offer producing the highest price for the entire Mortgaged Property to prevail, any law, statutory or otherwise, to the contrary notwithstanding, and Mortgagor hereby waives the right to require any such sale to be made in a single or separate parcel or the right to select such parcels. Mortgagor hereby expressly waives any right pertaining to the marshalling of assets, the exemption of homestead, the administration of estates of decedents, or other matter to defeat, reduce or affect the right of Agent to sell the Mortgaged Property for the collection of the Secured Obligations (without any prior or different resort for collection), or the right of Agent to the payment of the Secured Obligations out of the proceeds of sale of the Mortgaged Property in preference to every other person and claimant.

(e) WAIVER OF DEFENSES; JURY TRIAL; FORUM; VENUE. MORTGAGOR, ON BEHALF OF ITSELF AND ANY GUARANTORS OF ANY OF THE OBLIGATIONS, TO THE EXTENT PERMITTED BY LAW, WAIVES EVERY PRESENT AND FUTURE DEFENSE, CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH MORTGAGOR MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY AGENT IN ENFORCING THIS SECURITY DOCUMENT EXCEPT ARISING FROM AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION. TO THE EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGOR WAIVES ANY IMPLIED COVENANT OF GOOD FAITH AND RATIFIES AND CONFIRMS

# UNOFFICIAL COPY

WHATEVER AGENT MAY DO PURSUANT TO THE TERMS OF THIS SECURITY DOCUMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR AGENT AND LENDERS GRANTING ANY FINANCIAL ACCOMMODATION TO MORTGAGOR. AGENT AND MORTGAGOR, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, EACH KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE IRREVOCABLY, THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS SECURITY DOCUMENT, THE NOTE OR ANY OF THE OTHER OBLIGATIONS, THE COLLATERAL, OR ANY OTHER AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS SECURITY DOCUMENT, OR ANY COURSE OF CONDUCT OR COURSE OF DEALING IN WHICH AGENT AND MORTGAGOR ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR AGENT AND LENDERS GRANTING ANY FINANCIAL ACCOMMODATION TO MORTGAGOR. TO INDUCE AGENT AND LENDERS TO MAKE THE LOANS, MORTGAGOR IRREVOCABLY AGREES THAT ALL ACTIONS ARISING, DIRECTLY OR INDIRECTLY, AS A RESULT OR CONSEQUENCE OF THIS SECURITY DOCUMENT, THE NOTE, ANY OTHER AGREEMENT WITH AGENT AND LENDERS OR THE COLLATERAL, SHALL BE INSTITUTED AND LITIGATED ONLY IN COURTS HAVING THEIR SITUS IN THE CITY OF CHICAGO, STATE OF ILLINOIS. MORTGAGOR HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT HAVING ITS SITUS IN SAID CITY, AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS. MORTGAGOR HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO MORTGAGOR AS SET FORTH HEREIN IN THE MANNER PROVIDED BY APPLICABLE STATUTE, LAW, RULE OF COURT OR OTHERWISE.

#### 4.3 Agent's Right to Enter and Take Possession, Operate and Apply Income.

(a) If an Event of Default shall have occurred, (i) Mortgagor, upon demand of Agent, shall forthwith surrender to Agent the actual possession of the Mortgaged Property, and to the extent permitted by law, Agent 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 the agents and employees of Mortgagor wholly therefrom and shall have joint access with Mortgagor to the books, papers and accounts of Mortgagor; and (ii) notwithstanding the provisions of any of the Leases or other agreements to the contrary, Mortgagor shall pay monthly in advance to Agent, on Agent's entry into possession, or to any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Mortgaged Property as may be in possession of Mortgagor, or any entity affiliated with or controlled by Mortgagor, and upon default in any such payment Mortgagor shall vacate and surrender possession of such part of the Mortgaged Property to Agent or to such receiver, and in default thereof Mortgagor may be evicted by summary proceedings or otherwise.

# UNOFFICIAL COPY

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

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

4.4 Leases. If Agent so elects, Agent is authorized to foreclose this Security Document prior to or subject to the rights, if any, of any or all tenants of the Mortgaged Property.

4.5 Purchase by Agent. Upon any foreclosure sale, Agent or any Lender may bid for and purchase all or any portion of the Mortgaged Property.

4.6 Application of Secured Obligations Toward Purchase Price. Upon any foreclosure sale, Agent may apply any or all of the Secured Obligations and other sums due under the Credit Agreement, the Note, this Security Document or any other Financing Documents to the price paid by Agent at the foreclosure sale.

4.7 Waiver of Appraisalment, Valuation, Stay and Extension Laws. 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, appraisalment, 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 Security Document or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after the expiration of the redemption period. 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 Agent or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety. Further, Mortgagor waives any right otherwise available to require Agent to pursue its remedies against any other assets or any other person or entity who or which may be liable for any of the Secured Obligations.

4.8 Receiver – Agent in Possession. If an Event of Default shall have occurred, Agent, to the extent permitted by law and without regard to the value of the Mortgaged Property or the adequacy of the security for the Secured Obligations and other sums secured hereby, shall be entitled as a matter of right and without any additional showing or proof, at Agent's election, to either the appointment by the court of a receiver (without the necessity of Agent posting a bond) to enter upon and take possession of the Mortgaged Property and to

# UNOFFICIAL COPY

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.

4.9 Mortgagor to Pay the Secured Obligations in Event of Default. Upon occurrence of an Event of Default, Agent shall be entitled to sue for and to recover judgment against Mortgagor for the Secured Obligations due and unpaid together with costs and expenses, including the reasonable compensation, expenses and disbursements of Agent's agents, attorneys and other representatives, either before or during the pendency of any proceedings for the enforcement of this Security Document; and the right of Agent 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 Security Document, or the foreclosure of the lien hereof.

4.10 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Agent by the Credit Agreement, this Security Document or any other Financing Document or any instrument evidencing or securing the Secured Obligations 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 Credit Agreement or any other Financing Document or any instrument evidencing or securing the Secured Obligations, or now or hereafter existing at law, in equity or by statute.

## ARTICLE FIVE MISCELLANEOUS PROVISIONS

5.1 Heirs, Successors and Assigns Included in Parties. Whenever Mortgagor or Agent 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 Security Document 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 Agent.

5.2 Notices. All notices, requests, reports, demands or other instruments required or contemplated to be given or furnished under this Security Document to Mortgagor or Agent shall be directed to Mortgagor or Agent, as the case may be, in the manner and at the addresses for notice set forth in the Credit Agreement.

5.3 Headings. The headings of the articles, sections, paragraphs and subdivisions of this Security Document 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.

5.4 Invalid Provisions. In the event that any of the covenants, agreements, terms or provisions contained in this Security Document shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions

# UNOFFICIAL COPY

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.

5.5 Changes. Neither this Security Document nor any term hereof may be released, changed, waived, modified, amended, extended, 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, modification, amendment, extension, discharge or termination is sought.

5.6 Governing Law. The validity and interpretation of this Security Document, including with respect to the creation, perfection, priority and enforcement of the lien and security interest created hereunder, shall be governed by and in accordance with the internal laws of the State of Illinois.

5.7 Limitation of Interest. The provisions of the Credit Agreement regarding the payment of lawful interest are hereby incorporated herein by reference.

5.8 Last Dollar. The lien of this Security Document shall remain in effect until the last dollar of the Secured Obligations is paid in full and all of Mortgagor's obligations under the Credit Agreement have been terminated.

5.9 Release. In accordance with the terms and conditions of the Credit Agreement and upon full payment and satisfaction of the Secured Obligations and the termination of all Mortgagor's obligations under the Credit Agreement, Agent shall issue to Mortgagor an appropriate release or satisfaction in recordable form.

5.10 Time of the Essence. Time is of the essence with respect to this Security Document and all the provisions hereof.

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

5.12 Excess Interest. If it is determined that Mortgagor shall have paid or there shall have accrued interest on the indebtedness secured by this Security Document in an amount in excess of that permitted by law, such excess shall, to the extent required by law and otherwise at the option of Agent, either be applied to reduce the unpaid indebtedness secured by this Security Document or be refunded to Mortgagor.

5.13 Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

# UNOFFICIAL COPY

5.14 Entire Agreement. This Security Document and the other Financing Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written between Mortgagor and Agent are superseded by the terms of this Security Document and the other Financing Documents.

5.15 Limitation on Agent's Responsibility. No provision of this Security Document shall operate to place any obligation or liability for the control, care, management or repair of the Mortgaged Property upon Agent, nor shall it operate to make Agent responsible or liable for any waste committed on the Mortgaged Property by the tenants or any other Person, or for any dangerous or defective condition of the Mortgaged Property, or for any negligence in the management, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Agent a "mortgagee in possession."

5.16 Joint and Several Liability. If Mortgagor consists of more than one person, each shall be jointly and severally liable for the faithful performance of all of Mortgagor's obligations under this Security Document and the other Financing Documents.

5.17 Merger. No merger shall occur as a result of Agent or Lenders acquiring any other estate in or any other lien on the Mortgaged Property unless Agent or such Lenders consent to a merger in writing.

5.18 Future Advances. This Security Document is given to secure not only the existing Secured Obligations, but also any Secured Obligations incurred on or after the date hereof, including but not limited to any future advances (whether such advances are obligatory or are made at the option of Agent, or otherwise) made by Agent and/or the Lenders under the Note or this Security Document, to the same extent as if such future advances were made on the date of the execution of this Security Document. The total amount of Secured Obligations secured hereby may increase or decrease from time to time, but the total unpaid principal balance of indebtedness secured hereby (including disbursements that the Agent may, but shall not be obligated to, make under this Security Document, the Financing Documents or any other document with respect hereto) at any one time outstanding may be substantially less but shall not exceed two (2) times the aggregate face amount of the Note. This Security Document shall be valid and have priority to the extent of the maximum amount secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Mortgaged Property given priority by law.

## ARTICLE SIX STATE SPECIFIC PROVISIONS

6.1 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this ARTICLE SIX and the terms and conditions of this Security Document, the terms and conditions of this ARTICLE SIX shall control and be binding.

# UNOFFICIAL COPY

6.2 Remedies. In addition to the rights and remedies provided in ARTICLE FOUR hereof, Agent shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et seq., Illinois Revised Statutes (as such law may be amended, restated or replaced (the "Act"), to be placed in possession of the Mortgaged Property or at its request to have a receiver appointed, and such receiver, or Agent, if and when placed in possession, shall have, in addition to any other powers provided in this Security Instrument, all powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1702 of the Act.

6.3 Receiver – Lender in Possession. Upon the occurrence of an Event of Default, Agent, to the extent permitted by law and without regard to the value of the Mortgaged Property or the adequacy of the security for the Obligations and other sums secured hereby, shall be entitled as a matter of right and without any additional showing or proof, at Agent's election, to either the appointment by the court of a receiver (without the necessity of Agent 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. Agent shall be liable to account only for such rents, income and other benefits actually received by Agent. Notwithstanding the appointment of any receiver or other custodian, Agent 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 Security Instrument to Agent and/or Lenders. Any such receiver shall have all of the rights and powers described in Section 15-1704 of the Act.

6.4 Leases. Agent is authorized to foreclose this Security Instrument 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 Security Instrument. Agent may elect to foreclose the rights of some subordinate tenants while foreclosing subject to the rights of other subordinate tenants.

6.5 Waiver of Redemption Laws. Mortgagor acknowledges that the transaction of which this Security Instrument is a part is a transaction which includes neither agricultural real estate, as defined in Section 15-1201 of the Act, nor residential real estate, as defined in Section 15-1219 of the Act, and to the full extent permitted by law, Mortgagor hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 15-1601 of the Act.

6.6 Expenses. Without limiting the generality of Section 6.3 hereof, all expenses incurred by Agent 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

# UNOFFICIAL COPY

enumerated in this Security Instrument, shall be included in the Indebtedness or added to the judgment of foreclosure.

## 6.7 Protective Advances.

(A) All advances, disbursements and expenditures made by Agent before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Security Instrument or by the Act (collectively, "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act herein below referred to:

(1) all advances by Agent in accordance with the terms of this Security Instrument to: (A) preserve or maintain, repair, restore or rebuild the improvements upon the mortgaged real estate; (B) preserve the lien of this Security Instrument or the priority thereof; or (C) enforce this Security Instrument, as referred to in Subsection (b)(5) of Section 5/15-1302 of the Act;

(2) payments by Agent of: (A) installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (B) installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Mortgaged Property or any part thereof; (C) other obligations authorized by this Security Instrument; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the Act;

(3) advances by Agent in settlement or compromise of any claims asserted by claimants under any senior mortgages or any other prior liens;

(4) reasonable attorneys' fees and other costs incurred: (A) in connection with the foreclosure of this Security Instrument as referred to in Sections 1504 (d)(2) and 5/15-1510 of the Act; (B) in connection with any action, suit or proceeding brought by or against Agent for the enforcement of this Security Instrument or arising from the interest of Agent hereunder; or (C) in the preparation for the commencement or defense of any such foreclosure or other action related to this Security Instrument or the Mortgaged Property;

(5) Agent's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the



# UNOFFICIAL COPY

confirmation hearing as referred to in Subsection (b)(1) of Section 5/15-1508 of the Act;

(6) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 5/15-1512 of the Act;

(7) expenses incurred and expenditures made by Agent for any one or more of the following: (A) premiums for casualty and liability insurance paid by Agent whether or not Lender or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or the Agent takes possession of the Mortgaged Property imposed by Subsection (c)(1) of Section 5/15-1704 of the Act; (B) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; and (C) payments required or deemed by Agent to be for the benefit of the Property or required to be made by the owner of the mortgaged real estate under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Property.

(B) All Protective Advances shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the default rate of interest set forth in the Credit Agreement.

(C) This Security Instrument shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Security Instrument is recorded pursuant to Subsection (b)(5) of Section 5/15-1302 of the Act.

(1) All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in the:

(2) determination of the amount of obligations secured by this Security Instrument at any time;

(3) amount found due and owing to Agent in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional amount becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

# UNOFFICIAL COPY

(4) if the right of redemption has not been waived by Mortgagor, computation of amount required to redeem, pursuant to Subsections (d)(1) and (2) of Section 5/15-1603 of the Act;

(5) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Act;

(6) application of income in the hands of any receiver or mortgagee in possession; and

(7) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Section 5/15-1508 and Section 5/15-1511 of the Act.

6.8 Business Loan. Mortgagor acknowledges and agrees that (a) the proceeds of the Loan will be used in conformance with subparagraph (1)(l) of Section 4 of "An Act in relation to the rate of interest and other charges in connection with sales on credit and the lending of money," approved May 24, 1879, as amended (815 ILCS 205/4 (1)(l)); and (b) the Loan constitutes a business loan which comes within the purview of said Section 4 (815 ILCS 205/4 *et seq.*).

6.9 Collateral Protection Act. Unless Mortgagor provides Agent with evidence of the insurance coverage required by this Security Instrument, Agent may purchase insurance at Mortgagor's expense to protect Lender's interests in the Mortgaged Property. This insurance may, but need not, protect Mortgagor's interest. The coverage that Agent purchases may not pay any claim that Mortgagor may make or any claim that is made against Mortgagor in connection with the Mortgaged Property. Mortgagor may later cancel any insurance purchased by Agent, but only after providing Agent with evidence that Mortgagor has obtained insurance as required by this Security Instrument. If Agent purchases insurance for the Mortgaged Property, Mortgagor will be responsible for the costs of such insurance, including interest and any other charges that may be imposed in connection with the placement of such insurance, until the effective date of the cancellation or expiration of such insurance. Without limitation of any other provision of this Security Instrument, the cost of such insurance shall be added to the indebtedness secured hereby. The cost of the insurance may be more than the cost of insurance Mortgagor may be able to obtain on its own.

**[NO FURTHER TEXT ON THIS PAGE]**

# UNOFFICIAL COPY

IN WITNESS WHEREOF, this Security Document has been executed by Mortgagor as of the day and year first above written.

WOODFIELD HOSPITALITY, LLC, an Illinois limited liability company

By: T2FE VENTURES, LLC, an Illinois limited liability company, its Manager

By: FEPH WOODFIELD HOSPITALITY, LLC, an Illinois limited liability company, its Manager

By: Tim Stalls  
Name: TIM CALAGE-HALL  
Title: Manager

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF Illinois )  
 )  
COUNTY OF Cook )

SS:

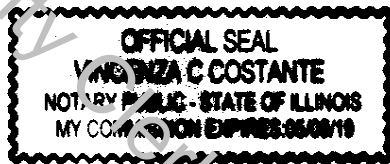
I, Vincenza C. Costante a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Timothy P. Balogh Manager of FEPH WOODFIELD HOSPITALITY, LLC, an Illinois limited liability company, as Manager of T2FE VENTURES, LLC, an Illinois limited liability company, as Manager of WOODFIELD HOSPITALITY, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Timothy P. Balogh appeared before me this day in person and acknowledged that (he/she) signed and delivered the said instrument as (his/her) own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20 day of August, 2015.

Vincenza C. Costante  
Notary Public

My Commission Expires:

5/8/19



# UNOFFICIAL COPY

## EXHIBIT A

### (Legal Description)

Real property in the City of Schaumburg, County of Cook, State of Illinois, described as follows:

#### PARCEL 1:

THAT PART OF THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTHERLY OF THE NORTHERLY LINE OF GOLF ROAD, AS WIDENED AS SHOWN ON DOCUMENT 20885775, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF GOLF ROAD, AFORESAID, AND A LINE 68.43 FEET EAST (AS MEASURED ALONG THE SOUTH LINE THEREOF) OF THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12; THENCE WESTERLY ALONG THE NORTHERLY LINE OF GOLF ROAD, 68.43 FEET TO AN ANGLE POINT IN SAID ROAD; THENCE CONTINUE WESTERLY, ALONG THE NORTHERLY LINE THEREOF, 510.23 FEET TO ITS INTERSECTION, WITH A LINE DRAWN AT RIGHT ANGLES TO THE SOUTH LINE OF THE SAID SOUTH EAST 1/4, THROUGH A POINT 508.96 FEET WEST (AS MEASURED ALONG THE SOUTH LINE THEREOF) OF THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SECTION 12, AFORESAID; THENCE NORTHERLY ALONG THE LAST RIGHT ANGLE LINE, HEREIN DESCRIBED, 1240.38 FEET TO ITS INTERSECTION WITH THE NORTH LINE OF THE SOUTH 1364.64 FEET OF THE SOUTH EAST 1/4 OF SECTION 12, AFORESAID; THENCE EASTERLY ALONG THE SAID LINE, 587.42 FEET TO ITS INTERSECTION, WITH THE HEREINBEFORE MENTIONED LINE, 68.43 FEET EAST OF THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SECTION 12; THENCE SOUTHERLY, ALONG THE SAID LINE, 1224.67 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

EXCEPTING FROM THE FOREGOING, THE FOLLOWING DESCRIBED PORTION THEREOF DEDICATED FOR ROADWAY AND LIKE PURPOSES PURSUANT TO PLAT OF DEDICATION RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, COOK COUNTY, ILLINOIS, AS DOCUMENT NO. 25489772, TO WIT:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF THE SOUTH 291.0 FEET OF THE SOUTH EAST 1/4, AFORESAID, AND A LINE 68.43 FEET EAST (AS MEASURED ALONG THE SOUTH LINE THEREOF) OF THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12; THENCE NORTHERLY ALONG THE LAST DESCRIBED

# UNOFFICIAL COPY

LINE TO THE NORTH LINE OF THE SOUTH 357.00 FEET OF THE SOUTH EAST 1/4, AFORESAID; THENCE WESTERLY ALONG SAID LINE TO ITS INTERSECTION WITH A LINE DRAWN AT RIGHT ANGLES TO THE SOUTH LINE OF SAID SOUTH EAST 1/4 THROUGH A POINT 248.33 FEET WEST (AS MEASURED ALONG THE SOUTH LINE THEREOF) OF THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SECTION 12, AFORESAID; THENCE SOUTHERLY ALONG THE LAST RIGHT ANGLE LINE HEREIN DESCRIBED 224.70 FEET TO THE AFOREMENTIONED NORTH LINE OF GOLF ROAD; THENCE EASTERLY ALONG SAID NORTH LINE OF GOLF ROAD TO ITS INTERSECTION WITH A LINE DRAWN AT RIGHT ANGLES TO THE SOUTH LINE OF SAID SOUTH EAST 1/4 THROUGH A POINT 148.33 FEET WEST (AS MEASURED ALONG THE SOUTH LINE THEREOF) OF THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12; THENCE NORTHERLY ALONG THE LAST RIGHT ANGLE LINE HEREIN DESCRIBED 155.61 FEET TO THE NORTH LINE OF THE SOUTH 291 FEET, AFORESAID; THENCE EASTERLY ALONG SAID LINE TO THE POINT OF BEGINNING; IN COOK COUNTY, ILLINOIS.

## PARCEL 2:

EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CREATED BY RECIPROCAL GRANT OF ROADWAY EASEMENTS RECORDED NOVEMBER 25, 1981 IN THE OFFICE OF THE RECORDER OF DEEDS, COOK COUNTY, ILLINOIS AS DOCUMENT NO. 26070571, AND RE-RECORDED NOVEMBER 30, 1981 AS DOCUMENT NO. 26072946 IN, ON, OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

## EASEMENT PARCEL "E":

AN EASEMENT, 24.00 FEET IN WIDTH, IN THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, OF WHICH THE CENTER LINE IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 80.43 FEET; THENCE NORTH 00 DEGREES, 25 MINUTES, 17 SECONDS EAST ALONG A LINE 80.43 FEET EAST (AS MEASURED AFORESAID) OF AND PARALLEL WITH THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12, A DISTANCE OF 357.01 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 357.00 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12 (ALSO BEING THE NORTH RIGHT OF WAY LINE OF THE PUBLIC ROADWAY KNOWN AS HARTLEY ROAD) FOR ITS POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES, 25 MINUTES, 17 SECONDS EAST, A DISTANCE OF 720.29 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 1077.27 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12, 581.58 FEET WEST (AS MEASURED AT RIGHT ANGLES)

# UNOFFICIAL COPY

OF THE EAST LINE OF SAID SECTION 12 FOR ITS POINT OF TERMINATION, ALL IN COOK COUNTY, ILLINOIS.

EASEMENT PARCEL "G":

AN EASEMENT, 24 FEET IN WIDTH, IN THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, OF WHICH THE CENTERLINE IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 80.43 FEET; THENCE NORTH 00 DEGREES, 25 MINUTES, 17 SECONDS EAST ALONG A LINE 80.43 FEET EAST (AS MEASURED AFORESAID) OF AND PARALLEL WITH THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12, A DISTANCE OF 1077.30 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 1077.27 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12 FOR ITS POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES, 25 MINUTES, 17 SECONDS EAST, A DISTANCE OF 163.22 FEET TO A POINT ON A LINE 1240.49 FEET NORTH (AS MEASURED AT RIGHT ANGLES) OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 12 FOR ITS POINT OF TERMINATION, SAID POINT OF TERMINATION ALSO BEING 581.41 FEET WEST (AS MEASURED AT RIGHT ANGLES) OF THE EAST LINE OF SAID SECTION 12, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT OF EASEMENTS FOR SANITARY SEWER AND WATER MAIN, RECORDED NOVEMBER 25, 1981 IN THE OFFICE OF THE RECORDER OF DEEDS, COOK COUNTY, ILLINOIS, AS DOCUMENT NO. 26070572, AND RE-RECORDED NOVEMBER 30, 1981 AS DOCUMENT NO. 26072947 IN, ON, OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

EASEMENT PARCEL "D":

AN EASEMENT, 10.00 FEET IN WIDTH, IN THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, OF WHICH THE CENTER LINE IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 121.16 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 140.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 937.27 FEET OF THE SOUTH 1077.27 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12 (ALSO BEING THE NORTH LINE OF GOLF

# UNOFFICIAL COPY

ROAD AS WIDENED PER DOCUMENT NO. 20885775) FOR ITS POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 151.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 291.00 FEET OF THE SOUTH EAST 1/4 OF SECTION 12 (ALSO BEING THE SOUTH RIGHT OF WAY LINE OF THE PUBLIC ROADWAY KNOWN AS HARTLEY ROAD) 543.78 FEET WEST (AS MEASURED AT RIGHT ANGLES) OF THE EAST LINE OF SAID SECTION 12 FOR ITS POINT OF TERMINATION, ALL IN COOK COUNTY, ILLINOIS.

#### EASEMENT PARCEL "I"

AN EASEMENT, 10.00 FEET IN WIDTH, IN THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, OF WHICH THE CENTER LINE IS DESCRIBED AS FOLLOWS: COMMENCING ON THE SOUTH LINE OF SAID SECTION 12 (SAID SOUTH LINE HAVING A BEARING OF SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST) 144.59 FEET WEST (AS MEASURED ALONG THE SOUTH LINE OF SAID SECTION 12) OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE NORTH 09 DEGREES, 30 MINUTES, 38 SECONDS EAST, A DISTANCE OF 361.97 FEET TO THE POINT ON THE NORTH LINE OF THE SOUTH 357.00 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12 (ALSO BEING THE NORTH RIGHT OF WAY LINE OF THE PUBLIC ROADWAY KNOWN AS HARTLEY ROAD) FOR ITS POINT OF BEGINNING; THENCE CONTINUING NORTH 09 DEGREES, 30 MINUTES, 38 SECONDS EAST, A DISTANCE OF 159.80 FEET; THENCE SOUTH 89 DEGREES, 43 MINUTES, 52 SECONDS EAST, A DISTANCE OF 9.96 FEET TO ITS POINT OF TERMINATION ON THE WESTERLY LINE OF THE PERMANENT EASEMENT TO THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO AS PER DOCUMENT NO. 21391850, SAID POINT OF TERMINATION BEING 514.56 FEET NORTH (AS MEASURED AT RIGHT ANGLES) OF THE SOUTH LINE OF SAID SECTION 12 AND 51.69 FEET WEST (AS MEASURED AT RIGHT ANGLES) OF THE EAST LINE OF SAID SECTION 12, ALL IN COOK COUNTY, ILLINOIS.

#### PARCEL 4:

AN EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CREATED BY RECIPROCAL GRANT OF EASEMENTS FOR STORM SEWER AND WATER DETENTION RECORDED NOVEMBER 25, 1981 IN THE OFFICE OF THE RECORDER OF DEEDS, COOK COUNTY, ILLINOIS AS DOCUMENT NO. 26070573, AND RE-RECORDED NOVEMBER 30, 1981 AS DOCUMENT 26072948 IN, ON, OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

#### EASEMENT PARCEL "A":

AN EASEMENT, 10.00 FEET IN WIDTH, IN THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, OF WHICH THE CENTER LINE IS DESCRIBED AS FOLLOWS:



# UNOFFICIAL COPY

COMMENCING AT A POINT ON THE SOUTH LINE OF SAID SECTION 12 (SAID SOUTH LINE HAVING A BEARING OF SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST) 323.30 FEET WEST (AS MEASURED ALONG SAID SOUTH LINE) OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 251.63 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES, 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 39.37 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 291.00 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12 (ALSO BEING THE SOUTH RIGHT OF WAY LINE OF THE PUBLIC ROADWAY KNOWN AS HARTLEY ROAD) 325.14 FEET WEST (AS MEASURED AT RIGHT ANGLES) OF THE EAST LINE OF SAID SECTION 12 FOR ITS POINT OF TERMINATION, ALL IN COOK COUNTY, ILLINOIS.

## EASEMENT PARCEL "B":

AN EASEMENT, 10.00 FEET IN WIDTH, IN THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, OF WHICH THE CENTER LINE IS DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 68.43 FEET; THENCE NORTH 00 DEGREES, 25 MINUTES, 17 SECONDS EAST ALONG A LINE 68.43 FEET EAST

(AS MEASURED AFORESAID) OF AND PARALLEL WITH THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 12, A DISTANCE OF 699.40 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 25 DEGREES, 22 MINUTES, 50 SECONDS EAST, A DISTANCE OF 74.48 FEET; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 229.30 FEET TO ITS POINT OF TERMINATION ON THE WEST LINE OF EASEMENT PARCEL "C" (HEREINAFTER DESCRIBED), SAID POINT OF TERMINATION BEING 632.09 FEET NORTH (AS MEASURED AT RIGHT ANGLES) OF THE SOUTH LINE OF SAID SECTION 12 AND 332.31 FEET WEST (AS MEASURED AT RIGHT ANGLES) OF THE EAST LINE OF SAID SECTION 12, ALL IN COOK COUNTY, ILLINOIS

## EASEMENT PARCEL "C":

AN EASEMENT, 10.00 FEET IN WIDTH, IN THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, OF WHICH THE CENTER LINE IS DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTH LINE OF SAID SECTION 12 (SAID SOUTH LINE HAVING A BEARING OF SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST) 323.30 FEET WEST (AS MEASURED ALONG THE SOUTH LINE OF SAID SECTION 12) OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF

# UNOFFICIAL COPY

357.00 FEET TO THE POINT ON THE NORTH LINE OF THE SOUTH 357.00 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12 (ALSO BEING THE NORTH RIGHT OF WAY LINE OF THE PUBLIC ROADWAY KNOWN AS HARTLEY ROAD) FOR ITS POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 720.27 FEET TO THE POINT ON THE NORTH LINE OF THE SOUTH 1077.27 FEET OF THE SOUTHEAST 1/4 OF SAID SECTION 12, 330.14 FEET WEST (AS MEASURED AT RIGHT ANGLES) OF THE EAST LINE OF SAID SECTION 12 FOR ITS POINT OF TERMINATION, ALL IN COOK COUNTY, ILLINOIS.

## EASEMENT PARCEL "J":

AN EASEMENT, 10.00 FEET IN WIDTH, IN THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, OF WHICH THE CENTER LINE IS DESCRIBED AS FOLLOWS:

COMMENCING ON THE SOUTH LINE OF SAID SECTION 12 (SAID SOUTH LINE HAVING A BEARING OF SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST) 158.91 FEET WEST (AS MEASURED ALONG THE SOUTH LINE OF SAID SECTION 12) OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 140.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 937.27 FEET OF THE SOUTH 1077.27 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12 (ALSO BEING THE NORTH LINE OF GOLF ROAD AS WIDENED PER DOCUMENT NO. 20885775) FOR ITS POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 35.00 FEET TO A POINT ON A LINE 175.00 FEET NORTH (AS MEASURED AT RIGHT ANGLES) OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 12 FOR ITS POINT OF TERMINATION, SAID POINT OF TERMINATION ALSO BEING 160.02 FEET WEST (AS MEASURED AT RIGHT ANGLES) OF THE EAST LINE OF SAID SECTION 12, ALL IN COOK COUNTY, ILLINOIS.

## EASEMENT PARCEL "K":

AN EASEMENT IN THE SOUTH EAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTH LINE OF SAID SECTION 12 (SAID SOUTH LINE HAVING A BEARING OF SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST) 123.54 FEET WEST (AS MEASURED ALONG THE SOUTH LINE OF SAID SECTION 12) OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE NORTH 06 DEGREES, 39 MINUTES, 12 SECONDS EAST, A DISTANCE OF 140.95 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 937.27 FEET OF THE SOUTH 1077.27 FEET OF THE SOUTH EAST 1/4 OF SAID SECTION 12 (ALSO BEING THE NORTH LINE OF GOLF ROAD AS WIDENED PER DOCUMENT NO. 20885775) AND THE POINT OF BEGINNING; THENCE SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST ALONG THE LAST

# UNOFFICIAL COPY

DESCRIBED LINE, A DISTANCE OF 429.73 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 136.00 FEET TO A POINT 276.00 FEET NORTH OF THE SOUTH LINE OF SAID SECTION 12: THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG A LINE 276.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 445.91 FEET; THENCE SOUTH 06 DEGREES, 39 MINUTES, 12 SECONDS WEST, A DISTANCE OF 136.92 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 5:  
 LOT 3 IN THE WOODFIELD VILLAGE GREEN FIRST SUBDIVISION OF LOT 3 IN WOODFIELD VILLAGE GREEN WOODFIELD-76 SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 AND THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 10, LYING EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS AND PART OF THE FRACTIONAL SOUTHWEST 1/4 OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 11, LYING EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 3, 1998 AS DOCUMENT 98789378, IN COOK COUNTY, ILLINOIS.

PARCEL 6:  
 EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY CROSS EASEMENT AND OPERATING AGREEMENT RECORDED OCTOBER 29, 1981 AS DOCUMENT 26042173 TO PASS ON, OVER OR THROUGH THE "OFFICE SECTION" AS DEFINED THEREIN FOR PURPOSES OF PASSAGE BETWEEN THE HOTEL AND OFFICE BUILDING AND ACCESS TO ANY COMMERCIAL ESTABLISHMENT LOCATED THEREIN FROM TIME TO TIME.

PARCEL 7:  
 EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 3 AS CREATED BY RECIPROCAL ACCESS EASEMENT AGREEMENT RECORDED FEBRUARY 21, 1997 AS DOCUMENT 97120612 FOR THE PURPOSES OF PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS FROM AND TO McCONNOR PARKWAY OVER "EASEMENT AREA 1" AS DEFINED IN EXHIBIT D ATTACHED THERETO AND AS SHOWN ON WOODFIELD VILLAGE GREEN FIRST SUBDIVISION RECORDED SEPTEMBER 3, 1998 AS DOCUMENT 98789378.

PIN #: 07-12-400-010-0000 Vol. 187; 07-12-400-011-0000 Vol. 187; and 07-12-402-016-0000 Vol. 187

Address: 1800 E. Golf Road, Schaumburg, Illinois 60173