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4746A-58A Return to:
THIS INSTRUMENT PREPARED BY:
STEPHEN A. MALATO, ESQ.
77 West Washington Street
Chicago, Illinois 60602

TIC Loan No. 203 612-7
Address: 1751 Lake Cook Road
Deerfield, IL
Tax Nos. 04-06-201-004 and
04-06-201-006

R.P.

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CONSTRUCTION AND LONG-TERM MORTGAGE
AND SECURITY AGREEMENT

THIS CONSTRUCTION AND LONG-TERM MORTGAGE AND SECURITY AGREEMENT made this 29th day of October, 1985 by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee pursuant to Trust Agreement dated August 1, 1984 and known as Trust Number 61840 ("Mortgagor"), in favor of FIRST INTERSTATE MORTGAGE COMPANY OF ILLINOIS, a corporation duly organized and validly existing under and by virtue of the laws of the State of Delaware, formerly known as REPUBLIC REALTY MORTGAGE CORPORATION ("Mortgagee"),

WITNESSETH, THAT WHEREAS, Mortgagor is justly indebted to Mortgagee for money borrowed in the principal amount of TWENTY MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$20,500,000.00), as evidenced by note executed by Mortgagor of even date herewith, made payable to the order of and delivered to Mortgagee (which note, together with any and all other notes executed and delivered in substitution therefor or in renewal and extension thereof, in whole or in part, are herein collectively referred to as "Note"), by the provisions of which Mortgagor promises to pay to Mortgagee, at its principal place of business in Chicago, Illinois (or at such other place as the legal owner and holder of Note may, from time to time, designate), out of that part of the trust estate subject to the aforesaid trust and hereafter specifically described, the principal amount evidenced thereby (or so much thereof as may be advanced by Mortgagee from time to time), interest due thereon, as provided in Note, and all other sums due and owing thereby or hereunder and advanced by Mortgagee (up to but not exceeding one hundred fifty per cent (150%) of the principal amount of Note) to protect "Mortgaged Premises" (hereafter defined) or to preserve the priority of the lien established hereby (collectively "Indebtedness"), from the date of the initial disbursement of the principal amount evidenced hereby, at the rate and in the installments set forth in Note, with a final payment of Indebtedness on October 30, 1995 ("Maturity Date").

NOW, THEREFORE, to secure the payment of Indebtedness and the performance of the terms, covenants, conditions and agreements contained herein and in Note, commitment issued by Mortgagee, on its own behalf and on behalf of FIRST INTERSTATE MORTGAGE COMPANY, a California corporation, in favor of LAKE COOK/TOLLWAY ASSOCIATES, an Illinois limited partnership, the present owner of one hundred per cent (100%) of the beneficial interest ("Beneficial Interest") in and to Mortgagor ("Beneficiary"), dated April 3, 1985 ("Republic Commitment"), commitment issued by THE TRAVELERS INSURANCE COMPANY ("Travelers"), in favor of Beneficiary, dated April 18, 1985 ("Travelers Commitment") (Republic Commitment and Travelers Commitment collectively "Commitment"), loan agreement dated as of October 29, 1985 among Mortgagor, Beneficiary and Mortgagee ("Loan Agreement") and any and all other documents executed and delivered to secure Indebtedness (collectively "Other Loan Documents"), Mortgagor, by these presents, DOES HEREBY GRANT, BARGAIN, SELL AND CONVEY to Mortgagee, its successors and assigns,

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forever, the land and easements legally described on Exhibit "A" attached hereto and made a part hereof (collectively "Land"), TOGETHER WITH THE FOLLOWING (collectively "Other Interests"):

- A. All right, title and interest of Mortgagor, including any after-acquired title or reversion, in and to the rights-of-way, roads, streets, avenues and alleys adjoining Land.
- B. All and singular the tenements, hereditaments, easements, appurtenances, passages, waters, water rights, water courses, riparian rights, other rights, liberties and privileges thereof or in anyway now or hereafter appertaining, including any other claim at law or in equity and any after-acquired title, franchise or license and the reversions and remainder and remainders thereof.
- C. All buildings and improvements, of every kind, nature and description, now or hereafter located and placed upon Land ("Improvements") and all materials intended for construction, re-construction, alteration and repair of Improvements, all of which shall be deemed a part thereof immediately upon the delivery of the same, and all furniture, fixtures, equipment and articles of personal property now or hereafter owned by Mortgagor and attached to or contained in and used in connection with Mortgaged Premises ("Personal Property"), including, but not limited to, all furniture, furnishings, apparatus, machinery, motors, elevators, fittings, radiators, awnings, shades, screens, blinds, office equipment, carpeting and other furnishings and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning, electrical and sprinkler systems and equipment, if any, and fixtures and appurtenances thereto and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to Improvements in any manner, excepting therefrom, however, any Personal Property, regardless of the manner or mode of attachment, belonging to any present or future Occupancy Tenant (any reference hereafter made to Personal Property shall be deemed to exclude the same); IT BEING MUTUALLY AGREED that (1) Personal Property owned by Mortgagor and placed by it on Land and Improvements shall, insofar as the same is permitted by law, be deemed to be fixtures and a part of the realty and security for the payment of Indebtedness and, as to any such property not deemed to be fixtures and a part of Mortgaged Premises; and (2) this Mortgage shall be and is a security agreement for the purpose of establishing a security interest in Personal Property pursuant to the Uniform Commercial Code of the State of Illinois, and additional security for the payment of Indebtedness and the performance of all other obligations of Mortgagor herein and in Other Loan Documents set forth.
- D. All rents, issues, proceeds and profits accruing and to accrue from Mortgaged Premises and all right, title and interest of Mortgagor in and to any and all leases approved by Mortgagee now or hereafter on or affecting Mortgaged Premises, whether written or oral, and all other leases and agreements for the use thereof ("Leases"), together with all security therefor and all

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monies payable thereunder, subject, however, to the conditional permission of Mortgagee given to Mortgagor to collect the rentals to be paid pursuant thereto.

- E. All proceeds heretofore or hereafter payable to Mortgagor and all subsequent owners of Mortgaged Premises ("Proceeds") by reason of loss or damage by fire and such other hazards, casualties and contingencies insured pursuant to Insurance Policies ("Casualty") and awards and other compensation heretofore or hereafter payable to Mortgagor and all subsequent owners of Mortgaged Premises ("Awards") for any taking by condemnation or eminent domain proceedings, either permanent or temporary ("Condemnation"), of all or any part of Mortgaged Premises or any easement or appurtenance thereof, including severance and consequential damage and change in grade of streets. Proceeds or Awards are hereby assigned to Mortgagee (Mortgagor hereby appoints Mortgagee its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney-in-fact, at its option, on behalf of Mortgagor, its personal representatives, successors and assigns, to adjust or compromise the claim for Proceeds or Awards and to collect and receive the amounts thereof, to give proper receipts and acquittances therefor and, after deducting expenses of collection, to apply the net proceeds received therefrom as provided in Loan Agreement, until such time as the same is of no further force and effect, and thereafter as provided in Paragraphs 7, 8 and 9 hereof, as a credit upon any part, as may be selected by Mortgagee, of Indebtedness, notwithstanding that the amount owing thereon may not then be due and payable or that the same is otherwise adequately secured).

For convenience, Land, Improvements and Other Interests are herein collectively referred to as "Mortgaged Premises".

TO HAVE AND TO HOLD Mortgaged Premises unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth (Mortgagor hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois); **PROVIDED, HOWEVER**, that if and when Mortgagor shall pay Indebtedness and shall perform all of the terms, covenants, conditions and agreements contained herein and in Note and Other Loan Documents, this Mortgage, Note and Other Loan Documents shall be released, at the sole cost and expense of Mortgagor, otherwise, the same shall be and remain in full force and effect.

MORTGAGOR HEREBY FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. DEFINITIONS AND EXHIBITS: The following words, terms and phrases used herein shall have the meanings set forth in the following references:

ABL	Paragraph 16 d). of Mortgage
Annexation Agreement	Recital C of Loan Agreement
Applicable Laws	Paragraph 7 of Mortgage
Awards	NOW, THEREFORE para. E. of Mtg.
Beneficial Interest	NOW, THEREFORE para. of Mortgage
Beneficiary	NOW, THEREFORE para. of Mortgage
Casualty	NOW, THEREFORE para. E. of Mtg.
Closing Date	Para. 6, Travelers Commitment

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Code
Collateral
Commitment
Condemnation
Construction Documents
Declaration and Grant
Default Rate
Final Performance Date
General Partner
Hanson

Impositions
Improvements
Indebtedness
Insurance Policies
Land
Leases
Loan Agreement
Loan Years
Master Lease
Maturity Date
Minimum Criteria
Monetary Default
Mortgaged Premises
Mortgagee
Mortgagor
New Partnership
1986 Tenant Improvements
Letter of Credit
Non-Monetary Default
Note
Novak

Occupancy Tenants
Other Interests
Other Loan Documents
PUD Ordinance
Permitted Transfers
Personal Property
Proceeds
Rebuilding or Restoration
Repair or Restoration
Republic's Participating
Interest
Residual Percentage

Schmidt Trusts

\$7,500,000.00 Loan
Shell/Core
Snyderman

Stein

Stein Co.

Tenant Estoppel Certificates
Tenant Improvements Letter
of Credit
Term
Travelers

Paragraph 29 a). of Mortgage
Paragraph 29 a). of Mortgage
NOW, THEREFORE para. of Mortgage
NOW, THEREFORE para. E. of Mtg.
Paragraph 23 a). of Mortgage
Recital B of Loan Agreement
Para. 1(h), Travelers Commitment
Paragraph 33 d). of Mortgage
Paragraph 16 of Mortgage
Applicant para. of Travelers
Commitment
Paragraph 6 of Mortgage
NOW, THEREFORE para. C. of Mtg.
WITNESSETH para. of Mtg., Page 1
Paragraph 7 of Mortgage
NOW, THEREFORE para. of Mortgage
NOW, THEREFORE para. D. of Mtg.
NOW, THEREFORE para. of Mortgage
Note
Para. 2(c), Travelers Commitment
WITNESSETH para. of Mortgage
Para. 2(u), Travelers Commitment
Paragraph 18 of Mortgage
NOW, THEREFORE para. of Mtg.
Introduction to Mortgage
Introduction to Mortgage
Paragraph 16 of Mortgage

Para. 6(b)(v), Travelers Commit.
Paragraph 18 of Mortgage
WITNESSETH para. of Mortgage
Applicant para. of Travelers
Commitment
Para. 2(b), Travelers Commitment
NOW, THEREFORE para. of Mortgage
NOW, THEREFORE para. of Mortgage
Recital C of Loan Agreement
Paragraph 16 of Mortgage
NOW, THEREFORE para. C. of Mtg.
NOW, THEREFORE para. E. of Mtg.
Paragraph 8 b). of Mortgage
Paragraph 7 of Mortgage

Para. 6(a)(i), Travelers Commit.
As defined in agreement
establishing ARBORLAKE OFFICE
DEVELOPMENT COMPANY BUILDING ONE
Applicant para. of Travelers
Commitment
Section 1.02 K of Loan Agreement
Sec. 4.01 D (4) of Loan Agreement
Applicant para. of Travelers
Commitment
Applicant para. of Travelers
Commitment
Applicant para. of Travelers
Commitment
Para. 3(b)(vi), Travelers Commit.

Para. 6(b)(v), Travelers Commit.
Para. 1(d), Travelers Commitment
NOW, THEREFORE para. of Mortgage

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Travelers Commitment
Unpermitted Transfer
Wilkow Partnership

NOW, THEREFORE para. of Mortgage
Paragraph 15 of Mortgage
Applicant para. of Travelers
Commitment

and the following exhibits are attached hereto and made a part hereof:

Exhibit "A"

Legal description of Land

2. PRIORITY OF LIEN AND SUBORDINATE ENCUMBRANCES: This Mortgage is and shall remain a first and valid lien on Mortgaged Premises until the payment in full of Indebtedness and, except for the execution of mortgage to secure \$7,500,000.00 Loan, Mortgagor shall keep Mortgaged Premises free and clear of superior or subordinate liens or claims of every nature and kind and shall not execute, deliver or grant any other mortgage, trust deed or security interest encumbering Mortgaged Premises, now or at any time hereafter.

3. SUBROGATION: To the extent that any part of Indebtedness is applied in payment of any existing lien against Mortgaged Premises, or any part thereof, or following the date hereof, Mortgagee pays any sum due pursuant to any provision of law or any instrument or document establishing any lien prior or superior to the lien of this Mortgage, Mortgagee shall have and be entitled to a lien on Mortgaged Premises equal in parity to that discharged and Mortgagee shall be subrogated to, receive and enjoy all rights and liens possessed, held or enjoyed by the holder of such lien, which shall remain in existence and benefit Mortgagee to secure the payment of Indebtedness. Mortgagee shall be subrogated, notwithstanding its release of record, to mortgages, trust deeds, superior titles, vendors' liens, and other liens, charges, encumbrances, rights and equities on Mortgaged Premises to the extent that any obligation thereunder is paid or discharged from Indebtedness or other payments by Mortgagee.

4. PROMPT PAYMENT AND PERFORMANCE OF COVENANTS: Mortgagor shall promptly pay Indebtedness as the same becomes due; shall duly and punctually perform and observe all of the terms, covenants, conditions and agreements to be performed and observed by Mortgagor as provided herein and in Note, Commitment, Loan Agreement and Other Loan Documents; and, except as provided in Note, shall have no right to prepay Indebtedness.

5. TAX AND INSURANCE DEPOSITS AND APPLICATION: In addition to the payment of Indebtedness, Mortgagor shall pay to Mortgagee, concurrently with the payments required pursuant to Note, an amount equal to the real estate taxes and special assessments, if any, next due on Mortgaged Premises, together with the premiums which will next become due and payable on Insurance Policies, as estimated by Mortgagee, less all sums previously paid therefor, divided by the number of months to elapse before one (1) month prior to the dates when such taxes, assessments and premiums will become delinquent. Any funds held by Mortgagee, or its duly authorized agent, will be held in trust for the purpose of paying said real estate taxes, assessments and insurance premiums when the same become due and payable and shall bear interest at a rate equal to thirty (30) day United States treasury notes.

In the event that the amounts deposited with Mortgagee:

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- a). shall not be sufficient to pay said real estate taxes, assessments or insurance premiums in full, when due, Mortgagor shall deposit with Mortgagee, or its duly authorized agent, such additional amounts as shall be sufficient to pay the same and if Mortgagor shall default in making such payments for thirty (30) days following written notice from Mortgagee to Mortgagor, at the option of Mortgagee, Indebtedness shall become immediately due and payable; or
- b). are in excess of the amounts required to pay real estate taxes, assessments and insurance premiums, such excess shall, upon the written demand of Mortgagor, be refunded to Mortgagor, PROVIDED THAT no Monetary Default or Non-Monetary Default shall exist.

At such time as Indebtedness is paid in full, whether by reason of maturity or prepayment, as provided in Note, Mortgagee shall apply all funds held by it pursuant to this Paragraph 5 as a credit against Indebtedness or, upon payment in full of Indebtedness, shall return the same to Mortgagor.

If, as a result of Monetary Default or Non-Monetary Default, Mortgaged Premises are sold, foreclosed upon or otherwise acquired by Mortgagee following Monetary Default or Non-Monetary Default, Mortgagee shall, concurrently with the commencement of proceedings for sale or foreclosure or at the time Mortgaged Premises are otherwise acquired, apply the balance of the funds deposited by Mortgagee pursuant hereto as a credit against Indebtedness.

6. PAYMENT OF TAXES AND OTHER IMPOSITIONS: Subject to Paragraph 13 hereof, Mortgagor shall promptly pay, when due and payable, all taxes and assessments (general and special), water and sewer charges, public impositions, levies, dues and other charges, of whatsoever nature (collectively "Impositions"), which are now or shall hereafter be levied or assessed or which may otherwise be or become a lien upon or against Mortgaged Premises, or any part thereof.

7. INSURANCE POLICIES, PAYMENT AND APPLICATION OF PROCEEDS AND SETTLEMENT OF CLAIMS: Until such time as Indebtedness shall have been paid in full, Mortgagor shall keep Mortgaged Premises continuously insured against Casualty by policies of insurance hereafter set forth, in such amounts and for such periods as may, from time to time, be reasonably required by Mortgagee ("Insurance Policies"), which Insurance Policies and all renewals thereof shall:

- a). be written with companies licensed to do business in the State of Illinois, having a Best's "General Policy Holder Rating" of A+ or better and a financial rating class of XII or better and:
 - i). if written by a mutual company, the insurance policy holder or its mortgagee must not be assessable;
 - ii). the risk of any one (1) company shall not exceed ten per cent (10%) of the issuer's policyholders' surplus (including capital); and

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- iii). contain co-insurance not exceeding ninety per cent (90%)
- b). be written with companies and in amounts reasonably acceptable to Mortgagee, provide replacement coverage and otherwise be in form satisfactory to Mortgagee;
- c). cite Mortgagee's interest in standard non-contributory mortgage clauses effective as of the Closing Date;
- d). be maintained throughout the Term, without cost to Mortgagee;
- e). at the option of Mortgagee, be delivered to Mortgagee as issued, together with evidence of payment of annual premiums therefor in full, not less than thirty (30) days prior to the expiration of the previous Insurance Policies; and
- f). contain a so-called "cut-through" endorsement, in the event that any part of the fire or other risks insured thereby are reinsured;

and the originals of which Insurance Policies shall be held by Mortgagee until such time as Indebtedness is paid in full.

In the event of a sale of Mortgaged Premises pursuant to foreclosure hereof or other transfer of title thereto and the extinguishment of Indebtedness, complete title to Insurance Policies and renewals thereof, together with all prepaid or unearned premiums thereon, in the possession of Mortgagee shall pass to and vest in the purchaser or grantee of Mortgaged Premises. If any renewal Insurance Policy is not delivered to Mortgagee within thirty (30) days prior to the expiration of any existing Insurance Policy, with evidence of premium paid, Mortgagee may obtain the required insurance on behalf of Mortgagor (or in favor of Mortgagee only) and pay the premiums therefor, in which event any monies so advanced shall be so much additional Indebtedness secured hereby and shall become immediately due and payable, with interest thereon at Default Rate. Mortgagee shall not, by reason of acceptance, rejection, approval or obtaining Insurance Policies, incur any liability for payment of losses.

Without, in any way, limiting the generality of the foregoing, Mortgagor shall:

- y). until the date on which Travelers shall purchase Republic's Participating Interest, maintain builder's risk insurance, completed value form (non-reporting), including vandalism and malicious mischief but excluding foundations and other non-combustible items), in an amount equal to not less than one hundred per cent (100%) of the full replacement cost of Mortgaged Premises (excluding Land); and
- (z) maintain the following Insurance Policies on Mortgaged Premises until such time as Indebtedness is paid in full:

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- 1). Fire and extended coverage insurance (including vandalism and malicious mischief) in the amount of TWENTY MILLION FIVE HUNDRED THOUSAND DOLLARS (\$20,500,000.00) or in a minimum amount equal to the full replacement cost of Mortgaged Premises (excluding Land), whichever is greater, written on a replacement cost basis or with a replacement cost endorsement. If, at any time, a dispute arises with respect to such replacement cost, Mortgagor shall provide, at its expense, an appraisal, prepared by an insurance appraiser approved by Mortgagee, establishing the full replacement cost, in form and content satisfactory to the insurance carrier.
- 2). Comprehensive general public liability and property damage insurance in an amount not less than TEN MILLION DOLLARS (\$10,000,000.00) combined single limit for claims arising by reason of any accident or occurrence in or upon Mortgaged Premises.
- 3). Flood insurance, whenever, in the opinion of Mortgagee such protection is necessary and is available.
- 4). Rental insurance in an amount equal to the estimate of one (1) year's gross receipts resulting from the operation of Mortgaged Premises, PROVIDED THAT, in no event shall the same be less than the "debt" service due and owing on Indebtedness and operating expenses, real estate taxes and insurance premiums attributable to the operation of Mortgaged Premises for a period of one (1) year.
- 5). Such other insurance policies as may be reasonably required from time to time by Mortgagee, upon written notice to Mortgagor.

If any part or all of Insurance Policies or other insurance coverages is or are furnished by an Occupancy Tenant, Mortgagor shall furnish to Mortgagee duplicate original Insurance Policies or, with the consent of Mortgagee, certificates evidencing such coverages, which shall be subject to the approval of Mortgagee. Insurance Policies shall be in form and content satisfactory to Mortgagee and, at the option of Mortgagee, contain mortgage clauses in favor of or name Mortgagee as an additional insured and provide for not less than thirty (30) days' prior written notice to Mortgagee in the event of cancellation or material modification thereof.

In the event of any loss sustained by Casualty for which insurance is in effect (aa) prior to the completion of Shell/Core, all claims or rights and any proceeds paid by reason of Insurance Policies ("Proceeds") shall be settled and adjusted as provided in Loan Agreement; (bb) following the completion of Shell/Core and the purchase of Republic's Participating Interest by Travelers, Mortgagor may, with the consent of Mortgagee, settle, compromise and adjust any and all rights and claims pursuant to the provisions of Insurance Policies, PROVIDED THAT Proceeds shall be payable to Mortgagee. In the absence of such consent, Mortgagee is hereby authorized to settle, compromise and adjust such claims or rights as to receipt of Proceeds and any Proceeds paid to Mort-

gagee shall, provided no Monetary or Non-Monetary Default has occurred, be applied on account of cost of repair or restoration of that part of Mortgaged Premises damaged or destroyed ("Repair or Restoration") if such cost is less than SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$7,500,000.00), or, pursuant to the terms and conditions of any Lease conforming with Minimum Criteria or otherwise approved by Mortgagee, executed with one (1) Occupancy Tenant leasing twenty five thousand (25,000) square feet, or more, of floor area situated within Mortgaged Premises, having a remaining lease term of two (2) years, or more, Mortgagor is obligated to make Repair or Restoration. In the event that the cost of Repair or Restoration shall be SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$7,500,000.00), or more, and no such Lease exists, or Casualty shall have occurred during the last two (2) Loan Years and Repair and Restoration cannot be completed within sixty (60) days following the date thereof, Mortgagee shall have the right, at its sole election, to either apply Proceeds on account of Indebtedness or on account of Repair or Restoration.

That part of Mortgaged Premises so damaged or destroyed shall be repaired or rebuilt, in accordance with plans and specifications therefor submitted to and approved by Mortgagee (which approval shall not be unreasonably withheld or delayed) and all life, safety and environmental regulations, laws, ordinances (including zoning), rules and regulations of governmental authorities having jurisdiction thereover (collectively "Applicable Laws"), so as to be as similar, as is reasonably possible, to the condition which existed prior to such Casualty. If Proceeds are to be applied on account of the cost of Repair or Restoration, the same shall be paid to Mortgagor, from time to time, upon the delivery to Mortgagee of satisfactory evidence of the estimated cost of completing Repair or Restoration, together with such architect's certificates, contractor's sworn statements, waivers of lien, title insurance policies or certifications and other evidences of cost and payments as Mortgagee may reasonably require and approve. No payment made prior to final completion of Repair or Restoration shall exceed ninety per cent (90%) of the value thereof and, at all times, the undisbursed balance of Proceeds shall not be less than the amount required to pay for the cost of completion thereof, free and clear of liens or encumbrances. In the event that, in the reasonable opinion of Mortgagee, Proceeds are insufficient to pay for all costs of Repair or Restoration, Mortgagor shall, prior to the disbursement of any part of Proceeds to it, either deposit with Mortgagee an amount equal to such excess costs or furnish to Mortgagee sufficient evidence of the availability of funds therefor. Any surplus Proceeds, following the payment of all costs of Repair or Restoration, shall be paid to Mortgagor.

In the event that Proceeds are not available for Repair or Restoration, Mortgagor shall have the right, in lieu of Repair or Restoration, to prepay Indebtedness in full, without the payment of any prepayment premium, upon not less than fifteen (15) days' prior written notice to Mortgagee.

8. CONDEMNATION: In the event that:

- a). prior to the purchase by Travelers of Republic's Participating Interest, Mortgaged Premises, or any part thereof, is taken by Condemnation, Awards shall be applied as provided in Loan Agreement;
- b). following the purchase by Travelers of Republic's Participating Interest, Mortgaged Premises, or any part thereof, is taken by Condemnation, Mortgagee is hereby empowered to collect and receive Awards, which shall, at the election of Mortgagee, be

applied to the payment of Indebtedness or on account of rebuilding or restoring that part of Mortgaged Premises so taken or damaged ("Rebuilding or Restoration"), PROVIDED THAT, notwithstanding the foregoing, in the event of Condemnation by reason of widening of roads, Mortgagor shall have the right to require Awards for the purpose of Rebuilding or Restoration;

- c). Mortgagee elects to permit, or Mortgagor shall have the right to, the use of Awards for Rebuilding or Restoration, Mortgaged Premises shall be so rebuilt or restored, in accordance with plans and specifications therefor, which, if the costs of Rebuilding or Restoration exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), shall be submitted to Mortgagee for approval (which approval shall not be unreasonably withheld or delayed) and Applicable Laws, so as to be as similar, as is reasonably possible, to the condition which existed prior to Condemnation and all disbursements shall be paid in the same manner as provided in Paragraph 7 hereof with respect to a loss by Casualty;
- d). Awards are insufficient to pay for all costs of Rebuilding or Restoration, Mortgagor shall, prior to any disbursement of Awards to it, either deposit with Mortgagee an amount equal to such excess costs or furnish to Mortgagee satisfactory evidence of the availability of funds therefor; or
- d). Awards are in excess of Rebuilding or Restoration, any surplus Awards, following payment in full of all costs of Rebuilding or Restoration shall, at the option of Mortgagee, either be applied on account of Indebtedness or paid to Mortgagor.

9. CASUALTY OR CONDEMNATION AFTER FORECLOSURE: In the event of Casualty or Condemnation following the institution of foreclosure proceedings, Proceeds or Awards, if not applied as specified in Paragraphs 7 and 8, shall be used to pay the amounts due in accordance with any decree of foreclosure which may be entered in any such proceedings and the balance, if any, shall either be paid to the owner of the equity redemption, if such owner shall be entitled to the same, or as the court may direct.

10. MORTGAGEE'S LIABILITY FOR COLLECTION OF PROCEEDS OR AWARDS: Mortgagee shall not be held responsible for any failure to collect Proceeds or Awards, regardless of the cause of such failure and:

- a). the power and authority granted to Mortgagee to collect Proceeds or Awards is irrevocable and coupled with an interest and shall, in no way, affect the security of this Mortgage or the liability of Mortgagor for payment of Indebtedness; and
- b). the entry of a decree of foreclosure of the lien hereof shall not affect or impair said power and authority.

In the event:

- i). of the payment of Proceeds or Awards and the application of the same to Indebtedness, Mortgagee agrees that such application will be free of any prepayment premium; or
- ii). Mortgagee shall fail to collect Proceeds or Awards, Mortgagor shall have the right so to do, within a reasonable time.

11. USE, CARE OR WASTE: Mortgagor shall constantly maintain and not diminish, in any respect, nor materially alter Improvements (including landscaped and recreation areas) or the on-site paved parking area and/or structures comprising a part of Mortgaged Premises so long as Indebtedness, or any part thereof, remains unpaid and shall not erect any buildings or improvements on Mortgaged Premises without the prior written consent of Mortgagee. Without, in any way, limiting the generality of the foregoing, Mortgagor shall:

- a). not abandon Mortgaged Premises or do or suffer anything to be done which would depreciate or impair the value thereof or the security of this Mortgage;
- b). not remove or demolish any part of Improvements of a structural nature which would adversely affect the value of Mortgaged Premises;
- c). pay promptly all services, labor and material necessary and required to complete construction of Improvements or Repair or Restoration pursuant to contracts therefor;
- d). maintain, preserve and keep Mortgaged Premises in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear and tear, damage, obsolescence or destruction;
- e). not make any changes, additions or alterations to Mortgaged Premises of a structural nature or which would adversely affect the value thereof, except as required by Commitment, Loan Agreement or any applicable statute, law or ordinance of any governmental authority having jurisdiction over Mortgaged Premises and the intended use thereof, or as otherwise approved in writing by Mortgagee;
- f). promptly restore and replace Improvements which are destroyed or damaged, PROVIDED THAT Proceeds or Awards, as the case may be, are made available for such purposes;
- g). not commit or permit to exist any waste of Mortgaged Premises; and
- h). maintain all interior or exterior planted or landscaped areas, adjoining plaza, if any, and abutting sidewalks in good and neat order and repair.

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Subject to the terms and conditions of Paragraph 13 hereof, Mortgagor shall comply with and cause Mortgaged Premises, and the use and condition thereof, to comply with Applicable Laws and all statutes, ordinances, requirements, regulations, orders and decrees relating to Mortgagor or Mortgaged Premises, or the use thereof, by any federal, state, county or other governmental authority and with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions (including, without limitation, those relating to land use and development, construction, access, water rights, noise and pollution) which are applicable to Mortgagor or have been granted for Mortgaged Premises, or the use thereof.

12. MORTGAGEE'S PERFORMANCE OF MORTGAGOR'S OBLIGATIONS: Subject to Mortgagor's right to contest, as herein provided, in the event of a default by Mortgagor in:

- a). the prompt discharge of any lien or encumbrance;
- b). defending the title to Mortgaged Premises or failing to satisfy the requirements of Declaration and Grant, Annexation Agreement and PUD Ordinance; or
- c). the payment of any Imposition;
- d). diligently and continuously pursuing Rebuilding or Restoration; or
- e). the diligent and continuous maintenance and preservation of Mortgaged Premises;

and said default is not cured or otherwise secured against, to the satisfaction of Mortgagee, within thirty (30) days following written notice by Mortgagee to Mortgagor, Mortgagee may, at its election and without further demand or notice, pay and discharge such lien or encumbrance, defend the title to Mortgaged Premises, pay such Impositions (plus any interest and penalties thereon), or perform Rebuilding or Restoration and maintain and preserve Mortgaged Premises. All expenditures therefor, including attorneys' fees incurred by Mortgagee, shall forthwith become due and payable to Mortgagee, together with interest thereon at Default Rate, which shall be added to and become a part of Indebtedness and shall be secured by the lien of this Mortgage, all without prejudice to the right of Mortgagee to declare Indebtedness immediately due and payable by reason of Mortgagor's default and breach of the terms, covenants, conditions and agreements herein contained. Mortgagee shall have the sole right of determination as to the validity of any lien, encumbrance or Imposition attributable to or assessed against Mortgaged Premises and payment thereof by Mortgagee shall establish its right to recover the amount so paid, with interest at Default Rate, subject to the provisions of Paragraph 13 following.

13. CONTEST OF LIENS OR ENCUMBRANCES: In the event Mortgagor desires to contest the validity of any lien, encumbrance or

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Imposition attributable to or assessed against Mortgaged Premises or any Applicable Laws, statutes, ordinances, requirements, regulations, orders, decrees or documents affecting title to Mortgaged Premises, it shall:

- a). on or before fifteen (15) days prior to the due date thereof, notify Mortgagee, in writing, that it intends to so contest the same;
- b). on or before the due date thereof, on demand, deposit with Mortgagee security (in form and content satisfactory to Mortgagee) for the payment of the full amount of such lien, encumbrance or Imposition, or any balance thereof then remaining unpaid (or provide to Mortgagee such other indemnity or title insurance as may be reasonably acceptable to it); and
- c). from time to time, deposit additional security or indemnity, so that, at all times, adequate security or indemnity will be available for the payment of the full amount of the lien, encumbrance or Imposition remaining unpaid, together with all interest, penalties, reasonable costs and charges accrued or accumulated thereon.

If the foregoing deposits are made and Mortgagor continues, in good faith, to contest the validity of such lien, encumbrance or Imposition, by appropriate legal proceedings which shall operate to prevent the collection thereof and the sale of Mortgaged Premises, or any part thereof, to satisfy the same, Mortgagor shall be under no obligation to pay such lien, encumbrance or Imposition until such time as the same has been decreed, by final non-appealable court order, to be a valid lien on Mortgaged Premises. Mortgagee shall have full power and authority to reduce any such security or indemnity to cash and apply the amount so received to the payment of any unpaid lien, encumbrance or Imposition to prevent the sale or forfeiture of Mortgaged Premises or non-payment of such lien, encumbrance or Imposition, without liability on Mortgagee for any failure to apply the security or indemnity so deposited, unless Mortgagor, in writing, requests the application thereof to the payment of the particular lien, encumbrance or Imposition for which such deposit was made. Any surplus deposit retained by Mortgagee, after the payment of the lien, encumbrance or Imposition for which the same was made, shall be repaid to Mortgagor, unless Monetary Default or Non-Monetary Default exists, in which event, such surplus shall be applied by Mortgagee to cure such default.

14. WAIVERS: To the full extent permitted by law, Mortgagor:

- a). shall not, at any time, insist upon or plead or, in any manner whatsoever, claim, or take advantage of any stay, exemption or extension law or any so-called "Moratorium Law" (now or at any time hereafter in force) nor claim, take or insist upon any benefit or advantage of or from any law (now or hereafter in force) providing for the valuation or appraisal of Mortgaged Premises, or any part thereof, prior to any sale or sales thereof to be

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made pursuant to any provision herein contained or to any decree, judgment or order of any court of competent jurisdiction or after such sale or sales, claim or exercise any rights pursuant to any statute now or hereafter in force to redeem Mortgaged Premises so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof;

- b). hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to Mortgaged Premises subsequent to the date hereof, it being the intent of Mortgagor hereby that any and all such rights of redemption of Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by applicable law;
- c). agrees that it will not, by invoking or utilizing any Applicable Law (other than statutory "cure periods") or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws has, have been or will have been made or enacted; and
- d). for itself and all who or which claim by, through or under Mortgagor, waives any and all right to have Mortgaged Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose the lien of this Mortgage may order Mortgaged Premises sold as an entirety.

15. UNPERMITTED TRANSFERS: For the purpose of protecting the Mortgagee's security, keeping Mortgaged Premises free from subordinate financing liens (except as provided herein) and/or permitting the Mortgagee to raise the rate of interest due on Note and to collect assumption fees, the Mortgagor agrees that any sale, conveyance, further encumbrance or other transfer of title to Mortgaged Premises, or any interest therein (whether voluntary or by operation of law), without Mortgagee's prior written consent, shall be deemed to be an unpermitted transfer ("Unpermitted Transfer") and, therefore, a Non-Monetary Default, which Unpermitted Transfers shall include, but shall not be limited to, the following:

- a). any sale, installment sale, conveyance, assignment or other transfer of or grant of a security interest in and to all or any part of the legal and/or equitable title to Mortgaged Premises (except for the disposition of obsolete collateral);

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- b). any sale, installment sale, conveyance, assignment or other transfer of or grant of a security interest in and to the beneficial interest of any trust which holds title to Mortgaged Premises or any share of stock of any corporate owner of Mortgaged Premises or any partnership interest of a general partner of any partnership owning Mortgaged Premises or twenty five per cent (25%), or more, of all limited partnership interests of any limited partnership owning Mortgaged Premises; and
- c). a trusteeship, receivership or assignment for the benefit of creditors is imposed upon or sought by Mortgagor or a petition for debtor's relief under any state or federal bankruptcy, reorganization or insolvency law, is filed against or by Mortgagor and such involuntary petition is not dismissed within ninety (90) days of the filing thereof.

Notwithstanding the foregoing:

- i). Mortgagee may condition its consent to an Unpermitted Transfer upon the payment of a fee to Mortgagee and/or an increase in the rate of interest due on Note, PROVIDED THAT if, following the second (2nd) Loan Year, such fee or increase is unacceptable to Mortgagor, Mortgagor shall have the right to prepay Indebtedness upon the payment of an amount equal to the prepayment premium specified in Paragraph 1 (v) of Travelers Commitment; and
- ii). in the event of a consent by Mortgagee to an Unpermitted Transfer or a waiver of a default by reason thereof, the same shall not constitute a consent to or waiver of any right, remedy or power accruing to Mortgagee by reason of any subsequent Unpermitted Transfer.

In the event of an Unpermitted Transfer, Mortgagee may declare Indebtedness immediately due and payable in full, together with additional interest, to the extent permitted by applicable law, in an amount equal to the then unpaid principal balance due and owing on the indebtedness evidenced hereby multiplied by the greater of (y) the product obtained by multiplying 1). the difference obtained by subtracting from the interest rate due on Note, the yield rate on United States Treasury Notes maturing closest to Maturity Date, as such rate is quoted in the Wall Street Journal, or similar publication, on the fifth (5th) business day preceding the date of acceleration; and 2). the number of Loan Years, or fraction thereof, remaining between the date of the Unpermitted Transfer and the Maturity Date, and (z) seven per cent (7%), if the Unpermitted Transfer occurs during the first two (2) Loan Years, or one per cent (1%), if the Unpermitted Transfer occurs after the second (2nd) Loan Year; PROVIDED, HOWEVER, that payment on account of Indebtedness and such additional interest shall not require the payment of Prepayment Premium.

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16. PERMITTED TRANSFERS: Mortgagee, for itself and its successors and assigns, agrees that, notwithstanding the Unpermitted Transfers, a sale or transfer of Beneficial Interest to LAKE/COOK TOLLWAY ASSOCIATES BUILDING ONE, an Illinois limited partnership ("New Partnership"), of which ARBORLAKE OFFICE DEVELOPMENT COMPANY BUILDING ONE, an Illinois limited partnership, is the general partner ("General Partner") and Stein is a general partner of General Partner, and the following transfers or assignments (upon written notice to and receipt of copies of documents effecting such transfers or assignments by Mortgagor or Beneficiary) will be permitted without Mortgagee's prior written consent (collectively the "Permitted Transfers"):

- a). the sale of Mortgaged Premises or Beneficial Interest on a single occasion, at any time following the first two (2) Loan Years, to a creditworthy purchaser of good business reputation having commercial real estate management experience (or, in the absence thereof, who or which has retained a management company to operate Mortgaged Premises, acceptable to Lender), upon the payment of a sum equal to one per cent (1%) of the then outstanding principal balance evidenced by Note;
- b). the sale or transfer by Snyderman, Schmidt Trusts, Hanson, Novak and Wilkow Partnership of any part or all of his and its percentages of interest or Residual Percentages in and to Beneficiary, New Partnership or General Partner, as the case may be, or the sale or transfer by Stein of up to ninety per cent (90%) of his percentage of interest or Residual Percentage in Beneficiary or General Partner, as the case may be;
- c). the sale or transfer by Stein of a part (but not all) of his percentage of interest in and to Beneficiary or a sale or transfer by Stein or Stein Co. of a part (but not all) of their respective Residual Percentages in and to General Partner to a partnership or corporation;
- d). the sale or transfer by the partners of ABL OFFICE PARTNERSHIP, an Illinois limited partnership ("ABL"), one of the general partners of General Partner, of their respective interests therein, and the sale or transfer by ABL of its Residual Percentage in and to General Partner;
- e). a sale or transfer by Stein or Snyderman of their respective partnership interests or Residual Percentages, as the case may be, in and to Beneficiary or General Partner to members of their respective immediate families (a spouse or lineal descendants);
- f). other transfers by Stein or Stein Co. of their respective percentages of partnership interests or Residual Percentages, as the case may be, in and to Beneficiary or General Partner;
- g). transfers of percentages of interest in and to Beneficiary or Residual Percentages in and to New

Partnership, as the case may be, among the partners thereof;

- h). transfers by Stein or Snyderman of their respective partnership interests or Residual Percentages, as the case may be, in and to Beneficiary or General Partner, by inter vivos gifts or transfers in trust for the benefit of members of their respective immediate families;
- i). testamentary transfers or transfers to a conservator pursuant to court order, upon the disability of Stein or Snyderman;
- j). transfers by the limited partners of their respective limited partnership interests or Residual Percentages, as the case may be, in and to Beneficiary or General Partner; and
- k). a conveyance of Mortgaged Premises or Beneficial Interest to secure \$7,500,000.00 Loan;

PROVIDED, HOWEVER, that:

- i). notwithstanding the transfers permitted pursuant to c). through k)., inclusive, immediately above, Stein or Stein Co., as the case may be, shall, following such transfer, be a general partner of any such partnership or the owner of not less than 51% of the issued and outstanding voting stock of any such corporation or have the legal right and obligation to control the ownership entity to which such transfer is made; and
- ii). Permitted Transfers are not intended to circumvent Travelers' "due-on-sale" clause.

17. PROHIBITION AGAINST SUBMITTING MORTGAGED PREMISES TO CONDOMINIUM PROPERTY ACT: Mortgagor shall not submit Mortgaged Premises to the Condominium Property Act of the State of Illinois or to any similar act or statute or otherwise permit cooperative ownership or the further subdivision thereof.

18. DEFAULT: In the event of a default by Mortgagor in the due and punctual payment of the whole or any part of any of the several installments, when due, pursuant to Note and the continuance thereof for five (5) days following written notice thereof ("Monetary Default"), or:

- a). Mortgagor shall default in the performance of any of the terms, agreements, covenants or conditions contained herein or in Commitment, Loan Agreement or Other Loan Documents, and the continuance thereof following thirty (30) days' prior written notice to Mortgagor (PROVIDED THAT in the event of a default which is not capable of being cured within said thirty [30] day period, the same shall not be considered a default if Maker or Beneficiary shall, within said thirty [30] day period, initiate and

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diligently pursue a course of action necessary and required to cure the same and FURTHER PROVIDED that in all events, such default must be cured within ninety (90) days following the occurrence thereof);

- b). Mortgagor shall file a petition in voluntary bankruptcy or pursuant to any provision of the Federal Bankruptcy Act or similar state or federal law, whether now or hereafter existing, or an answer admitting insolvency or inability to pay its debts;
- c). Mortgagor shall be adjudicated a bankrupt or a trustee or receiver shall be appointed for Mortgagor for all or the major part of its property, in any involuntary proceeding, or any court shall have taken jurisdiction of all or the major part of the property of Mortgagor, in any involuntary proceeding, for the reorganization, dissolution, liquidation or winding up of Mortgagor and such trustee or receiver shall not be discharged or such jurisdiction relinquished, vacated or stayed on appeal;
- d). Mortgagor shall make an assignment for the benefit of creditors or shall admit, in writing, its inability to pay its debts generally as the same become due or shall consent to the appointment of a receiver, trustee or liquidator of all or the major part of its property;
- e). Mortgagor or Beneficiary shall default in the performance of any obligation contained in any document evidencing any other indebtedness due and owing to Mortgagee, which is secured by any part or all of Mortgaged Premises, and such default is not be cured within the time permitted pursuant thereto; or
- f). Mortgagor or Beneficiary shall default in the performance of the terms and conditions required pursuant to Master Lease and such default shall continue beyond the time permitted to cure the same pursuant thereto, or shall fail to deliver the replacement Tenant Improvements Letter of Credit or to satisfy the conditions with respect thereto in a manner satisfactory to Mortgagee;

(a). through f). collectively "Non-Monetary Default"], then, or at any time thereafter during the continuance of Monetary Default or Non-Monetary Default, Indebtedness shall, at the election of Mortgagee, without further notice thereof and without demand or presentment, become immediately due and payable, anything contained herein or in Note, Commitment or Other Loan Documents to the contrary notwithstanding, and Indebtedness so accelerated and declared due as aforesaid shall thereafter bear interest at Default Rate.

19. REMEDIES NOT EXCLUSIVE: No remedy or right of Mortgagee hereunder or pursuant to Note, Commitment or Other Loan Documents or otherwise available under applicable law, shall be exclusive of any other remedy or right but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing at law or in equity pursuant thereto. No delay in the exer-

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cise of or omission to exercise any remedy or right accruing upon any Monetary Default or Non-Monetary Default shall impair any such remedy or right or be construed to be a waiver of any such default or an acquiescence therein nor shall the same affect any subsequent Monetary Default or Non-Monetary Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, when and as often as may be deemed expedient by Mortgagee. All obligations of Mortgagor and all rights, powers and remedies of Mortgagee expressed herein shall be in addition to and not in limitation of those provided by law, this Mortgage and Other Loan Documents.

20. REMEDIES: Upon the occurrence of Monetary Default or Non-Monetary Default, Mortgagor shall have the right to immediately foreclose this Mortgage. Upon the filing of any complaint by reason thereof, the court in which the same is filed may:

- a). upon application of Mortgagee or at any time thereafter;
- b). either before or after foreclosure sale and without notice to Mortgagor or to any party claiming under Mortgagor;
- c). without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of Indebtedness, or any part thereof;
- d). without regard to the then value of Mortgaged Premises or whether the same shall then be occupied in whole or in part, as a homestead by the owner of the equity of redemption; and
- e). without requiring any bond from the complainant in such proceedings;

appoint a receiver for the benefit of Mortgagee, with power to take possession, charge and control of Mortgaged Premises, to lease the same, keep Mortgaged Premises insured and in good repair and collect all rentals during the pendency of such foreclosure suit and, in the event of foreclosure sale and a deficiency in the proceeds received therefrom, during any period of redemption. The court may, from time to time, authorize such receiver to apply the net amounts remaining in his possession, after deducting reasonable compensation for himself and his counsel to be allowed by the court, together with costs and expenses incurred in the operation of Mortgaged Premises, in payment (in whole or in part) of any part or all of Indebtedness, including, without limitation, the following, in such order of application as Mortgagee may elect:

- i). to the payment of Indebtedness;
- ii). to any amount due upon any decree entered in any suit foreclosing this Mortgage;
- iii). to costs and expenses of foreclosure and litigation upon Mortgaged Premises;
- iv). to the payment of premiums due on Insurance Policies, Repair or Restoration, Impositions (and any interest, penalties and costs thereon) or any other lien or charge upon Mortgaged Premises which may be or become superior to the lien of this

Mortgage or of any decree foreclosing the same; and

- v). to the payment of all sums advanced by Mortgagee to cure or attempt to cure any Monetary Default or Non-Monetary Default, to protect the security provided herein and in Note, Commitment and Other Loan Documents, with interest on such advances at Default Rate.

Any overplus of the proceeds of foreclosure sale shall then be paid to Mortgagor, upon request. This Mortgage may be foreclosed at any one time against all or successively against any part or parts of Mortgaged Premises, as Mortgagee may elect and this Mortgage and the right of foreclosure hereunder shall not be impaired or exhausted by one or any foreclosure or by one or any sale and may be foreclosed successively and in parts until all of Mortgaged Premises shall have been foreclosed and sold. In the event of any foreclosure of Mortgaged Premises (or commencement of or preparation for the same) in any court, all reasonable expenses of every kind paid or incurred by Mortgagee for the enforcement, protection or collection of this security, including reasonable costs, attorneys' fees, stenographers' fees, costs of advertising, title charges and other costs and expenses shall be paid by Mortgagor.

21. POSSESSORY RIGHTS OF MORTGAGEE: Upon the occurrence of a Monetary Default or Non-Monetary Default, whether before or after the institution of legal proceedings to foreclose the lien of this Mortgage or any sale thereunder, Mortgagee shall be entitled, in its sole discretion, to perform any of the following:

- a). enter and take actual possession of Mortgaged Premises, Leases and the rents payable pursuant thereto, personally or by its agents or attorneys and excluding Mortgagor therefrom, in the manner and to the extent permitted by law;
- b). with or without process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Mortgagor relating thereto;
- c). as attorney-in-fact or agent of Mortgagor, or in its own name as Mortgagee and pursuant to the powers herein granted, hold, operate, manage and control Mortgaged Premises and Leases and collect all rentals payable pursuant thereto and conduct the business, if any, thereof, either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as, in its discretion, may be deemed proper or necessary to enforce the terms and conditions of Leases and the rentals payable pursuant thereto (including actions for the recovery of rents, actions in forcible detainer and actions in distress of rent);
- d). cancel or terminate any Lease or sublease for any cause or for any reason which would entitle Mortgagor to cancel the same;

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- e). elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof;
- f). make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to Mortgaged Premises which, in Mortgagee's reasonable discretion, may seem appropriate;
- g). insure and re-insure Mortgaged Premises against all risks incidental to Mortgagee's possession, operation and management thereof;
- h). perform such other acts in connection with the management and operation of Mortgaged Premises as Mortgagee, in its reasonable discretion, may deem proper; and
- i). present Tenant Improvements Letter of Credit to the issuer thereof for collection and apply the proceeds received therefor on account of Indebtedness, in such order of priority as Mortgagee may select.

Mortgagor hereby granting full power and authority to Mortgagee to exercise each and every of the rights, privileges and powers contained herein at any and all times following the occurrence of a Monetary Default or Non-Monetary Default, without notice to Mortgagor.

Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the rentals collected by it to the payment or on account of the following, in such order as it may determine:

- i). operating expenses of Mortgaged Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and leasing commissions and other compensation and expenses in seeking and procuring Occupancy Tenants and entering into Leases), established claims for damages, if any, and premiums on insurance Policies;
- ii). Impositions, costs of repairs, decorating, renewals, replacements, alterations, additions or betterments and improvements of Mortgaged Premises, including the cost, from time to time, of installing, replacing or repairing Mortgaged Premises and of placing Mortgaged Premises in such condition as will, in the judgment of Mortgagee, make the same readily rentable; and
- iii). Indebtedness, or any part thereof.

22. OTHER REMEDIES: Whenever any Monetary Default or Non-Monetary Default shall be existing, Mortgagee may exercise, from

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time to time, any rights and remedies available to it pursuant to applicable law. Mortgagor shall, promptly upon request by Mortgagee, assemble Personal Property and make the same available to Mortgagee at such place or places reasonably convenient for Mortgagee and Mortgagor, as Mortgagee shall designate. Any notification required by law of intended disposition by Mortgagor of any part of Mortgaged Premises shall be deemed reasonably and properly given if mailed as herein provided at least ten (10) days prior to such disposition. Without limiting the foregoing, whenever a default is existing, Mortgagee may, with respect to Personal Property, without further notice, advertisement, hearing, or process of law of any kind:

- a). notify any person obligated on Personal Property to perform, directly for Mortgagee, its obligations thereunder;
- b). enforce collection of any part of Personal Property by suit or otherwise and surrender, release or exchange all or any part thereof or compromise, extend or renew, for any period (whether or not in excess of the original period), any obligations of any nature of any party with respect thereto;
- c). endorse any checks, drafts or other writings in the name of Mortgagor to permit collection of Personal Property and control of any proceeds thereof;
- d). enter upon any part of Mortgaged Premises where Personal Property may be located and take possession of and remove the same, to the extent and in the manner permitted by law;
- e). sell any part or all of Personal Property free of all rights and claims of Mortgagor therein and thereto, at any public or private sale, in accordance with the provisions of the Uniform Commercial Code; and
- f). bid for and purchase any part of all of Personal Property at any such sale.

Any proceeds of any disposition by Mortgagee of any part of Personal Property may be applied by Mortgagee to the payment of expenses incurred in connection therewith, including reasonable attorneys' fees and legal expenses, and any balance of such proceeds shall be applied by Mortgagee in the payment of such part of Indebtedness and in such order of application as Mortgagee may, from time to time, elect. Mortgagee may exercise, from time to time, any rights and remedies available to it pursuant to the Uniform Commercial Code, other applicable laws in effect from time to time or otherwise available to it by reason of any applicable law. Mortgagor hereby expressly waives presentment, demand, notice of dishonor and protest in connection with Indebtedness and, to the fullest extent permitted by applicable law, and, except as otherwise permitted herein, any and all other notices, advertisements, hearings or process of law in connection with the exercise by Mortgagee of any of its rights and remedies hereunder.

Mortgagor hereby constitutes Mortgagee its attorney-in-fact, with full power of substitution, to take possession of Personal Property upon the occurrence of any default hereunder, as Mort-

gagee, in its sole discretion (reasonably exercised) deems necessary or proper, to execute and deliver all instruments required by Mortgagor to accomplish the disposition of Personal Property, or any part thereof, which power of attorney is a power coupled with an interest, irrevocable until such time as Indebtedness is paid in full.

23. PERFORMANCE OF CONSTRUCTION DOCUMENTS: Mortgagor:

- a). shall perform, for the benefit of Mortgagee, fully and promptly, each obligation and satisfy each material condition imposed upon it pursuant to any contract or agreement whereby services, labor or material are or is to be furnished to or for the benefit of Mortgaged Premises ("Construction Documents") so that there will be no default thereunder and the persons (other than Mortgagor) obligated thereunder shall be and remain, at all times, obligated to perform, for the benefit of Mortgagee, their respective covenants, conditions and agreements pursuant to Construction Documents and not permit to exist any condition, event or fact which could permit any such person to avoid such performance; and
- b). irrevocably appoints Mortgagee its attorney-in-fact, with full power of substitution, to serve notice upon all persons obligated to it or Beneficiary pursuant to Construction Documents, of the existence of a default hereunder or pursuant to Loan Agreement or Other Loan Documents and require that performance pursuant thereto by such persons be made directly to Mortgagee, at the expense of Mortgagor, and advance such sums as may be necessary or appropriate to satisfy Mortgagor's obligations thereunder.

24. NON-LIABILITY OF MORTGAGEE: Notwithstanding anything contained herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of Mortgagor pursuant to Leases or otherwise and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur pursuant thereto or by reason of its exercise of its rights hereunder and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings, on its part, to perform or discharge any of the terms, covenants or agreements with respect to Mortgaged Premises, except as a result of Mortgagee's gross negligence, wilful misconduct or failure to perform the terms hereof. Mortgagee shall not have responsibility for the control, care, management or repair of Mortgaged Premises nor shall Mortgagee be responsible or liable for any negligence in the management, operation, upkeep, repair or control of Mortgaged Premises resulting in loss, injury or death to any tenant, licensee, employee or stranger upon Mortgaged Premises, prior to the exercise by Mortgagee of its rights to possession of Mortgaged Premises. Except as hereinabove set forth, no liability shall be enforced or asserted against Mortgagee in the exercise of the powers herein granted to it and Mortgagor expressly waives and releases any such liability. In the event Mortgagee incurs any such liability, loss or damage pursuant hereto and to

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any Lease or in the defense of any claim or demand, Mortgagor agrees to reimburse Mortgagee, immediately upon demand, for the amount thereof, including reasonable costs, expenses and attorneys' fees.

25. USURY: Mortgagor represents and agrees that Loan will be used for business purposes and this Mortgage is exempt from limitations upon lawful interest, pursuant to the terms of the Illinois Revised Statutes, Chapter 17, Paragraph 6404.

26. CHANGE OF LAW: In the event of the enactment, following the date hereof, of any law in the State of Illinois deducting from the value of Mortgaged Premises, for the purpose of taxation, the amount of any lien, encumbrance or Imposition or imposing upon Mortgagee the payment of the whole or any part thereof or changing, in any way, the laws relating to the taxation of mortgages or debts secured by mortgages or the manner of collection of liens, encumbrances or Impositions, so as to materially affect this Mortgage, Indebtedness or Mortgagee, Mortgagor shall, in any such event, upon demand by Mortgagee, pay such liens, encumbrances or Impositions or reimburse Mortgagee therefor; PROVIDED, HOWEVER, that if, in the reasonable opinion of counsel for Mortgagee, it may be unlawful to require Mortgagor to make such payment or the making of such payment may result in the payment of interest beyond the maximum amount permitted by law, then, and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare Indebtedness and all interest due and owing thereon to be and become due and payable within six (6) months from the giving of such notice. Notwithstanding the foregoing, it is understood and agreed that Mortgagor is not obligated to pay any part of Mortgagee's federal or state income tax.

27. COMPLIANCE WITH AGREEMENTS: Mortgagor shall pay promptly and keep, observe, perform and comply with all covenants, terms and provisions of operating agreements, Leases, instruments and documents relating to Mortgaged Premises or evidencing or securing any indebtedness secured thereby and shall observe all covenants, conditions and restrictions affecting the same, except for such agreements which are then in default or which Mortgagor is, in good faith, contesting, in any respect.

28. ASSIGNMENT OF LEASES, RENTS AND PROFITS: To further secure Indebtedness and the performance of all of the terms, covenants, conditions and agreements contained herein and in Note, Commitment and Other Loan Documents, Mortgagor hereby sells, assigns and transfers to Mortgagee all of its right, title and interest in and to Leases and all rentals, issues, proceeds and profits now due and which may hereafter become due pursuant thereto, it being the intention hereby to establish an absolute transfer and assignment thereof to Mortgagee. Mortgagor hereby irrevocably appoints Mortgagee its agent, in its name and stead (with or without taking possession of Mortgaged Premises, as provided in Paragraph 21 hereof), to rent, lease or let all or any part of Mortgaged Premises to any party or parties, at such rental and upon such terms as Mortgagee shall, in its reasonable discretion, determine and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter and all presently due or which may hereafter become due pursuant to each and every Lease, written or oral, or other tenancy existing or which hereafter exist on Mortgaged Premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Mortgagee would

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have upon a taking of possession pursuant to the provisions of Paragraph 21 hereof. Mortgagor represents and agrees that no rent has been or will be paid by any person in possession of any part of Mortgaged Premises for more than one (1) installment in advance (exclusive of security deposits) and that the payment of no part of the rents to accrue for any part of Mortgaged Premises has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagor, except as permitted pursuant to Travelers Commitment. Mortgagor waives any rights of set-off against any person in possession of any part of Mortgaged Premises and agrees that it will not assign any of the rents or profits from Mortgaged Premises except to a purchaser or grantee thereof.

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the taking of actual possession of Mortgaged Premises by Mortgagee pursuant to Paragraph 21 hereof. In the exercise of the powers granted herein to Mortgagee, no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor, except as otherwise provided herein. Mortgagor further agrees to assign and transfer Leases to Mortgagee and to execute and deliver, at the request of Mortgagee, all such further assurances and assignments in Mortgaged Premises as Mortgagee shall, from time to time, reasonably require. Although it is the intention of Mortgagor and Mortgagee that the assignment contained in this paragraph shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it pursuant hereto until a Monetary Default or Non-Monetary Default shall exist. Within forty-five (45) days following Mortgagee's written demand therefor, subject to Paragraph 45 following, Mortgagor will furnish to Mortgagee executed copies of Leases not previously submitted to and approved by Mortgagee, which shall be in form and content satisfactory to Mortgagee, together with Tenant Estoppel Certificates of Occupancy Tenants executing the same; PROVIDED, HOWEVER, that in the event that, following the diligent and good faith effort of Mortgagor to provide said Tenant Estoppel Certificates, Mortgagor is unable to obtain the same, Mortgagee shall accept, in lieu thereof, estoppel certificate of Mortgagor, with respect to Tenant Estoppel Certificates which Mortgagor has been unable to obtain. In the event that Mortgagee requires Mortgagor to execute and record a separate Collateral Assignment of Rents or separate Assignment of Leases, or any part thereof, to Mortgagee, the terms and provisions of said Assignments shall control in the event of a conflict between the terms hereof and the terms thereof.

Upon the written request of Mortgagee, Mortgagor shall also execute a Specific Assignment of Leases and Rents, in form and content acceptable to Mortgagee.

29. SECURITY AGREEMENT: Mortgagor and Mortgagee agree that:

- a). this Mortgage shall constitute a security agreement within the meaning of the Illinois Uniform Commercial Code ("Code") with respect to any and all sums at any time on deposit for the benefit of or held by Mortgagee (whether deposited by or on behalf of Mortgagor or others) pursuant to any provision of this Mortgage, Note, Commitment or Other Loan Documents and any personal property included in the

granting clauses of this Mortgage, which may not be deemed to be affixed to Mortgaged Premises or may not constitute a "fixture" (within the meaning of Section 9-313 of Code) and all replacements thereof, substitutions therefor, additions thereto and the proceeds thereof (collectively "Collateral");

- b). a security interest in and to Collateral is hereby granted to Mortgagee;
- c). Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee to secure the payment of Indebtedness;
- d). all of the terms, provisions, conditions and agreements contained herein shall pertain and apply to Collateral as fully and to the same extent as the same apply to any other property comprising Mortgaged Premises; and
- e). the following provisions shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:
 - i). Mortgagor (being the "Debtor", as such term is defined in Code) is and will be the true and lawful owner of Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefitting Mortgagee, the lien securing \$7,500,000.00 Loan and liens and encumbrances, if any, expressly permitted pursuant hereto and to Note, Commitment and Other Loan Documents.
 - ii). Collateral shall be used by Mortgagor solely for business purposes.
 - iii). Collateral shall be kept at Mortgaged Premises and, except for obsolete Collateral, will not be removed therefrom without the prior consent of Mortgagee.
 - iv). No financing statement (other than financing statements indicating Mortgagee as the sole "Secured Party" or except as permitted in writing by Mortgagee or with respect to liens or encumbrances, if any, expressly permitted pursuant hereto and to Note, Commitment and Other Loan Documents) covering any part of Collateral or any proceeds thereof is on file in any public office. Mortgagor shall, upon demand and at its sole cost and expense, furnish to Mortgagee such further information, execute and deliver such financing statements and other documents (in form satisfactory to Mortgagee) and do all such acts and things as Mortgagee may, at any time or from time to time, request or as may be necessary or appro-

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priate to establish and maintain a perfected security interest in Collateral as security for Indebtedness, free and clear of all liens or encumbrances other than liens or encumbrances benefitting Mortgagee only and liens and encumbrances, if any, expressly permitted hereby or pursuant to Note, Commitment or Other Loan Documents and Mortgagor will pay the cost of filing or recording this instrument and such financing statements or other documents in all public offices wherever filing or recording is deemed necessary or desirable by Mortgagee.

- vi). In the event of the occurrence of Monetary Default or Non-Monetary Default, Mortgagee shall have the remedies of a Secured Party pursuant to Code, including, without limitation, the right to take immediate and exclusive possession of Collateral, or any part thereof and, for that purpose, may, insofar as Mortgagor can give authority therefor, with or without judicial process, enter (if the same can be accomplished in the manner permitted by law) upon any place in which Collateral, or any part thereof, may be situated and remove the same therefrom (provided that if Collateral is affixed to real estate, such removal shall be subject to the conditions stated in Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare Collateral for sale (until disposed of) or may propose to retain the same subject to Mortgagor's right of redemption, in satisfaction of Mortgagor's obligations, as provided in Code. Mortgagee may render Collateral unusable without removal and may dispose of the same on Mortgaged Premises. Mortgagee may require Mortgagor to assemble Collateral and make the same available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. Mortgagee will furnish to Mortgagor not less than twenty (20) days' prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed by certified United States mail (or equivalent), postage prepaid, to the address of Mortgagor hereafter set forth. Mortgagee may purchase, at any public sale and, if Collateral is of a type customarily sold in a recognized market or the subject of widely distributed standard price quotations,

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Mortgagee may purchase Collateral at private sale. Any such sale may be held as a part of and in conjunction with any foreclosure sale of Mortgaged Premises and Collateral and Mortgaged Premises may be sold as one lot, if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of re-taking, holding, preparing for sale, selling or the like, and reasonable attorneys' fees and legal expenses incurred by Mortgagee shall be applied against Indebtedness in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

- vii). The terms and provisions contained in this Paragraph 28 shall, unless the context otherwise requires, have the meanings contained and be construed as provided in Code.
- viii). This Mortgage is intended to be a financing statement within the purview of Section 9-102(6) of Code with respect to Collateral and the goods described herein, which are or may become fixtures relating to Mortgaged Premises; the addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are hereafter set forth; this Mortgage shall be filed or recorded with the Recorder of Deeds of the County or Counties in which Mortgaged Premises are located; and Mortgagor is the record owner of Mortgaged Premises.
- ix). To the extent permitted by applicable law, the security interest established hereby is specifically intended to cover and include all of the right, title and interest of Mortgagor, as landlord, in and to Leases, including all extended terms and extensions and renewals thereof, together with any amendments to or replacements thereof and all right, title and interest of Mortgagor, as landlord thereunder, including, without limitation, the present and continuing right to make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, profits and monies payable as damages or, in lieu of the rents and moneys payable, as the purchase price of Mortgaged Premises, or any part thereof or of awards or claims of money and other sums of money payable or receivable thereunder, howsoever payable, and to bring actions and proceedings thereunder or for the enforcement thereof and to do any and all things which Mort-

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gagor or any landlord is or may become entitled to do pursuant to Leases.

30. EXECUTION OF SEPARATE SECURITY AGREEMENT AND FINANCING STATEMENT: In addition to this Mortgage being deemed a security agreement, Mortgagor shall, upon the written request of Mortgagee, as additional security for the payment of Indebtedness and the performance of all of the terms, covenants, conditions and agreements set forth herein and in Note, Commitment and Other Loan Documents, execute and deliver to Mortgagee a security agreement, granting to Mortgagee a first security interest in and to Collateral, all right, title and interest of Mortgagor, as landlord, in and to Leases and all rents, issues and profits due or which may hereafter become due and payable pursuant to the terms and provisions thereof; and, further, execute and deliver Financing Statements pursuant to the Uniform Commercial Code, State of Illinois. Mortgagor agrees, from time to time, to execute such additional Security Agreements and Financing Statements as may be reasonably necessary to vest in Mortgagee a security interest in and to Collateral and Leases until Indebtedness is paid in full.

31. FINANCIAL STATEMENTS: Within ninety (90) days following the close of each fiscal year applicable to the operation of Mortgaged Premises and within ninety (90) days following the last day of each calendar year (as to Beneficiary), Mortgagee shall be furnished with annual financial statements applicable to the operation of Mortgaged Premises (prepared and certified by an independent certified public accountant [if Beneficiary causes certified statements to be prepared] or by General Partner) and annual financial statements of Beneficiary, in form satisfactory to Mortgagee. Mortgagee shall have the right, upon five (5) days' prior written notice, to inspect and make copies of the books, records and income tax returns of Beneficiary with respect to Mortgaged Premises, for the purpose of verifying any such statement.

32. PAYMENT AND PERFORMANCE BY MORTGAGOR: In the event that Mortgagor shall fail to pay or perform any of its obligations contained herein and in Note, Commitment, Loan Agreement and Other Loan Documents (including the payment of expenses of foreclosure and court costs), Mortgagee may, but need not, following the expiration of any applicable grace period provided therein, pay or perform (or cause to be paid or performed) any obligation of Mortgagor pursuant thereto, in any form and manner deemed reasonably expedient by Mortgagee, as agent or attorney-in-fact of Mortgagor, and any amount so paid or expended (plus reasonable compensation to Mortgagee for its out-of-pocket and other expenses for each matter for which it acts hereunder), with interest thereon at Default Rate, shall be and become a part of Indebtedness and shall be paid to Mortgagee upon demand. By way of illustration and not in limitation of the foregoing, Mortgagee may, but need not:

- a). collect rentals due and owing pursuant to Leases and prosecute the collection of Collateral or the proceeds thereof;
- b). purchase, discharge, compromise or settle any Imposition, lien or any other lien, encumbrance, suit, proceeding, title or claim thereof;
- c). redeem from any tax sale or forfeiture affecting Mortgaged Premises or contest any Imposition; and

- d). perform any act or deed reasonably necessary and required to protect the value of Mortgaged Premises and the security given for Indebtedness.

In making any payment or securing any performance relating to any obligation of Mortgagor hereunder, Mortgagee, so long as it acts in good faith, shall have the sole discretion as to the legality, validity and amount of any lien, encumbrance or Imposition and of all other matters necessary to be determined in satisfaction thereof. No such action of Mortgagee shall be considered a waiver of any right accruing to it on account of the occurrence of any default by Mortgagor pursuant hereto or to Note, Commitment or Other Loan Documents.

33. APPLICATION OF PRINCIPAL: The principal amount evidenced by Note shall be used to pay the costs of acquisition and development of Mortgaged Premises, including costs of construction of Shell/Corr and other costs and expenses set forth in Loan Agreement, in accordance with the provisions thereof and:

- a). Mortgagor shall perform and satisfy all of the terms, covenants, conditions and agreements required of it pursuant to Loan Agreement; and
- b). all advances and indebtedness arising and accruing pursuant to Loan Agreement from time to time, whether or not the total amount thereof may exceed the principal amount evidenced by Note, shall be secured hereby to the same extent as though Loan Agreement were fully incorporated herein and if there shall be any inconsistency between the provisions hereof and of Loan Agreement and Other Loan Documents, the provisions hereof shall prevail.
- c). This Mortgage:
 - i). is granted to secure future disbursements of the principal amount evidenced hereby by Mortgagee to Mortgagor as provided in Loan Agreement, and all reasonable costs and expenses incurred in enforcing Mortgagor's obligations pursuant hereto and pursuant to Note, Loan Agreement and Other Loan Documents, to pay for the cost of construction of Improvements, as provided in Loan Agreement; and
 - ii). constitutes a "construction loan" within the meaning of Section 9-313 (1) (c) of the Illinois Uniform Commercial Code.

All disbursements required by Loan Agreement are obligatory advances up to the full amount of the indebtedness evidenced by Note and secured hereby and shall, to the extent permitted by law, have priority over mechanic's and other liens, if any, arising after the recording of this Mortgage.

- d). Notwithstanding anything contained herein to the contrary, until Mortgagor, Beneficiary and Mortgagee shall have performed all of the terms, cove-

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nants, conditions and agreements required of each of them pursuant to Loan Agreement ("Final Performance Date"):

- i). Note shall be subject to the terms and conditions of Loan Agreement and any amendments thereto; and
- ii). any default by Mortgagor or Beneficiary pursuant to Loan Agreement, which is not cured within the applicable grace period, shall constitute a default pursuant hereto, in which event, at the option of the holder hereof, Indebtedness shall, without further notice, become immediately due and payable.

From and after Final Performance Date, the terms, provisions and conditions set forth in i). through iii)., both inclusive, immediately above shall be of no further force and effect and no provision of Loan Agreement shall operate to modify, limit, impair or prejudice any right or remedy hereunder, which may be had or exercised by Mortgagee.

34. RELEASE: Upon payment in full of Indebtedness, at the time and in the manner herein provided, this conveyance shall be null and void and, upon demand therefor following such payment, an appropriate instrument of reconveyance or release shall promptly be made by Mortgagee to Mortgagor, at Mortgagor's expense.

35. CONSENT OF MORTGAGEE: The consent by Mortgagee in any single instance shall not be deemed or construed to be Mortgagee's consent in any like matter arising at a subsequent date and the failure of Mortgagee to promptly exercise any right, power, remedy or consent provided herein or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Mortgagee be estopped from exercising such right, power, remedy or consent at a later date.

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

37. MORTGAGOR'S CONTINUING LIABILITY: This Mortgage is intended only as security for Indebtedness and the performance of the terms, covenants, conditions and agreements contained herein and in Note, Commitment and Other Loan Documents to the contrary notwithstanding:

- a). Mortgagor shall be and remain liable to perform all of the obligations assumed by it pursuant hereto; and
- b). Except as herein provided, Mortgagee shall have no obligation or liability by reason of or arising out

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of this Mortgage and shall not be required or obligated, in any manner, to perform or fulfill any of the obligations of Mortgagor pursuant hereto.

38. MECHANICS' LIENS AND ASSESSMENTS: So long as no Monetary Default or Non-Monetary Default shall exist, Mortgagor shall have the right to diligently contest any mechanic's or other lien claim encumbering Mortgaged Premises (PROVIDED THAT Mortgagor shall deposit with a title insurer reasonably acceptable to Mortgagee a sum or other indemnity sufficient to cause such insurer to insure over such lien claims) and any general real estate tax assessment or special assessment assessed against Mortgaged Premises (PROVIDED THAT Mortgagor shall deposit with Mortgagee, with a title insurer reasonably acceptable to Mortgagee or with an appropriate governmental authority, a sum sufficient (or other indemnification satisfactory to such title insurer) to prevent delinquency or assure payment of such taxes or assessments).

39. INSPECTIONS: Mortgagee, by any authorized agent or employee and for the protection of its interest in Mortgaged Premises, is hereby authorized and empowered to enter in and upon Mortgaged Premises at any and all reasonable times, for the purpose of inspecting the same and ascertaining the condition thereof.

40. INDEMNIFICATION: Mortgagor shall indemnify Mortgagee from all losses, damages and expenses, including reasonable attorneys' fees, incurred in connection with any suit or proceeding in or to which Mortgagee maybe made a party for the purpose of protecting the lien of this Mortgage.

41. TAX SERVICE CONTRACT: Mortgagee may enter into a contract with Transamerica Real Estate Tax Service or such other tax reporting agency approved by Mortgagee for the purpose of making annual tax searches to assure the prompt payment of real estate taxes and special assessments levied against Mortgaged Premises and Mortgagor covenants and agrees to reimburse Mortgagee or Mortgagee's loan servicing agent for the cost of such annual searches. If Mortgagee elects not to employ such tax reporting agency, Mortgagor shall reimburse Mortgagee or its loan servicing agent for its costs in making such annual tax searches.

42. LATE CHARGE: In addition to the payment of Indebtedness, Mortgagee shall have the right to demand and Mortgagor shall pay a late charge equal to FOUR CENTS (\$.04) for each ONE DOLLAR (\$1.00) of payments due and owing on account of Indebtedness not made within ten (10) days following the respective due dates thereof.

43. PAYMENT AFTER DEFAULT: In the event Mortgagee shall accelerate the maturity date of the indebtedness evidenced hereby, by reason of Monetary Default, Non-Monetary Default or Unpermitted Transfer, Mortgagee shall have the right to charge, to the extent permitted by applicable law and in lieu of Prepayment Premium, as additional interest due and owing pursuant to Note, a sum equal to the then unpaid Indebtedness multiplied by the greater of:

- a). the product obtained by multiplying:
 - i). the difference obtained by subtracting from the rate of interest due on Note, the yield rate on United States Treasury Bonds maturing closest to Maturity Date,

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as such rate is quoted in the Wall Street Journal or similar publication on the fifth (5th) business day preceding the date of payment; and

- ii). the number of Loan Years or fraction thereof, remaining between the date Payee accelerates Maturity Date and Maturity Date;

and

- b). seven per cent (7%), if Monetary Default, Non-Monetary Default or Unpermitted Transfer occurs during the first two (2) Loan Years, or one per cent (1%), if Monetary Default, Non-Monetary Default or Unpermitted Transfer occurs after the second (2nd) Loan Year.

44. TENANT IMPROVEMENTS LETTER OF CREDIT: To assure the payment of Tenant Improvements, Mortgagor has caused to be delivered to Mortgagee 1986 Tenant Improvements Letter of Credit, which shall be retained, reduced, replaced, surrendered for collection or returned to Mortgagor or Beneficiary in the manner and at the time provided in Travelers Commitment, or shall otherwise have satisfied the requirements with respect thereto.

45. OTHER LEASE REQUIREMENTS: All Other Leases executed after the date hereof shall, in all respects, conform with Minimum Criteria and, if in such conformity, shall be deemed approved by Mortgagee; PROVIDED, HOWEVER, that in the event any Other Leases are not in compliance therewith, the same shall be acceptable so long as Master Lease remains in effect with respect to net rentable floor area situated within Mortgaged Premises leased pursuant to said Other Leases, but only to the extent of the variance between the terms thereof and Minimum Criteria.

46. CORRECTIVE DOCUMENTS: Mortgagor shall, at the request of Mortgagee, promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in the execution or acknowledgment hereof or in any other instrument executed in connection herewith or in the execution or acknowledgment of such instrument and will execute and deliver any and all additional instruments as may be reasonably requested by Mortgagee to correct such defect, error or omission.

47. CONSENT OR APPROVAL: Any consent or approval required of and granted by Mortgagee pursuant hereto shall:

- a). be narrowly construed to be applicable only to Mortgagor and the facts identified in such consent or approval and no third party shall claim any benefit by reason thereof; and
- b). not be deemed to constitute Mortgagee a venturer or partner with Mortgagor or Beneficiary whatsoever nor shall privity of contract be presumed to have been established with any such third party.

48. GOVERNING LAW: This Mortgage shall be construed in accordance with and governed by the laws of the State of Illinois. Whenever possible, each provision of this Mortgage shall be interpreted in such a manner as to be effective and valid pursuant to applicable law; however, if any part thereof shall be prohi-

bited by or invalid thereunder, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder thereof or the remaining provisions of this Mortgage.

49. TIME OF THE ESSENCE: It is specifically agreed that time is of the essence of this Mortgage and that a waiver of the options or obligations secured hereby shall not, at any time thereafter, be held to be abandonment of such rights. Notice of the exercise of any option granted to Mortgagee pursuant hereto or to Note, Commitment or Other Loan Documents is not required to be given.

50. NOTICES: Any notice, consent or other communication to be given hereunder or pursuant to Note, Commitment or Other Loan Documents shall be in writing and shall be delivered either personally or by United States certified or registered mail, postage prepaid, return receipt requested (which shall be deemed received three [3] days after the deposit thereof with the United States Postal Service) to Mortgagor and Mortgagee at their respective addresses set forth below or to such other addresses as Mortgagor, Mortgagee or such other parties, to whom copies of notices, consents or other communications are to be mailed, may direct in writing:

If to Mortgagor, at 33 North LaSalle Street, Chicago, Illinois 60602, Attn: Land Trust Department, with copies thereof to Stein Co., 208 South LaSalle Street, Chicago, Illinois 60604 and Rudnick & Wolfe, 30 North LaSalle Street, Chicago, Illinois 60602, Attn: Robert H. Goldman, Esq.

If to Mortgagee, at 111 West Washington Street, Chicago, Illinois 60602, with copies thereof to The Travelers Insurance Company, 2215 York Road, Oak Brook, Illinois 60521, Attn: Mr. Richard G. Griffith, Regional Vice President, and to The Travelers Insurance Company, 2215 York Road, Oak Brook, Illinois 60521, Attn: John C. Murray, Esq.

51. CAPTIONS: The headings or captions of the paragraphs or subparagraphs hereof are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms of this Mortgage.

52. BENEFIT: All grants, conditions and provisions hereof shall apply, extend to and be binding upon Mortgagor and all persons claiming any interest in Mortgaged Premises by, through or under Mortgagor, and shall inure to the benefit of Mortgagee, its successors and assigns.

This Construction and Long-Term Mortgage and Security Agreement is executed by Mortgagor, not personally but solely as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it, as Trustee aforesaid (and it hereby represents that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming an interest pursuant to this instrument that Mortgagor has executed this instrument solely for the purpose of subjecting the title holding interest and the trust estate under the aforesaid Trust to the terms of this instrument; that no personal liability or personal responsi-

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bility is assumed by nor shall, at any time, be asserted or enforceable against Mortgagor personally, Beneficiary, or any of the partners of Beneficiary (with the exception of the completion guaranty of Stein described in Loan Agreement and Master Lease) on account of this instrument or on account of any representation, obligation, duty, covenant or agreement contained herein, either express or implied; all such personal liability, if any, being expressly waived and released; and further, that no duty shall rest upon Mortgagor, either personally or as Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising pursuant to the terms of this instrument, except where acting pursuant to direction, as provided by the terms of the Trust Agreement aforesaid, and after being first supplied with funds required for such purpose. In the event of any conflict between the terms of this paragraph and the remainder of this instrument, or in the event of any question of apparent liability or obligation resting upon Mortgagor, Beneficiary or any of the partners of Beneficiary, the exculpatory provisions hereof shall be controlling.

IN WITNESS WHEREOF, Mortgagor has caused these presents to be signed by its duly authorized officers and its corporate seal to be hereunto affixed on the day and year first above written.

AMERICAN NATIONAL BANK AND TRUST
COMPANY OF CHICAGO, not personally
but solely as Trustee aforesaid

By [Signature]
Title: _____

ATTEST:

Title: [Signature]
Asst. Sec'y

STATE OF)
COUNTY OF) SS.

The undersigned, a Notary Public in and for the County and State aforesaid, DOES HEREBY CERTIFY that J. MICHAEL WHIGAN, personally known to me to be the Asst. President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("Bank") and PETER L. JOHANSEN, personally known to me to be the Assistant Secretary thereof, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts and as the free and voluntary act of Bank, for the uses and purposes therein set forth; and the said [Signature] then and there acknowledged that he, as custodian of the corporate seal of Bank, caused the same to be affixed to said instrument as his own free and voluntary act and as the free and voluntary act of Bank, for the uses and purposes therein set forth.

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GIVEN under my hand and Notarial Seal this 31st day of ~~September~~, 1985.
October

Armen L. Sheparis
Notary Public

My Commission Expires 4/8/89

Property of Cook County Clerk's Office

85 267 975

COOK COUNTY, ILLINOIS
FILED FOR RECORD

1985 NOV -5 AM 10:37

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LEGAL DESCRIPTION OF LAND

PARCEL 1

Lot 1 in Arborlake Centre, being a subdivision in Sections 5 and 6, Township 42 North, Range 12, East of the Third Principal Meridian in Cook County, Illinois

PARCEL 2

NON-EXCLUSIVE EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS AND ACCESS OVER AND ACROSS THE FOLLOWING DESCRIBED REAL ESTATE AS CREATED BY GRANT OF EASEMENT DATED FEBRUARY 7, 1984 AND RECORDED AS DOCUMENT NUMBER 27021045, AS AMENDED BY AMENDMENT TO GRANT OF EASEMENT RECORDED AS DOCUMENT NUMBER 27419485

THE SOUTH 47 FEET OF THE NORTH 160 FEET OF THE NORTH 1/2 OF THE SOUTH 1/2 OF LOT 1 (EXCEPT THE EAST 25.0 FEET THEREOF) OF THE NORTH WEST 1/4 OF SECTION 5, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN; ALSO THE SOUTH 47 FEET OF THE NORTH 160 FEET OF THE EAST 5 ACRES (EXCEPT THEREFROM THE WEST 162 FEET OF THE EAST 5 ACRES) OF THE NORTH 1/2 OF THE EAST 1/2 OF LOT 2 OF THE NORTH EAST 1/4 OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

AND

A STRIP OF LAND 80 FEET WIDE, EXTENDING 63 FEET SOUTH FROM THE SOUTH RIGHT OF WAY LINE OF COUNTY LINE ROAD, THE CENTER LINE OF SUCH 80 FOOT WIDE STRIP BEING A LINE PARALLEL TO AND 596.44 FEET WEST OF THE EAST LINE OF THE WEST 1/2 OF LOT 2 OF THE NORTH WEST 1/4 OF SECTION 5, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

AND

A STRIP OF LAND 80 FEET WIDE, EXTENDING 63 FEET SOUTH FROM THE SOUTH RIGHT OF WAY OF COUNTY LINE ROAD, THE CENTER LINE OF SUCH 80 FOOT STRIP BEING A LINE PARALLEL TO AND 103.62 FEET EAST OF THE WEST LINE OF SECTION 5, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

AND

THAT PART OF LOT 2 IN THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS SAID LOT IS REPRESENTED ON THE MAP OF GOVERNMENT SURVEY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF THE NORTH 160.0 FEET OF THE NORTH 1/2 OF THE EAST 1/2 OF LOT 2 OF THE NORTH EAST 1/4 OF SECTION 6 AFORESAID WHICH IS 162 FEET EAST OF THE WEST LINE OF THE EAST 5 ACRES OF THE NORTH 1/2 OF THE EAST 1/2 OF LOT 2 IN THE NORTH EAST 1/4 OF SECTION 6 AFORESAID; THENCE SOUTH 0 DEGREES, 27 MINUTES, 47 SECONDS WEST PARALLEL WITH THE WEST LINE OF SAID EAST 5 ACRES 25.0 FEET; THENCE NORTH 72 DEGREES, 59 MINUTES, 48 SECONDS EAST 87.0 FEET TO THE SOUTH LINE OF THE NORTH 160.0 FEET AFORESAID; THENCE SOUTH 89 DEGREES, 41 MINUTES, 39 SECONDS WEST 83.0 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

NON-EXCLUSIVE EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS AND ACCESS AND FOR CONSTRUCTION AND INSTALLATION OF THE HUEHL ROAD EXTENSION OVER, ACROSS AND UPON THE FOLLOWING DESCRIBED REAL ESTATE AS CREATED BY DECLARATION AND GRANT OF EASEMENT DATED FEBRUARY 11, 1984 AND RECORDED FEBRUARY 13, 1985 AS DOCUMENT NUMBER 27441719 MADE BY AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 15, 1983 AND KNOWN AS TRUST NUMBER 57661:

THE WEST 25 FEET (LYING SOUTH OF THE NORTH LINE OF THE SOUTH 1/2 OF GOVERNMENT LOT 2 IN THE NORTH WEST 1/4 OF THE HEREINAFTER DESCRIBED SECTION 5) OF LOT 1 IN LAKE COOK OFFICE CENTER, BEING A RESUBDIVISION OF LOT 3 IN LAKE COOK ROAD INDUSTRIAL PARK, BEING A SUBDIVISION IN THE NORTH EAST 1/4 AND THE NORTH WEST 1/4 OF SECTION 5, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 4:

NON-EXCLUSIVE EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 FOR PARKING, INGRESS AND EGRESS, UTILITY FACILITIES, LANDSCAPING, TENNIS COURTS AND SIGNAGE OVER AND ACROSS THE FOLLOWING DESCRIBED REAL ESTATE AS CREATED BY THE DECLARATION AND GRANT OF RECIPROCAL RIGHTS DATED JANUARY 31, 1985 AND RECORDED FEBRUARY 6, 1985 AS DOCUMENT 27435249 MADE BY AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO AS TRUSTEE UNDER TRUST NUMBERS 61840, 62290, 63291, 63292:

LOTS 2, 3, and 4 IN ARBORLAKE CENTRE SUBDIVISION IN SECTION 5 AND 6, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS ACCORDING TO THE PLAT THEREOF RECORDED MARCH 14, 1985 AS DOCUMENT 27475383 IN COOK COUNTY, ILLINOIS.

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