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WHEN RECORDED MAIL TO

Fidelity Federal Sav & Loan
Assoc. of Chicago
Attn. John K. Taylor
5455 W. Belmont Ave.
Chicago IL 60641

BOOK BOX 333-CC

1988 OCT 26 PM 1:07

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1900

SPACE ABOVE THIS LINE FOR RECORDER'S USE

This instrument was prepared by:

Carol B. Muriby, 5455 W. Belmont Ave.,
Chicago, IL 60641

MULTIFAMILY MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (Security for Construction Loan Agreement)

THIS MORTGAGE (herein "Instrument") is made this 20th day of October 19 88, between the Mortgagor/Grantor, Pyszard Dabrowski married to Agnes Dabrowski whose address is 4045 W. Wellington, Chicago, IL 60641 (herein "Borrower"), and the Mortgagee, FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION OF CHICAGO a Corporation organized and existing under the laws of the United States of America whose address is 5455 West Belmont Avenue Chicago, Illinois 60641 (herein "Lender")

WHEREAS, Borrower is indebted to Lender in the principal sum of TWO HUNDRED SEVENTEEN THOUSAND AND 00/100 Dollars, which indebtedness is evidenced by Borrower's note dated October 20, 1988 (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on November 1, 2018.

To SECURE TO LENDER (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals, extensions and modifications thereof; (b) the repayment of any future advances, with interest thereon, made by Lender to Borrower pursuant to paragraph 30 hereof (herein "Future Advances"); (c) the performance of the covenants and agreements of Borrower contained in a Construction Loan Agreement between Lender and Borrower dated [redacted] (herein "Loan Agreement"); and (d) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; and (e) the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant, convey and assign to Lender [the leasehold estate pursuant to a lease (herein "ground lease") dated [redacted] between [redacted] and [redacted]] recorded in [redacted] in and to*] the following described property located in Cook County, State of Illinois

* Delete bracketed material if not completed.

Property address: 6252 W. Belmont Ave., Chicago, IL 60634

The west 39 feet 8 inches of the east 79 feet 4 inches of lot 95 in Booth's Belmont Avenue addition to Chicago of the south 1/2 of the south 1/2 of the southwest 1/4 and the south 10 acres of the north 1/2 of the south 1/2 of the southwest 1/4 of section 20, township 40 north, range 13 east of the third principal meridian, in Cook County, Illinois.

Permanent Tax Index No. 13-20-329-038-0000 Vol. 346

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Loan No. 2-000448-3

STATE OF ILLINOIS, County ss. The foregoing instrument was acknowledged before me this (date) of (month) (year) by (name of other) (name of corporation) (name of partnership) a limited partner- ship. My Commission Expires: Notary Public

STATE OF ILLINOIS, County ss. The foregoing instrument was acknowledged before me this (date) of (month) (year) by (person acknowledging) a limited partnership. My Commission Expires: Notary Public

STATE OF ILLINOIS, Cook County ss. I, John K. Taylor, Notary Public in and for said county and state, do hereby certify that Ryszard Dabrowski married to Agnes Dabrowski and AGNES DABROWSKI personally known to me to be the same person(s) whose name(s) is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth. Given under my hand and official seal, this 21 day of October, 1988. My Commission Expires: 2/27/92. Notary Public

STATE OF ILLINOIS, County ss. The foregoing instrument was acknowledged before me this (date) of (month) (year) by (person acknowledging) (name of corporation) (name of partnership) a limited partner- ship. My Commission Expires: Notary Public

STATE OF ILLINOIS, County ss. The foregoing instrument was acknowledged before me this (date) of (month) (year) by (person acknowledging) (name of corporation) (name of partnership) a limited partner- ship. My Commission Expires: Notary Public

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Non-Uniform Covenants. Borrower and Lender further covenant and agree as follows:

27. **ACCELERATION; REMEDIES.** Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, including, but not limited to, the covenants to pay when due any sums secured by this Instrument, Lender at Lender's option may declare all of the sums secured by this Instrument to be immediately due and payable without further demand and may foreclose this Instrument by judicial proceeding and may invoke any other remedies permitted by applicable law or provided herein. Lender shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorney's fees, costs of documentary evidence, abstracts and title reports.

28. **RELEASE.** Upon payment of all sums secured by this Instrument, Lender shall release this Instrument. Borrower shall pay Lender's reasonable costs incurred in releasing this Instrument.

29. **WAIVER OF HOMESTEAD AND REDEMPTION.** Borrower hereby waives all right of homestead exemption in the Property. If Borrower is a corporation, Borrower hereby waives all right of redemption on behalf of Borrower and on behalf of all other persons acquiring any interest or title in the Property subsequent to the date of this Instrument, except decree or judgment creditors of Borrower.

30. **FUTURE ADVANCES.** Upon request of Borrower, Lender, at Lender's option so long as this Instrument secures indebtedness held by Lender, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Instrument when evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the indebtedness secured by this Instrument, not including sums advanced in accordance herewith to protect the security of this Instrument, exceed the original amount of the Note (US \$ 217,000.00) plus the additional sum of US \$ Note.

IN WITNESS WHEREOF, Borrower has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

Ryszard Dabrowski
Ryszard Dabrowski

Agnes Dabrowski
Agnes Dabrowski (for the purpose of waiving Homestead Rights)

Borrower's Address

4045 W. Wellington
Chicago, IL 60641

Property of Cook County Clerk's Office

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ADJUSTABLE RATE RIDER

(3 or 5 Year Treasury Index — Rate Caps)

THIS ADJUSTABLE RATE RIDER is made this 20th day of October, 1988, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION OF CHICAGO, 5455 West Belmont Avenue, Chicago, Illinois 60641 (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

6252 W. Belmont Ave.

Chicago, Illinois
(Property Address)

60634

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENTS. THIS NOTE LIMITS THE MAXIMUM AND MINIMUM RATES I MUST PAY AND THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial interest rate of 10.875%. The Note provides for changes in the interest rate and the monthly payment as follows:

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of November 1, 1993, and on that day every 60th month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the weekly average yield on United States Treasury securities adjusted to a constant maturity of five years, as made available by the Federal Reserve Board. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index which is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding two and seventy-five (2.75%) percentage points to the Current Index. The Note Holder will then round the result of this addition to the nearest one eighth of one percentage point (0.125%). This rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the principal I am expected to owe at the Change Date in full on the maturity date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limitations on Interest rate Changes

The rate of interest that I am required to pay shall never be increased or decreased on a single change date by more than two (2%) percentage points from the interest that I have been paying since the last change date.

The interest rate charged by the Lender can be increased by a maximum of 5.875 percentage points (5.875%) prior to the maturity date. The interest rate charged by the Lender cannot fall below 4.875 percentage points.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

Uniform Covenant 17 of the Security Instrument is amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument. Lender also shall not exercise this option if (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

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88492731

Loan No. 2-C00448-3

P.I.N. 13-2C-329-038-0000

of waiving Homestead Rights)

Agnes Dabrowski (for the purpose of waiving Homestead Rights)

Ryszard Dabrowski

Ryszard Dabrowski

Rate Rider

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable

Rate Rider

Rate Rider

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Uniform Covenants, Borrower and Lender covenant and agree as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this Instrument.

2. FUNDS FOR TAXES, INSURANCE AND OTHER CHARGES. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly installments of principal or interest are payable under the Note (or on another day designated in writing by Lender), until the Note is paid in full, a sum (herein "Funds") equal to one twelfth of (a) the yearly water and sewer rates and taxes and assessments which may be levied on the Property, (b) the yearly ground rents, if any, (c) the yearly premium installments for fire and other hazard insurance, rent loss insurance and such other insurance covering the Property as Lender may require pursuant to paragraph 5 hereof, (d) the yearly premium installments for mortgage insurance, if any, and (e) if this Instrument is on a leasehold, the yearly fixed rents, if any, under the ground lease, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Any waiver by Lender of a requirement that Borrower pay such Funds may be revoked by Lender, in Lender's sole discretion, at any time upon notice in writing to Borrower. Lender may require Borrower to pay to Lender, in advance, such other Funds for other taxes, charges, premiums, assessments and impositions in connection with Borrower or the Property which Lender shall reasonably deem necessary to protect Lender's interests (herein "Other Impositions"). Unless otherwise provided by applicable law, Lender may require Funds for Other Impositions to be paid by Borrower in a lump sum or in periodic installments, at Lender's option.

The Funds shall be held in an institution(s) the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, rents, taxes, assessments, insurance premiums and Other Impositions so long as Borrower is not in breach of any covenant or agreement of Borrower in this Instrument. Lender shall make no charge for so holding and applying the Funds and may, at its option, charge or for verifying and compiling said assessments and bills, unless Lender pays Borrower interest, earnings or profits on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Instrument that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires, interest, earnings or profits to be paid. Lender shall not be required to pay Borrower any interest, earnings or profits on the Funds. Lender shall file with Borrower, without charge, an annual accounting of the Funds in Lender's normal format showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Instrument.

If the amount of the Funds held by Lender at the time of the annual accounting thereof shall exceed the amount deemed necessary by Lender to provide for the payment of water and sewer rates, taxes, assessments, insurance premiums, rents and Other Impositions, as they fall due, such excess shall be credited to Borrower on the next monthly installment or installments of Funds due. If at any time the amount of the Funds held by Lender shall be less than the amount deemed necessary by Lender to pay water and sewer rates, taxes, assessments, insurance premiums, rents and Other Impositions, as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within thirty days after notice from Lender to Borrower requesting payment thereof.

Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Lender may apply to any amount and in any order as Lender shall determine in Lender's sole discretion to the Funds held by Lender at the time of application to pay rates, rents, taxes, assessments, insurance premiums and Other Impositions which are now or will hereafter become due or due as a credit against or secured by this Instrument. Upon payment in full of all sums secured by this Instrument, Lender shall promptly return to Borrower any Funds held by Lender.

3. APPLICATION OF PAYMENTS. Unless applicable law provides otherwise, all payments received by Lender from Borrower under the Note or this Instrument shall be applied by Lender in the following order of priority: (a) amounts payable to Lender by Borrower under paragraph 2 hereof, (b) interest payable on the Note, (c) principal of the Note, (d) interest payable on advances made pursuant to paragraph 8 hereof, (e) principal of advances made pursuant to paragraph 8 hereof, (f) interest payable on any Future Advances, provided that if more than one Future Advance is outstanding, Lender may apply payment received and any amounts of interest payable on the Future Advances in such order as Lender, in Lender's sole discretion, may determine, (g) principal of any Future Advances, provided that if more than one Future Advance is outstanding, Lender may apply payments received among the principal amounts of the Future Advances in such order as Lender, in Lender's sole discretion, may determine, and (h) any other sums secured by this Instrument in such order as Lender, in Lender's option, may determine, provided, however, that Lender may, at Lender's option, apply any sums payable pursuant to paragraph 3 hereof to principal, interest and principal of the Note, but such application shall not otherwise affect the order of priority of application specified in this paragraph 3.

4. CHARGES; LIENS. Borrower shall pay all water and sewer rates, taxes, assessments, premiums, and Other Impositions attributable to the Property at Lender's option in the manner provided under paragraph 2 hereof, or if not paid in such manner, by Borrower making payment, when due, directly to the payee thereof, or in such other manner as Lender may designate in writing. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph 4, and in the event Borrower shall make payment directly to Borrower, all promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has or may have priority over or equate with the lien of this Instrument, and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Without Lender's prior written permission, Borrower shall not allow any lien inferior to this Instrument to be perfected against the Property.

5. HAZARD INSURANCE. Borrower shall keep the improvements now existing or hereafter erected on the Property in good repair and in all times satisfactory to Lender against loss by fire, hazards included within the term "extended coverage", rent loss and such other hazard perils as the applicable and contingencies as Lender and, if this Instrument is on a leasehold, the ground lease, shall require, and shall keep the Property insured for such periods as Lender shall require. All premiums on insurance policies shall be paid, at Lender's option, in the manner specified under paragraph 2 hereof, or by Borrower making payment, when due, directly to the carrier, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard fire coverage of at least \$1,000,000 and in form acceptable to Lender. Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty days prior to the expiration date of a policy, Borrower shall advise Lender of any renewal policy in form satisfactory to Lender. If this Instrument is on a leasehold, Borrower shall furnish Lender with copies of all policy renewal notices, renewal policies and receipts of paid premiums if, by virtue of the ground lease, the originals thereof may not be supplied by Borrower to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and empowers Lender as attorney in fact for Borrower to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds, provided however, that nothing contained in this paragraph shall require Lender to incur any expense or take any action hereunder. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property or (b) to apply the balance of such proceeds to the payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof, subject, however, to the rights of the lessor under the ground lease if this Instrument is on a leasehold.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payments of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amounts of such installments. If the Property is sold pursuant to paragraph 22 hereof or if Lender acquires title to the Property, Lender shall have, all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property, prior to such sale or acquisition.

6. PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLDS. Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all

13. **FORFEITURE BY LENDER NOT A WAIVER.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums secured or to declare a default for failure to make prompt payment. The prepayment of the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages under Paragraphs 7 and 8 hereof operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

12. **BOHROWER AND THEN NOT RELEASED.** From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantor, without limiting Lender's ability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, release from the lien of this instrument any part of the Property, take or release other or additional security, execute any part of the Property, consent to the granting of any easement, joint or separate, or to the inclusion in any deed or conveyance of any person, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred at Lender's option, for any such action taken at Borrower's request.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to reduction or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in Paragraph 8 hereof, with the balance, if any, to Borrower. Lender and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in Paragraph 1 and 2 hereof or change the amount of any installment. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

11. **(CONDEMNATION).** Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of part thereof, and Borrower shall appear in and prosecute any such action or proceeding, unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of part thereof, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award or damages, direct or consequential, in consequence of any condemnation with such condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or of any awards, proceeds or damages in lieu of condemnation, are hereby assigned to and shall be paid to Lender, subject to this Instrument, on a leasehold, to the rights of lessor under the ground lease.

10. **BOOKS AND RECORDS.** Borrower shall keep and maintain all books, records and documents used in the operation of the Property and copies of all water contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Upon Lender's request, Borrower shall furnish to Lender, within one hundred and twenty days after the end of each fiscal year or from time to time, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and verified by Borrower and Lender shall require by an independent certified public accountant. Borrower shall furnish together with the foregoing financial statement, and at any other time upon Lender's request, a balance sheet, a balance sheet, a statement of income and expenses of the Property, showing the name of each tenant, and for each tenant, the lease expiration date, the rent payable and the rent paid.

9. **INSPECTION.** Lender may make of cause to be made reasonable entries upon and inspections of the Property. Lender may make of cause to be made reasonable entries upon and inspections of the Property.

8. **PROPERTY OF LENDER SUBJECT MATTER.** If Borrower fails to perform the covenants and agreements contained in this Instrument or if any action or proceeding is commenced or threatened which affects the Property or the interest of Lender therein, including, but not limited to, common domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy or decedent, then Lender, at Lender's option may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest including, but not limited to, (i) the amount of any sums secured by this Instrument, and (ii) if this Instrument is on a leasehold, exercise of any option to renew or extend the ground lease on behalf of Borrower and the curing of any default of Borrower in the terms and conditions of the ground lease. Any amounts disbursed by Lender pursuant to this paragraph 8, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Lender agrees to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement, in the rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable law. In which event such amount shall bear interest at the highest rate which may be collected from Borrower under applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged in whole or in part, by the indebtedness secured hereby.

7. **USE OF PROCEEDS.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning of the Property without Lender's prior written consent.

6. **PROTECTION OF LENDER'S INTEREST.** Lender shall not surrender the leasehold estate and interest herein conveyed or cause the ground lease to be terminated or the ground lease to be extended, or amend or alter the ground lease, or any part of either, coming into common ownership, unless Lender shall consent in writing to such merger; if Borrower shall acquire such fee estate, then this Instrument shall simultaneously and without further action be spread so as to become a fee on such fee estate.

5. **COVENANTS OF THE LEASOR.** Lender shall give immediate written notice to Lender of the commencement of any remedial proceedings under the ground lease by any party thereto and if required by Lender, shall permit Lender to control and/or defend any such remedial proceedings and (v) shall within thirty days after request by Lender obtain from the lessor under the ground lease and deliver to Lender the lessor's estoppel certificate required thereunder, if any. Borrower hereby expressly transfers and assigns to Lender the benefit of all covenants contained in the ground lease, whether or not such covenants are contained in the ground lease.

4. **COVENANTS OF THE LESSEE.** Lender shall not surrender the leasehold estate and interest herein conveyed or cause the ground lease to be terminated or the ground lease to be extended, or amend or alter the ground lease, or any part of either, coming into common ownership, unless Lender shall consent in writing to such merger; if Borrower shall acquire such fee estate, then this Instrument shall simultaneously and without further action be spread so as to become a fee on such fee estate.

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14. **ESTOPPEL CERTIFICATE.** Borrower shall, within ten days of a written request from Lender, furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument.

15. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.** This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in paragraph 27 of this Instrument as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 27 of this Instrument.

16. **LEASES OF THE PROPERTY.** As used in this paragraph 16, the word "lease" shall mean "sublease" if this Instrument is on a leasehold. Borrower shall comply with and observe Borrower's obligations as landlord under all leases of the Property or any part thereof. Borrower will not lease any portion of the Property for non-residential use except with the prior written approval of Lender. Borrower, at Lender's request, shall furnish Lender with executed copies of all leases now existing or hereafter made of all or any part of the Property, and all leases now or hereafter entered into will be in form and substance subject to the approval of Lender. All leases of the Property shall specifically provide that such leases are subordinate to this Instrument, that the tenant attorns to Lender, such attornment to be effective upon Lender's acquisition of title to the Property, that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request, that the attornment of the tenant shall not be terminated by foreclosure, and that Lender may, at Lender's option, accept or reject such attornments. Borrower shall not, without Lender's written consent, execute, modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter made of all or any part of the Property providing for a term of three years or more, permit an assignment or sublease of such a lease without Lender's written consent, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right of set-off against rent, Borrower shall (a) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against rent, (b) notify Lender thereof, and of the amount of said set-offs, and (c) within ten days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall enable it to discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

Upon Lender's request, Borrower shall assign to Lender, by written instrument satisfactory to Lender, all leases now existing or hereafter made of all or any part of the Property and all security deposits made by tenants in connection with such leases of the Property. Upon assignment by Borrower to Lender of any leases of the Property, Lender shall have all of the rights and powers possessed by Borrower prior to such assignment and Lender shall have the right to modify, extend or terminate such existing leases and to execute new leases in Lender's sole discretion.

17. **REMEDIES CUMULATIVE.** Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

18. **ACCELERATION IN CASE OF BORROWER'S INSOLVENCY.** Borrower shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended or under any similar or successor Federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation or stay of involuntary proceedings brought by the reorganization, dissolution or liquidation of Borrower, or if Borrower shall be adjudged a bankrupt or if a trustee or receiver shall be appointed for Borrower or the Property, or if the Property shall become subject to the jurisdiction of a federal bankruptcy court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within ten days, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted by paragraph 27 of this Instrument. Any attorney's fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to paragraph 8 hereof.

19. **TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER; ASSUMPTION.** On sale or transfer of (a) all or any part of the Property, or any interest therein, or (b) beneficial interests in Borrower (if Borrower is not a natural person or persons but is a corporation, partnership, trust or other legal entity), Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable, and Lender may invoke any remedies permitted by paragraph 27 of this Instrument. This option shall not apply in case of:

- (a) transfers by devise or descent or by operation of law upon the death of a joint tenant or a partner;
- (b) sales or transfers when the transferee's creditworthiness and management ability are satisfactory to Lender, and the transferee has executed, prior to the sale or transfer, a written assumption agreement containing such terms as Lender may require, including, if required by Lender, an increase in the rate of interest payable under the Note;
- (c) the grant of a leasehold interest in a part of the Property of three years or less (or such longer lease term as Lender may permit by prior written approval) not containing an option to purchase (except any interest in the ground lease, if this Instrument is on a leasehold);
- (d) sales or transfers of beneficial interests in Borrower provided that such sales or transfers, together with any prior sales or transfers of beneficial interests in Borrower, but excluding sales or transfers under subparagraphs (a) and (b) above, do not result in more than 49% of the beneficial interests in Borrower having been sold or transferred since commencement of amortization of the Note; and
- (e) sales or transfers of fixtures or any personal property pursuant to the first paragraph of paragraph 6 hereof.

20. **NOTICE.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Instrument or in the Note shall be given by mailing such notice by certified mail addressed to Borrower at Borrower's address stated below or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Instrument or in the Note shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

21. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 19 hereof. All covenants and agreements of Borrower shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

22. **UNIFORM MULTIFAMILY INSTRUMENT; GOVERNING LAW; SEVERABILITY.** This form of multifamily instrument combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property and related fixtures and personal property. This Instrument shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision of this Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Instrument or the Note which can be given effect without the conflicting provisions, and to this end the provisions of this