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EXECUTED IN 2 PARTS

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MAIL TO PREPARER

PREPARED BY:

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HINSHAW, CULBERTSON, MOELMANN,
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222 North LaSalle, #300

Chicago, Illinois 60601

Address:

HB Loan Number: Il. 00875

The Laredo Plaza Shopping
Center at the Northwest
Corner of Dundee and Baldwin
Roads, Palatine, Illinois

Tax No.: 02-01-302-020

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT ("Mortgage") is made as of 18th day October 1988, by PIONEER BANK & TRUST COMPANY, not personally but solely as Trustee pursuant to the terms and provisions of a certain Trust Agreement dated July 6, 1988 and known as Trust Number 25026 ("Trust") and JOSEPH PACINI and ADELE M. PACINI, the owners of one hundred per cent (100%) of the beneficial interest in and to Trust ("Beneficiary") (Trust and Beneficiary are together herein referred to as "Mortgagor") having a mailing address of 4000 W. North Avenue, Chicago, Illinois 60639 in favor of HOUSEHOLD BANK, f.s.b, with a mailing address of 2700 Sanders Road, Prospect Heights, Illinois 60070 ("Mortgagee"), and pertains to the real estate legally described in Exhibit A attached hereto and made a part hereof.

RECITALS

WHEREAS, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee, a Promissory Note ("Note") in which Mortgagor promises to pay to the order of Mortgagee the principal amount of FOUR MILLION TWO HUNDRED FORTY TWO THOUSAND FOUR HUNDRED TWENTY FOUR AND NO/100 DOLLARS (\$4,242,424.00) in repayment of a loan (the "Loan") from Mortgagor in like amount, or so much thereof as may now or hereafter be disbursed or advanced by Mortgagee under the Note, together with interest thereon at the rate specified therein, in installments as set forth in the Note, with the entire unpaid principal balance and accrued interest being due and payable on October 1, 1993 (the "Maturity Date"), with the terms and provisions of the Note being incorporated herein and made a part hereof by this reference with the same effect as if set forth at length; and

WHEREAS, the indebtedness evidenced by the Note, including the principal thereof and interest and premium, if any, thereon, and any extensions and renewals thereof, in whole or in part, and any and all other sums which may be at any time due or owing or required to be paid (i) in this Mortgage; (ii) in the Note; or (iii) in any other documents securing the Note as such are described on Exhibit "B" attached hereto and made a part hereof (the Note, Mortgage, and all other loan documents described on Exhibit B, whether now or hereafter existing and as

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same may be amended, modified or supplemented from time to time, are collectively referred to as the "Loan Documents") are herein collectively the "Indebtedness" which is herein referred to as the "Indebtedness Hereby Secured."

NOW, THEREFORE, in order to secure the payment of the Indebtedness Hereby Secured and the performance of all other covenants, provisions, agreements and obligations contained herein or under the other Loan Documents (whether or not the Mortgagor is personally liable for such payment, performance and observance), in consideration of the premises and FOUR MILLION TWO HUNDRED FORTY TWO THOUSAND FOUR HUNDRED TWENTY FOUR AND NO/100 DOLLARS (\$4,242,424.00) in hand paid by the Mortgagee to the Mortgagor, the recitals stated hereinabove, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor hereby irrevocably grants, sells, assigns, releases, aliens, remises, conveys, mortgages and transfers to Mortgagee, its successors and assigns forever, all of its estate, right, title and interest in, to and under, and grants to Mortgagee a continuing security interest in and to all of the following described rights, interests, claims and property (collectively "Premises"):

- (a) all of the Real Estate described in Exhibit "A" (the "Real Estate");
- (b) all buildings, structures and other improvements of every kind and description now or hereafter erected, situated or placed upon the Real Estate ("Improvements") together with any and all Personal Property (as defined in subparagraph (h) below), attachments now or hereafter owned by Mortgagor and located in or on, forming part of, attached to, used or intended to be used in connection with, or incorporated in any such Improvements including all extensions, additions, betterments, renewals, substitutions and replacements to any of the foregoing;
- (c) all estate, claim, demand, right, title and interest of Mortgagor now owned or hereafter acquired, including without limitation, any after acquired title, franchise, license, remainder or reversion, in and to:
 - (i) any land or vaults lying within the right-of-way of any street, avenue, way, passage, highway, or alley, open or proposed, vacated or otherwise, adjoining the Real Estate;
 - (ii) any and all alleys, sidewalks, streets, avenues, strips and gores of land belonging,

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adjacent or pertaining to the Real Estate and Improvements;

(iii) storm and sanitary sewer, water, gas, electric, railway and telephone services relating to the Real Estate and Improvements;

(iv) all development rights, air rights, water, water rights, water stock, gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the Real Estate or any part hereof; and

(v) each and all of the tenements, hereditaments, easements, appurtenances, other rights, liberties, reservations, allowances, and privileges relating to the Real Estate or the Improvements or in any way now or hereafter appertaining thereto, including homestead and any other claim at law or in equity;

- (d) all right, title and interest of Mortgagor in and to all options to purchase or lease the Real Estate or the Improvements, or any part thereof or interest therein, and payments and rentals due thereon, or any other rights, interests or greater estates in the rights and properties comprising the Premises, now owned or hereafter acquired by the Mortgagor;
- (e) all rights of the Mortgagor to any and all plans and specifications, designs, drawings and other matters prepared for any construction on the Real Estate or to the Improvements;
- (f) all rights of the Mortgagor under any contracts executed by the Mortgagor with any provider of goods or services for or in connection with any construction undertaken on or services performed or to be performed in connection with the Real Estate or Improvements ("Third Party Agreements");
- (g) all rights of the Mortgagor, as seller or borrower, under any agreement, contract, understanding or arrangement pursuant to which the Mortgagor has, with the prior written consent of the Mortgagee, obtained the agreement of any person or entity to pay or disburse any money for the Mortgagor's sale (or borrowing or the security) of the Premises or any part thereof;

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(h) all right, title and interest of the Mortgagor in and to all tangible personal property ("Personal Property") owned by Mortgagor and now or at any time hereafter located in, on or at the Real Estate or Improvements or used or useful in connection therewith, including, but not limited to:

(i) all furniture, furnishings and equipment furnished by the Mortgagor to occupants of the Real Estate or Improvements (but expressly excluding from the term Personal Property any furniture, equipment, trade fixtures, furnishings or other property of or owned by the occupants of the Premises other than Mortgagor;

(ii) all building materials and equipment located upon the Real Estate and intended for construction, reconstruction, alteration, repair or incorporation in or to the Improvements now or hereafter to be constructed thereon, whether or not yet incorporated in such Improvements (all of which shall be deemed to be Included in the Premises upon delivery thereto);

(iii) all machines, fixtures, apparatus, equipment or articles used in supplying heating, gas, electricity, air-conditioning, water, light, power, plumbing, sprinkler, waste removal, refrigeration, ventilation, and all fire sprinklers, alarm systems, protection, electronic monitoring equipment and devises;

(iv) all window, structural, and swimming pool maintenance and cleaning equipment and rigs and all equipment relating to the exclusion of vermin, pests or insects and the removal of dust;

(v) all lobby and other indoor and outdoor furniture, including without limitation, tables, chairs, planters, desks, sofas, shelves, lockers and cabinets, wall beds, wall sofas and other furnishings and all television sets;

(vi) all rugs, carpets and other floor coverings, curtains, draperies, drapery rods and brackets, awnings, window shades, venetian blinds and curtains;

(vii) all lamps, chandeliers and other lights;

(viii) all recreational equipment and materials;

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(ix) all kitchen equipment, including without limitation, refrigerators, ovens, stoves, dishwashers, range hoods, exhaust systems and disposal units;

(x) all laundry equipment and supplies including, without limitation, washers and dryers;

(xi) all office furniture, equipment and supplies, but expressly excluding from the term Personal Property any furniture, equipment, trade fixtures, furnishings or other property of or owned by the occupants of the Premises other than Mortgagor [or Beneficiary];

(xii) all tractors, mowers, sweepers, snow removers, motor vehicles and other equipment used in the maintenance of the Real Estate or Improvements; and

(xiii) all fixtures, personal property and other tangible property of any kind or character now or hereafter owned by Mortgagor and attached to or contained in and used or useful in connection with the Premises or with aforesaid Improvements thereon, including without limitation any and all accounts receivable, antennae, appliances, basins, boilers, bookcases, cabinets, compactors, coolers, credit card agreements, dehumidifiers, doors, ducts, elevators, engines, escalators, fans, fittings, furnaces, growing plants, hardware, heaters, humidifiers, incinerators, motors, pipes, pumps, radiators, screens, sinks, tools, ventilators, wall coverings, water fountains, windows, wiring, non-structural additions to the Real Estate, and all renewals or replacements therefor or articles in substitution thereof, whether or not the same be attached to such Improvements, it being intended, agreed, and declared that all such property owned by Mortgagor and placed by it on the Premises or used in connection with the operation or maintenance thereof shall, so far as permitted by law, be deemed for the purposes of this Mortgage to be part of the Real Estate constituting and located on the Premises and covered by this Mortgage and, as to any of the aforesaid property that is not part of such Real Estate or does not constitute a "fixture", as such term is defined in the Uniform Commercial Code of the State of Illinois ("Code"); provided that the enumeration of any specific articles of Personal Property set forth herein

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shall in no way exclude or be held to exclude any items of property not specifically enumerated;

- (i) all the estate, interest, right, title or other claim or demand which Mortgagor now has or may hereafter have or acquire with respect to proceeds of insurance in effect with respect to the Premises and any and all awards, claims for damages, judgments, settlements and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Premises, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for severance damages (collectively "Awards");
- (j) all other property or rights of the Mortgagor of any kind or character related to the Premises;
- (k) any interests, estate or other claims of every name, kind or nature, both in law and in equity, which Mortgagor now has or may acquire in the Real Estate or Improvements or other rights, interests or properties comprising the Premises, now owned or hereafter acquired;
- (l) all goodwill, trademarks, trade names, option rights, books and records and general intangibles of the Mortgagor relating to the Real Estate or Improvements, and all accounts, contract rights, instruments, chattel paper and other rights of the Mortgagor for payment of money, for property sold or lent, for services rendered, for money lent or for advances or deposits made relating to the Real Estate or Improvements;
- (m) all licenses, certificates of occupancy and other governmental authorizations necessary or desirable to the use of the Premises as a retail shopping center;
- (n) and together with all leasehold estates, right, title and interest of Mortgagor in any and all leases, subleases or agreements relating to the use and occupancy of the Premises or any portion thereof, now or hereafter existing or entered into, together with all security deposits, advance rentals and other deposits given in connection with any leases; and

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- (o) together with all of the rents, income, receipts, revenues, issues and profits thereof (the "Rents") and therefrom; AND all of the land, estate, property and rights hereinabove described and hereby conveyed and intended so to be, whether real, personal or mixed, and whether or not affixed or annexed to the real estate are intended to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the Real Estate and to be appropriated to the use of the Real Estate and for the purposes hereof shall be deemed to be real estate conveyed and mortgaged hereby.

TO HAVE AND TO HOLD the Premises hereby mortgaged and conveyed or intended so to be unto the Mortgagee forever, free from all rights and benefits under and by virtue of the Homestead Exemption Laws and Redemption Laws of the State of Illinois (which rights and benefits are hereby expressly released and waived), for the use and purposes herein set forth, together with all right to retain possession of the Premises after any default in the payment of all or any part of the Indebtedness Hereby Secured, or the breach of any covenant or agreement herein contained, or upon the occurrence of any Event of Default as hereinafter defined.

PROVIDED, NEVERTHELESS, and these presents are upon the express condition that Mortgagor has paid any and all of the Indebtedness Hereby Secured and any and all other amounts required under the Loan Documents and has strictly performed all the terms, provisions, conditions and agreements herein contained and in all of the Loan Documents, then this Mortgage and the estate, right and interest of the Mortgagee in the Premises shall cease and be released at the expense of Mortgagor. Mortgagee shall be entitled to charge a reasonable release fee.

1. REPRESENTATIONS OF MORTGAGOR. The Mortgagor represents to the Mortgagee, as principle inducements to the making of the Loan, on which Mortgagor acknowledges and agrees that Mortgagee has a right to rely, as follows, all of which representations are true and correct on the date hereof and shall be true and correct until the Indebtedness Hereby Secured is paid in full and all other obligations required pursuant hereto and to other Loan Documents have been performed:

1.1 WARRANTY OF TITLE. Mortgagor has good and marketable title to the Premises in fee simple absolute; is lawfully seized and possessed of the Premises; the Premises are unencumbered by subordinate liens except as may be herein expressly provided; and Mortgagor will forever warrant and defend the title to the Premises unto Mortgagee against the claims of all persons whomever. The Mortgagor hereby covenants with and to the

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Mortgagee and any purchaser at any foreclosure sale, that, at its execution and delivery hereof, Mortgagor owns the Premises and has good and indefeasible estate therein in fee simple and that it has good and lawful right to sell, convey and mortgage the Premises.

1.2 COMPLIANCE WITH LAW. Mortgagor to date has fully complied with all laws, ordinances, ruling, regulations, and orders of all governmental authorities affecting the Premises (including, but not limited to, zoning, land use and environmental) and has obtained all necessary and proper permits and licenses for development and operation of the Premises.

1.3 RECITALS. The recitals above are true and correct and are incorporated by reference herein.

1.4 POWER AND AUTHORITY. Mortgagor, is duly organized and validly existing, qualified to do business and is in good standing in the State of Illinois; and has full power and authority to execute, deliver and perform all of the terms, covenants, conditions and agreements contained in the Loan Documents in accordance with their respective terms, which execution, delivery and performance has been fully authorized by all necessary actions and approved by each required governmental authority or other party, and the obligations of Mortgagor and every other party thereof are the legal, valid and binding obligations of each, enforceable by the Mortgagee in accordance with the respective terms of the Loan Documents, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws applicable to the enforcement of creditors' rights generally.

1.5 NO EVENT OF DEFAULT OR VIOLATIONS. No "Event of Default" (hereafter defined) or event which, with notice or passage of time or both, would constitute an Event of Default has occurred or is continuing under any of the Loan Documents. Mortgagor is not in violation of any governmental regulation (including, without limitation, any applicable securities law) or in default under any agreement to which it is bound, or which affects it or any of its property; and the use and occupancy of the Premises and the execution, delivery and performance of any of the Loan Documents, in accordance with their respective terms, shall not violate any governmental requirement (including, without limitation any applicable usury law), or conflict with, be inconsistent with or result in any default under any of the representations of any indenture, mortgage, easement, restriction of record, contract, document, agreement or instrument of any kind to which any of the foregoing is bound or which affects it or any of its property, except as identified in writing to and previously approved by Mortgagee.

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1.6 NO LITIGATION OR GOVERNMENTAL CONTROLS. There are no proceedings of any kind pending, or threatened against or affecting Mortgagor, the Premises (including any attempt or threat by any governmental authority to condemn or re-zone all or any portion of the Premises), or involving the validity, enforceability or priority of this Mortgage, or any other of the Loan Documents; or enjoining or preventing or threatening to enjoin or prevent the use and occupancy of the Premises or the performance by Mortgagor of its obligations hereunder; and there are no rent controls, governmental moratoria or environmental controls (presently in existence or threatened) affecting the Premises, except as identified in writing to and previously approved by Mortgagee.

1.7 LIENS. Title to the Premises, or any part thereof, is not subject to any liens or encumbrances of any nature whatsoever, whether or not of record and whether or not customarily shown on title insurance policies, except for Exception Nos. 10, 11, 12, and 13, appearing on Schedule B of commitment for title insurance Number CN25800, dated October 3, 1988, issued by First American Title Insurance Company of The Mid-West, and real estate taxes not yet due and payable.

1.8 FINANCIAL AND OPERATING STATEMENTS. All financial and operating statements submitted to Mortgagee in connection with this Loan are true and correct in all respects, have been prepared in accordance with the provisions herein set forth and fairly present the respective financial conditions of the subjects thereof and the results of their operations as of the respective dates shown thereon. No materially adverse changes have occurred in the financial conditions and operations reflected therein since their respective dates, and no additional borrowings have been made since the date thereof other than the borrowing made under this Mortgage and any other borrowing approved in writing by Mortgagee.

1.9 OTHER STATEMENTS TO MORTGAGEE. Neither this Mortgage nor any other Loan Document or any document, agreement, report, schedule, notice or other writing furnished to the Mortgagee by or on behalf of Mortgagor or on behalf of Beneficiary or its General Partners, contains any misleading or untrue statement of any fact material to any of the foregoing; or omits any fact which would, in the circumstances, make the said statements misleading.

1.10 PURPOSE OF LOAN. Loan is a business loan within the scope and operation of the laws of the State of Illinois, the proceeds of which will be used solely for the purpose of carrying on or acquiring the business of the Mortgagor.

1.11 UNUSUAL CONTRACTS. There is no rent concession, option, or unusual contract relating to the Premises not disclosed herein.

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1.12 FOREIGN PERSON. Trustor is not a "foreign person" within the meaning of the Internal Revenue Code of 1954, as amended (26 U.S.C. SS 1445, 7701) ("Code"), that is, Trustor is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the Code and regulations promulgated thereunder.

2. COVENANTS AND AGREEMENTS OF MORTGAGOR. The Mortgagor further covenants and agrees as follows:

2.1 PAYMENT OF INDEBTEDNESS. The Mortgagor shall promptly pay each and every installment of the principal and interest and any other sums required to be paid (including fees and charges), if any, on the Note at the time and in the manner provided therein or in this Mortgage or in any other of the Loan Documents, and shall pay all other Indebtedness Hereby Secured, as the same becomes due, and shall duly perform and observe all of the covenants, agreements and provisions herein or in the Note or in the Loan Documents. All sums payable by Mortgagor shall be paid without demand, counterclaim, offset, deduction or defense. Mortgagor hereby waives all rights now or hereafter conferred by statute or otherwise to any such demand, counterclaim, offset, deduction or defense.

2.2 MAINTENANCE, REPAIR, PARKING etc.. Mortgagor will (a) promptly repair, restore, replace or rebuild any portion of the Premises which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for the purpose; (b) keep the Premises in safe and insurable good condition and repair, and make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear and tear, damage and obsolescence or destruction, so as to maintain the Premises in a condition that is customary for (i.e. first class retail shopping facilities) in the Palatine, Illinois area; (c) not commit or suffer any waste of the Premises; (d) keep the Premises free from mechanics', materialmen's or like liens or claims or other liens or claims for lien not expressly subordinated to the lien hereof; (e) pay, when due, any indebtedness which may be secured by a lien or charge on the Premises inferior or superior to the lien hereof, and upon request exhibit satisfactory evidence of the payment or discharge of such lien to the Mortgagee; (f) complete, within a reasonable time, any Improvement now or at any time in the process of erection upon the Premises; (g) not suffer or permit any change in the general nature of the occupancy or use of the Premises without the Mortgagee's prior written consent; (h) pay all operating costs of the Premises; (i) not initiate, join in or consent to any ordinance or other public or private resolution, limiting or defining the uses which may be made of the Premises or any part thereof, or acquiesce to any change in any private restrictive covenant or zoning reclassification, without the

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Mortgagee's prior written consent; and (j) provide, improve, grade, surface and thereafter maintain, repair, police and adequately light parking areas within the Premises of sufficient size to accommodate not less than the number of standard size American made automobiles as may be required by Mortgagee or local zoning authorities, codes or other laws, whichever may be greater, together with any sidewalks, aisles, streets, driveways and sidewalk cuts, and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof; (k) reserve and use all such parking areas solely and exclusively for the purpose of providing ingress, egress and parking facilities for automobiles and other passenger vehicles of Mortgagor or tenants or invitees of tenants of the Premises; (l) not reduce, build upon, obstruct, redesignate or relocate any such parking areas, sidewalks, aisles, streets, driveways, sidewalk cuts or paved areas or rights-of-way or lease or grant any rights to use the same to any other person except tenants and invitees of tenants of the Premises without the prior written consent of the Mortgagee; (m) not abandon the Premises nor do anything whatsoever to depreciate or impair the value of the Premises or the security of this Mortgage; and (n) not permit the granting of any easements, licenses, covenants, conditions or declarations or use against the Premises other than use restrictions provided for or contained in Leases previously approved by the Mortgagee.

2.3 NO ALTERATION. No improvement or material alterations in the Premises (except as may be required by law) on the Real Estate or on land adjoining the real estate which is owned or controlled by Mortgagor or by any general partner thereof or related business entity of such general partner shall be made or constructed unless plans and specifications therefor have been first submitted to Mortgagee and approved by it, in the exercise of its sole judgment, as entailing no prejudice to the Loan secured hereby or the security therefor. Any alterations performed by Mortgagor (a) shall not change the general character or use of the Premises, or reduce the fair, market value thereof below its value immediately before such Mortgagor's alteration, or impair the usefulness of the Premises; (b) shall be effected with due diligence, in a good and workmanlike manner and in compliance with all applicable legal requirements, insurance requirements, leases, plans and specifications and contracts; (c) shall be promptly and fully paid for by Mortgagor; (d) shall be made under the supervision of a qualified architect or engineer, pursuant to plans and specifications approved by Mortgagor and only after Mortgagor shall have furnished to Mortgagee, if requested by Mortgagee, a bond acceptable to Mortgagee, or other security satisfactory to Mortgagee; and (e) shall be constructed entirely within the boundaries of the Premises or any, permanent encroachment easement approved by Mortgagee. All Mortgagor's alterations shall immediately become and remain subject to the lien of this Mortgage. Mortgagor may not remove or demolish any

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of the Improvements or materially alter any landscaped, recreation or paved area.

2.4 COMPLIANCE WITH LAW. Mortgagor will maintain all necessary public permits and licenses to enable the Premises to be operated as a retail shopping facility and will comply with or cause to be complied with all present and future laws, statutes, ordinances, rulings, regulations, orders and requirements of all federal, state, municipal, county, and other governmental agencies and authorities relating to the Premises, as well as all covenants, conditions, and restrictions affecting same; shall not permit any unlawful use or nuisance to exist upon the Premises, and shall refrain from any action and correct any condition which would increase the risk of fire or other hazard to the Improvements or any portion thereof.

2.5 NO COOPERATIVE OR CONDOMINIUM. The Mortgagor shall not operate the Premises or permit the same to be operated as a cooperative or condominium building or buildings in which the tenants or occupants participate in the ownership, control or management of the Premises, or any part thereof, as tenant stockholders or otherwise.

2.6 MANAGEMENT.

A. A property management contract satisfactory to Mortgagee with a professional manager acceptable to it shall be in force at all times during the term of the Indebtedness Hereby Secured. It shall be an Event of Default hereunder if the management of the Premises is changed or the management contract is terminated or modified, without Mortgagee's prior written consent. Mortgagee shall cause the managing agent of the Premises to perform all undertakings and functions necessary to operate the Premises in a first class manner as a retail shopping facility. For purposes hereof, Pacini Real Estate, a sole proprietorship owned by Joseph Pacini shall be initially acceptable to Mortgagee as managing agent for The Premises.

B. A leasing agreement satisfactory to Mortgagee ("Leasing Agreement") with a professional agent acceptable to Mortgagee (the "Leasing Agent") shall be in force at all times during the term of the Indebtedness Hereby Secured. It shall be an Event of Default hereunder if the Leasing Agent is changed or the Leasing Agreement terminated or modified, without the prior written consent of Mortgagee. Mortgagor shall cause the Leasing Agent to perform all undertakings and functions necessary to lease the Premises in accordance with the Leasing Agreement. For purposes hereof, Coldwell Banker shall be initially acceptable to Mortgagee as Leasing Agent for the Premises.

2.7 TAXES.

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A. DEPOSITS FOR TAXES. Unless otherwise waived in writing by Mortgagee, the Mortgagor shall deposit with the Mortgagee on the first day of each and every month, commencing with the date the first payment of interest and/or principal and interest shall become due on the Indebtedness Hereby Secured, an amount equal to One twelfth (1/12) of all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges, levies and assessments, ordinary or extraordinary governmental or non-governmental statutory or otherwise, of every kind and nature whatsoever (all herein generally called "Taxes") next to become due upon the Premises; provided that, in the case of the first such deposit, which shall be made at the time of the first funding of the Loan, there shall be deposited in addition, upon demand by Mortgagee, an amount as estimated by Mortgagee which, when added to monthly deposits to be made thereafter shall assure to Mortgagee's satisfaction that there will be sufficient funds on deposit to pay Taxes as they come due and to maintain an initial Tax reserve as reasonably estimated by Mortgagee (the "Tax Deposits"). The amount of the Tax Deposits shall be based upon Mortgagee's reasonable estimate as to the amount of Taxes next to be payable. All Tax Deposits shall be held, with no obligation to segregate such payments, by the Mortgagee, in trust, without accruing, or without any obligation arising for the payment of interest thereon. The aggregate of the monthly Tax Deposits, together with monthly payments of interest and/or principal and interest payable on the Note, shall be paid in a single payment each month, to be applied in the following order or priority (the "Order of Priority"):

- (i) first, any sums and demands for expenses advanced, estimated or incurred, paid or not yet paid, by the Mortgagee under the terms of the Loan Documents;
- (ii) second, to any Tax Deposits due;
- (iii) third, to any late charges due under the Note;
- (iv) fourth, to any interest due under the Note;
- (v) fifth, to deferred interest, if any, due under the Note;
- (vi) sixth, prepayment charges, if any; and
- (vii) seventh, principal due under the Note;

The Mortgagee will, out of the Tax Deposits, upon the timely presentation to the Mortgagee by the Mortgagor of the bills therefor, pay the Taxes or will, upon presentation of receipted bills therefor, reimburse the Mortgagor for such payments made by the Mortgagor. If the total Tax Deposits on hand shall not be sufficient to pay all of the Taxes when the same shall become due, then the Mortgagor shall pay to the

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Mortgagee on demand any amount necessary to make up the deficiency. If the total of such Deposits exceed the amount required to pay the Taxes, such excess shall be credited on subsequent payments to be made for such items.

Upon the occurrence of an Event of Default (hereinafter defined), the Mortgagee may, at its option, without being required so to do, apply any Tax Deposits on hand to any of the Indebtedness Hereby Secured, in such order and manner as the Mortgagee may elect. When the Indebtedness Hereby Secured has been fully paid, then any remaining Tax Deposits shall be paid to the Mortgagor. All Tax Deposits are hereby pledged as additional security for the Indebtedness Hereby Secured, and shall be held in trust to be irrevocably applied for the purposes for which made as herein provided, and shall not be subject to the direction or control of the Mortgagor.

Notwithstanding anything to the contrary herein contained, neither the Mortgagee nor any depository shall not be liable for any failure to apply to the payment of Taxes any amounts deposited as Tax Deposits unless the Mortgagor, while no Event of Default exists hereunder and within a reasonable time prior to the due date, shall have requested the Mortgagee in writing to make application of such Tax Deposits on hand to the payment of the particular Taxes, accompanied by the bills therefor.

B. MORTGAGOR'S RIGHT TO CONTEST TAXES AND OTHER LIENS. Subject to the provisions of Section 2.7(A) herein, the Mortgagor shall be responsible for the payment of all Taxes, when due and before any penalty attaches, whether or not assessed against the Mortgagor, if applicable to the Premises or any interest therein, or the Indebtedness Hereby Secured, or any obligation or agreement secured hereby; and Mortgagor will, within thirty days after the due date thereof, furnish to the Mortgagee, duplicate receipts therefor. In the event Mortgagor desires to contest the validity of any Taxes as well as any mechanic's, materialmen's or other liens or claim for lien upon the Premises (collectively, the "Contested Liens"), it shall:

- (1) on or before fifteen (15) days prior to the due date thereof, notify Mortgagee, in writing, that it intends to so contest the same;
- (2) on or before the date thereof, deposit with Mortgagee either a title insurance endorsement over such Contested Liens insuring the Mortgagee against loss or damage by reason of the existence of such Contested Liens or deposit with Mortgagee, at such place as Mortgagee may from time to time in writing designate, a sum of money or other security acceptable to Mortgagee that, when added to the

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monies or other security, if any, deposited with Mortgagee as required hereinabove, is sufficient in Mortgagee's judgment, to pay in full such Contested Liens and all penalties and interest that might become due thereon, and shall keep on deposit an amount sufficient, in Mortgagee's judgment, to pay in full such Contested Liens, increasing such amount to cover additional penalties and interest whenever, in Mortgagee's judgment, such increase is advisable;

(3) diligently prosecute the contest of such Contested Liens by appropriate legal proceedings and shall permit Mortgagee to be represented in any such contest and shall pay all expenses incurred by mortgagee in so doing, including fees and expenses of Mortgagee's counsel (all of which shall constitute so much additional Indebtedness Hereby Secured, bearing interest at the interest rate as set forth in the Note until paid, and payable upon demand);

and if the foregoing deposits are made and Mortgagor continues, in good faith, to contest the validity of such Contested Liens by appropriate legal proceedings, which shall operate to prevent the collection thereof and the sale of the Premises, or any part thereof, to satisfy the same, (a) Mortgagor shall be under no obligation to pay such Contested Liens until such time as the same has been decreed, by court order, to be a valid lien on the Premises; (b) 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 Contested Liens, to prevent the sale or forfeiture of the Premises for non-payment of such Contested Liens, without liability on Mortgagee for any failure to apply with the security or indemnity so deposited, unless Mortgagor, in writing, requests the application thereof to the payment of the particular Contested Liens for which such deposit was made; (c) any surplus deposit retained by Mortgagee, after the payment of the Contested Liens for which the same was made, shall be repaid to Mortgagor, unless an Event of Default exists, in which event, such surplus shall be applied by Mortgagee to cure such default. If Mortgagor fails to diligently prosecute such contest or fails to maintain sufficient funds on deposit with Mortgagee, Mortgagee may, at its option, apply the money and liquidate any securities held by Mortgagee, in payment of, or on account of, such Contested Liens, or any portion thereof then unpaid, including all penalties and interest thereon. If the amount of the money and any such

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security so deposited is insufficient for the payment in full of such Contested Liens, together with all penalties and interest thereon, Mortgagor shall immediately, upon demand, either deposit with Mortgagee a sum that, when added to such funds then on deposit is sufficient to make such payment in full, or, if Mortgagee has applied funds on deposit on account of such Contested Liens, restore such deposit to an amount satisfactory to Mortgagee. Mortgagee may, but shall not be required to, pay such deficiency in said deposit for Contested Liens and interest and penalties thereon and such other sums as may be necessary in the judgment of the Mortgagee to obtain the release and discharge of such Contested Liens; and any amount expended by Mortgagee in so doing shall be so much additional Indebtedness Hereby Secured bearing interest at the Default Rate until paid. Provided that there is not an Event of Default hereunder, Mortgagee shall, if so requested in writing by Mortgagor, after final disposition of such contest and upon Mortgagor's delivery to Mortgagee of an official bill of such Contested Liens, apply the money so deposited in full payment of such Contested Liens or that part thereof then unpaid, together with all penalties and interest thereon.

C. TAX PAYMENTS BY MORTGAGEE. Mortgagee is hereby authorized to make or advance, in the place and stead of Mortgagor, any payment relating to taxes, that may be asserted against the Premises, or any part thereof, and may do so according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy thereof or into the validity of any Taxes, sales, forfeiture, or title or claim relating thereto, and any payment relating to any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim, charge, or payment otherwise relating to any other purpose herein and hereby authorized, but not enumerated in this Paragraph, whenever, in its judgment and discretion, such advance seems necessary or desirable to protect the full security intended to be established by this Mortgage.

In connection with any such advance, Mortgagee is further authorized, at its option, to obtain a continuation report of title or title insurance policy prepared by a title insurance company of Mortgagee's choosing. All such advances and indebtedness authorized by this Paragraph shall constitute additional Indebtedness Hereby Secured and shall be immediately due and payable by Mortgagor upon five (5) days' written notice, together with interest at the Default Rate (as such term is defined in the Note).

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2.8 INSURANCE COVERAGE. The Mortgagor will insure and keep insured all of the buildings and improvements now or hereafter constructed or erected upon the Premises and each and every part and parcel thereof, against such perils and hazards as the Mortgagee may from time to time require, and in any event including:

- a) Insurance against loss caused by fire, lightning and risks covered by the so-called "all risk or all perils" endorsement, and other such risks as the Mortgagee may reasonably require, in amounts equal to the full replacement value of the Premises (but in no event less than the initial stated principal and of the Note), plus the cost of debris removal with full replacement cost and inflation guard endorsement; and in any event not less than FOUR MILLION TWO HUNDRED FORTY TWO THOUSAND FOUR HUNDRED TWENTY FOUR AND NO/100 DOLLARS (\$4,242,424.00);
- b) Comprehensive general public liability insurance against bodily injury and property damage in any way arising in connection with the Premises, with such limits as the Mortgagee may require and in any event not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence and THREE MILLION DOLLARS (\$3,000,000.00) aggregate annual (combined single limits) and not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00);
- c) Rent and rental value insurance (or, at the discretion of Mortgagee, business interruption insurance) in amounts sufficient to pay during any period of up to twelve (12) months in which the Premises may be damaged or destroyed, (i) all amounts required herein to be paid by the Mortgagor, including but not limited to all taxes, assessments, utility charges, operating expenses and insurance premiums; and (ii) all projected annual rents derived from the Premises;
- d) Broad form boiler, machinery and other insurance of the types and in amounts as the Mortgagee may require providing for the full repair and replacement cost coverage;
- e) During any period of construction or the making of any alterations or improvements to the Premises, (i) insurance covering claims based on the owner's contingent liability not covered, by the insurance required in this Mortgage and workmen's compensation insurance covering all persons engaged in making such alterations or improvements for the

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benefit of Mortgagor's employees and third parties in the amounts required by applicable state laws; and (ii) extended coverage casualty insurance in the form of a "Builder's Risk" non-reporting policy in an amount to be determined by Mortgagee as the insurable value of the improvements to be constructed, with an endorsement naming Mortgagee as Mortgagee without subjecting the Mortgagee to defenses which may be available against the Mortgagor.

- f) Full Federal Flood Insurance in the maximum obtainable amount if Premises is in a flood area, as defined by the Federal Insurance Administration pursuant to the Federal Flood Disaster Protection Act of 1973, as amended.
- g) If any part of the Premises is now or hereafter used for the sale or dispensing of beer, wine, spirits or any other alcoholic beverages, so called "dram shop" or "innkeepers liability" insurance, all in amounts as may be required by law or as the Mortgagee may specify.
- h) Plate glass, sprinkler leakage and machinery and pressurized vessel insurance.
- i) Such other insurance with companies in such amounts and against such insurable risks as from time to time may be reasonably required by Mortgagee.

All policies of insurance to be maintained and provided as required herein shall be in forms, companies and amounts reasonably satisfactory to Mortgagee, and all policies of casualty insurance shall have attached thereto waiver of subrogation and Mortgagee clauses or endorsements in favor of and with loss payable to Mortgagee. Said policies shall contain endorsements that no act or negligence of the insured or any occupant and no occupancy or use of the Premises for purposes more hazardous than permitted by the terms of the policies will affect the validity or enforceability of such policies as against Mortgagee. All said insurance shall be written in amounts sufficient to prevent Mortgagor from becoming a co-insurer and shall provide for thirty (30) days' prior written notice of cancellation to Mortgagee. Mortgagor shall deliver all policies, including additional and renewal policies, to Mortgagee marked "paid" and, in case of insurance policies about to expire, the Mortgagor shall deliver renewal policies not less than thirty (30) days prior to the respective dates of expiration.

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Mortgagor shall not carry any separate insurance, concurrent in kind or form and contributing in the event of a loss, with any insurance required herein. In the event of foreclosure of this Mortgage or other transfer of title to the Premises in extinguishment of the Indebtedness Hereby Secured, all right, title and interest of the Mortgagor in and to any insurance policies then in force and any claims or proceeds thereunder shall pass to the Mortgagee or any purchaser or grantee at the foreclosure sale or after entry of the decree of foreclosure.

In the event of a loss covered by policies of insurance, the Mortgagor shall give prompt notice thereof to the Mortgagee and the Mortgagee or, after entry of decree of foreclosure, the purchaser at the foreclosure sale is hereby authorized, at its option, either to settle and adjust any claim under such policies, without the consent of the Mortgagor, or allow the Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss, provided that the Mortgagor may itself adjust losses aggregating not in excess of FIVE THOUSAND DOLLARS (\$5,000.00), and provided further that in any case the Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds. The expenses incurred by the Mortgagee in the adjustment and collection of insurance proceeds shall be added to and become a part of the Indebtedness Hereby Secured, which shall be immediately due and payable to the Mortgagee without the requirement of notice, together with interest thereon at the Default Rate.

In the event of any loss covered by policies of insurance and no Event of Default shall have then occurred, any proceeds paid to Mortgagee shall be applied on account of the cost of repair or restoration of that part of Mortgaged Premises damaged or destroyed by the casualty ("Repair or Restoration") in accordance with Section 2.11 following if such costs are in an amount up to FIFTY THOUSAND DOLLARS (\$50,000.00). In the event that the costs of Repair or Restoration are in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), Mortgagee shall have the right, at its sole election, to either apply all proceeds received on account of Indebtedness Hereby Secured or on account of such costs of Repair or Restoration.

2.9 CONDEMNATION AND EMINENT DOMAIN. The Mortgagor shall give Mortgagee prompt notice of any proceedings, instituted or threatened, seeking condemnation or taking by eminent domain or any like process (generally "Taking"), of all or any part of the Premises or affecting any easement thereon or appurtenance thereof (including severance of, consequential damage to, or change in grade of streets), and shall deliver to Mortgagee copies of any and all papers served in connection with any such proceeding.

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Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any and all Awards resulting from any Taking. Mortgagee is hereby authorized to collect and receive from the condemnation authorities said Awards and is further authorized to give appropriate receipts and acquittances therefor.

Notwithstanding anything contained herein or in Note or other Loan Documents, Mortgagor agrees to make, execute and deliver to Mortgagee, at any time upon request, free, clear, and discharged of any encumbrances of any kind whatsoever, any and all further assignments and other instruments deemed necessary by the Mortgagee for the purpose of validly and sufficiently assigning all Awards and other compensation heretofore and hereafter made to Mortgagor for any Taking, either permanent or temporary, under any such proceeding.

2.10 In the event of any insured damage to or destruction of the Premises or any part thereof ("Insured Casualty") or in the event of a Taking (hereinafter defined) and if, in the reasonable judgment of the Mortgagee:

(i) less than fifty percent (50%) of the Improvements has been damaged or destroyed or is affected by the Taking;

(ii) the general area of the Premises is not incompatible for the use of the Premises for retail shopping purposes and the Premises may be restored to an architectural and economic unit of the same character and not less valuable than existed prior to the Insured Casualty and adequately securing the outstanding balance of the Indebtedness Hereby Secured;

(iii) if applicable, the insurers do not deny liability to the insureds;

(iv) no Event of Default shall have occurred and be then continuing and no circumstance or event shall exist which, with the service of notice or the passage of time, or both, would constitute an Event of Default;

(v) all existing leases shall continue in full force and effect without reduction or abatement of rentals (except during the period of untenability);

(vi) Mortgagee is given an architect's certificate acceptable to Mortgagee indicating the Premises may be reconstructed at least one hundred eighty (180) days prior to the Maturity Date; and

(vii) the Awards or the insurance proceeds and all other funds of the Mortgagor are sufficient to pay the costs of

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restoring, repairing, replacing, or rebuilding (herein generally called "Restoring");

the proceeds of insurance or the Awards shall be applied, consistent with the provisions of Section 2.11 hereof, to reimburse the Mortgagor for the cost of Restoring the Premises, or any part thereof.

If, in the reasonable judgment of Mortgagee, the conditions for Restoring set forth immediately above shall not have been satisfied, then, at any time from and after the Insured Casualty or the Taking, upon thirty (30) days' written notice to Mortgagor served within sixty (60) days of the date Mortgagee has received written notice of the Taking or the Insured Casualty, Mortgagee may declare the entire balance of the Indebtedness Hereby Secured to be due, and at the expiration of such thirty (30) day period the Indebtedness Hereby Secured shall be and become immediately due and payable, and Mortgagee is hereby authorized to collect all Awards or proceeds of insurance and apply the same to the payment of the Indebtedness Hereby Secured, without the payment of premium or additional interest, with any proceeds or Awards in excess of that amount necessary to fully pay the Indebtedness Hereby Secured to be paid to Mortgagor.

In the event that any Awards or proceeds of insurance, if any, shall be made available to the Mortgagor for the Restoring of the Premises, Mortgagor hereby covenants to restore the same to be of at least equal value and of substantially the same character as prior to such damage or destruction in accordance with plans and specifications to be first submitted to and approved by the Mortgagee. In the event Mortgagor shall fail within a reasonable time, subject to delays beyond its control (but in no event in excess of sixty (60) days), to restore or rebuild the Improvements, then Mortgagee, at its option, may, but under no circumstance shall be obligated to, restore and rebuild said Improvements, for or on behalf of the Mortgagor, and for such purpose may do all necessary acts including, without limitation, using the insurance proceeds or any other amounts deposited by the Mortgagor.

Any portion of the Awards or insurance proceeds remaining after deduction for all expenses incurred in the collection and administration of the Awards or insurance proceeds (including attorneys fees) and after payment in full of the Indebtedness Hereby Secured shall be paid to Mortgagor or as ordered by a court of competent jurisdiction.

No interest shall be payable by Mortgagee on account of any Awards or insurance proceeds at any time held by Mortgagee.

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2.11 DISBURSEMENT OF INSURANCE PROCEEDS AND AWARDS. In the event the Mortgagor is entitled to reimbursement out of insurance proceeds or any Award held by the Mortgagee, such proceeds shall be disbursed from time to time upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion of the Restoring, with funds (or assurances satisfactory to the Mortgagee that such funds are available) sufficient in addition to the proceeds of insurance or Award, to complete the proposed Restoring, and with such architect's certificates, waivers of lien, contractor's sworn statements and such other evidences of costs and of payment as the Mortgagee may reasonably require and approve, and the Mortgagee may require that all contractors and subcontractors, in addition to all plans and specifications for such Restoring, be approved by the Mortgagee prior to commencement of work. No payment made prior to the final completion of the Restoring shall exceed ninety percent (90%) of the value of the work performed from time to time. Funds other than proceeds of insurance or Awards shall be disbursed prior to disbursement of such proceeds, except as may otherwise be provided in any loan agreement expressly approved by the Mortgagee. At all times the undisbursed balance of such proceeds remaining in the hands of the Mortgagee, together with funds deposited for the purpose or irrevocably committed to the satisfaction of the Mortgagee by or on behalf of the Mortgagor for the Restoring, shall be at least sufficient, in the reasonable judgment of the Mortgagee, to pay for the cost of completion of the Restoring, free and clear of all liens or claims for liens. The insufficiency of such proceeds shall not relieve Mortgagor of its obligation to repair and restore the Improvements.

2.12 CERTIFIED ANNUAL OPERATING STATEMENTS. Beneficiary, shall furnish:

- (a) an annual statement of the operation of the Premises prepared by a certified public accountant acceptable to Mortgagee in accordance with generally accepted accounting principles and certified by a general partner of Beneficiary, showing in reasonable detail satisfactory to Mortgagee, among other things, total rents and other income received and total expenses together with an annual balance sheet and profits and loss statement, within ninety (90) days after the close of each calendar year of Mortgagor, beginning with the calendar year ending after the date of delivery of this Mortgage;
- (b) monthly statements of the operation of the Premises showing, in reasonable detail satisfactory to Mortgagee, among other things, total rents and other income received and total expenses, for the previous month, certified by the Beneficiary,

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accompanied by a rent roll for the Premises certified by the Beneficiary, within twenty (20) days after the end of each calendar month;

- (c) copies of the Mortgagor's annual Federal Income Tax filings, indicating the taxable net income from the Premises, within thirty (30) days of filing;
- (d) audited annual financial statements of Mortgagor prepared by a certified public accountant acceptable to Mortgagee, including a balance sheet showing assets and liabilities, all in reasonable detail satisfactory to Mortgagee, accompanied by a rent roll for the Premises certified by a general partner of Mortgagor, within ninety (90) days after the close of each calendar year of Mortgagor; and
- (e) such other information and statements relating to the Premises, its financial or operating condition or the financial condition of Mortgagor as Mortgagee may reasonably deem necessary at such times as Mortgagee may reasonably require.

Mortgagee may, by notice in writing to the Mortgagor, require that the same be prepared and certified, pursuant to audit, by a firm of independent certified accountants satisfactory to Mortgagee. In which case such accountants shall state whether or not, in their opinion, any Event of Default exists hereunder or under the Note and if an Event of Default does exist, Mortgagor shall reimburse Mortgagee for all costs incurred in connection with such audit. Mortgagee shall have the continuing right to audit or cause to be audited the books of the Premises, the Mortgagor and/or Beneficiary, at Mortgagor's expense, and the costs of such audit shall be so much additional Indebtedness Hereby Secured bearing interest at the Default Rate until paid, with all such costs payable immediately upon demand. Mortgagor further grants to Mortgagee the continuing right to inspect the Premises.

2.13 COMPLIANCE WITH GOVERNMENTAL, INSURANCE AND OTHER REQUIREMENTS. Mortgagor shall comply with all statutes, ordinances, orders, requirements, or decrees relating to the Premises or the use thereof promulgated by any federal, state, or municipal authority, including, but not limited to any rules or regulations regarding toxic waste and hazardous substances which now or hereafter are located on or below the Premises, and shall observe and comply with all conditions and requirements necessary to maintain in force the insurance required herein and to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning variances, special exceptions, and non-conforming uses) privileges, franchises, and

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concessions which are applicable to the Premises or which have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the Premises. In the event that any of the Improvements must be altered or removed to enable Mortgagor to comply with the foregoing provision of this paragraph, Mortgagor shall not commence any such alterations or removals without Mortgagee's prior approval of the need therefor and the plans and specifications pertaining thereto. After such approval, Mortgagor, at its sole cost and expense, shall effect the alterations or removal so required and approved by Mortgagee. Mortgagor shall not, by act or omission, permit any building or other improvement on land not subject to the lien of this Mortgage to rely on the premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any land not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Mortgagor shall not, by act or omission, impair the Integrity of the Premises as a single zoning lot separate and apart from all other Premises. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this paragraph shall be void. Mortgagor shall duly and punctually perform and comply with all covenants and conditions expressed as binding upon it under any recorded document or any other agreement of any nature whatsoever binding upon it which pertains to the Premises.

2.14 ACKNOWLEDGMENT OF DEBT. Mortgagor within three (3) days upon request in person or within five (5) days upon request by mail, shall furnish:

(a) a written statement duly acknowledged of all amounts due on any Indebtedness Hereby Secured, whether for principal or for interest on the Note or otherwise, and stating whether any offsets or defenses exist against the Indebtedness Hereby Secured and covering such other matters as Mortgagee may reasonably require; and

(b) a certificate of Beneficiary setting forth the names of all lessees under any Leases, the terms of their respective Leases, the space occupied, the rents payable thereunder, the dates through which any and all rents have been paid and such other leasing and rental data as Mortgagee may reasonably require.

2.15 NON-DISCRIMINATION. Mortgagor covenants and agrees at all times to be in full compliance with the provisions of law prohibiting discrimination on the basis of race, color, creed or national origin, including, but not limited to, the requirements of Title VII of the 1968 Civil Rights Act or any substitution, amendment or replacement thereof.

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2.16 NO LIENS. Subject to the provisions of, Section 2.7(B), hereof, Mortgagor shall not permit any mechanic's, laborer's, materialmen's or other type of liens whatsoever to stand against the Premises. If any such lien shall at any time be recorded against the Premises, then Mortgagor shall give written notice thereof promptly to Mortgagee, and cause the same to be discharged of record within thirty (30) days after the date of recording of the same, either by payment or by deposit or bond, in amounts or in form satisfactory to Mortgagee. If Mortgagor fails to discharge any such lien within such period, then Mortgagee, in addition to any other right or remedy hereunder, shall have the option (but not the obligation) to procure the discharge of such lien either by depositing the amount claimed to be due in court, or by bonding. Any amount paid or deposited by Mortgagee to discharge such lien, and all costs and other expenses, including all reasonable attorneys' fees, incurred in defending any action to foreclose such lien shall be deemed a part of the Indebtedness Hereby Secured, shall be immediately due and payable, without demand, and shall bear interest at the Default Rate.

3.0 ASSIGNMENT OF LEASES AND RENTS, SUBORDINATION. All right, title and interest of the Mortgagor in and to all present leases affecting the Premises, and including and together with any and all future leases upon all or any part of the Premises (collectively, the "Leases") and together with all of the Rents, from or due or arising out of the Leases or the Premises ("Rents") have been transferred and assigned simultaneously herewith to the Mortgagee as further security for the payment of the Indebtedness Hereby Secured under provisions of a certain instrument captioned Assignment of Leases and Rents ("Assignment of Rents"), of even date herewith, executed by Mortgagor and to be recorded concurrently with the recording of this Mortgage, the terms, covenants, and conditions of which are hereby expressly incorporated herein by reference and made a part hereof, with the same force and effect as though the same were more particularly set forth herein. After an Event of Default, Mortgagee shall have such powers and rights as are contained in the Assignment of Rents in addition to any non-conflicting rights and powers as provided herein.

The Mortgage shall not merge with the Assignment of Rents or any other interest of Mortgagee in the Premises, or any part thereof, now or hereafter existing, and whether before or after any Event of Default or foreclosure of the lien of this Mortgage unless Mortgagee shall consent in writing to such merger.

Mortgagor expressly covenants and agrees that if it, as lessor under the Leases, fails to perform and fulfill any term, covenant, condition or provision in the Leases, on its part to be

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performed or fulfilled, at the times and in the manner therein provided, which failure results in a termination of one or more of the Leases, or if it suffers or permits to occur any breach or default under the provisions of the said Assignment of Rents, then in any such event, at the option of the Mortgagee and without notice to Mortgagor, such breach or default shall constitute an Event of Default hereunder.

Nothing in this Mortgage or in any of the other Loan Documents relating to the Indebtedness Hereby Secured shall be construed to obligate Mortgagee, expressly or by implication, to perform any of the covenants of Mortgagor, as landlord, under any of the Leases assigned to Mortgagee or to pay any sum of money or damages therein provided to be paid by the landlord, each and all of which covenants and payments Mortgagor agrees to perform and pay.

3.1 FUTURE LEASES. All future leases affecting the Premises shall:

- (a) be on the standard form approved by Mortgagee and in compliance with Exhibit A Paragraph N of the "Commitment" (hereinafter defined);
- (b) provide for base rent without abatement of not less than ELEVEN DOLLARS (\$11.00) per rentable square foot per year, additional rents of a proportionate share on a relative square footage basis of all operating expenses, including common area maintenance, property taxes and insurance for terms of not less than thirty six (36) months;
- (c) be submitted by the Mortgagor to the Mortgagee for its approval prior to the execution thereof; and
- (d) all approved and executed Leases shall be specifically assigned to the Mortgagee by instrument in form satisfactory to Mortgagee and shall, at the option of Mortgagee, be paramount or subordinate to the lien of this Mortgage and Mortgagee shall have such power to cause and perfect said leases as paramount or subordinate as are granted in the Assignment.

3.2 ASSIGNMENT OF RENTS, LEASES, ISSUES, AND PROFITS. When requested by Mortgagee from time to time, and within such time as Mortgagee may reasonably require, Mortgagor shall execute, deliver and record and shall cause any lessee, tenant, or occupant of the Premises (hereinafter referred to as "Tenant") designated by Mortgagee to execute, deliver, and record separate lease assignments covering any or all of the leases that may affect any part or all of the Premises. Such separate lease

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assignments shall be in such form and contain such provisions as Mortgagee may in its discretion require and, without limiting the generality of the foregoing, may require any such Tenant to subordinate the Tenant's rights to the lien of this Mortgage. In no event shall Mortgagee be required to give non-disturbance of similar commitments to any of such Tenants. Whether or not separate lease assignments are required by Mortgagee, Mortgagor hereby authorizes and directs the Tenants to make all payments under said leases directly to Mortgagee upon written demand by Mortgagee without further consent of Mortgagor, and the Tenants may rely upon any written statement delivered by Mortgagee to Tenants. Any such payments shall constitute payment to Mortgagor under said leases. Nevertheless, until Mortgagee notifies Tenants in writing to make such payments to Mortgagee, Mortgagor shall be entitled to collect all such rents and/or payments. Mortgagee is hereby authorized to give such notification in the event of any breach or default by Mortgagor under Paragraph 5 herein.

4.0 UNIFORM COMMERCIAL CODE. This Mortgage constitutes a Security Agreement under the Uniform Commercial Code of the State of Illinois (herein called the "Code") with respect to any and all sums at any time on deposit for the benefit of Mortgagee or held by the Mortgagee (whether deposited by or on behalf of the Mortgagor or anyone else) pursuant to any provisions of the Mortgage or any of the other Loan Documents, any part of the Premises which may or might now or hereafter be or be deemed to be personal property, fixtures or property other than real estate including but not limited to all personal property and fixtures in connection with the Premises, any Equipment, Inventory, Accounts, Chattel Paper, Intangibles, Fixtures, Documents and Instruments as defined in the Code including all proceeds and products thereof, all insurance and condemnation proceeds, all building materials, all construction and architectural contracts and all plans and specifications and all replacements of such property, substitutions for such property, additions to such property and all proceeds thereof (all for the purposes of this Section 4.0 called "Collateral"). All of Mortgagor's right, title and interest in and to the Collateral are hereby assigned to the Mortgagee to secure the payment of the Indebtedness Hereby Secured and the performance of all of Mortgagor's obligations and all of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provision of this Section 4.0 shall not limit the generality or applicability of any other provision of this Mortgage but shall be in addition thereto:

- a) The Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof.

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- b) The Collateral is to be used by the Mortgagor solely for business, purposes, being installed upon the Premises for Mortgagor's own use, or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Premises.
- c) The Collateral will be kept at the real estate comprising in the Premises, and will not be removed therefrom without the consent of the Mortgagee (being the Secured Party as that term is used in the Code) by Mortgagor or any other person; and the Collateral may be affixed to such real estate but will not be affixed to any other real estate.
- d) The only persons having any interest in the Premises are the Mortgagor, tenants in possession and the Mortgagee.
- e) No financing statement covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and Mortgagor will at its own cost and expense upon demand, furnish to the Mortgagee such further information and will execute and deliver to the Mortgagee such financing statement and other documents in form satisfactory to the Mortgagee and will do all such acts and things as the Mortgagee may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness Hereby Secured, subject to no adverse liens or encumbrances; and the Mortgagor will pay the cost of filing the same or filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Mortgagee to be necessary or desirable.
- f) Upon the occurrence of any Event of Default hereunder (regardless of whether the Code has been enacted in the jurisdiction where rights or remedies are asserted) and at any time thereafter (such default not having previously been cured), the Mortgagee at its option may declare the Indebtedness Hereby Secured immediately due and payable, all as more fully set forth in Section 5.0 hereof, and thereupon Mortgagee shall have the remedies of a secured party under the Code, including without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as the Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace), upon any place where the Collateral or any part thereof

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may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and the Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to, Mortgagor's right of redemption in satisfaction of the Mortgagor's obligations, as provided in the Code. The Mortgagee, without removal, may render the Collateral unusable and dispose of the Collateral on the Premises. The Mortgagee may require the Mortgagor to assemble the Collateral and make it available to the Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. The Mortgagee will give Mortgagor at least fourteen (14) days notice of the time and place of any public sale thereof 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 mail or equivalent, postage prepaid, to the address of Mortgagor shown in Section 7.19 of this Mortgage, at least fourteen (14) days before the time of the sale or disposition. The Mortgagee may buy at any public sale and, if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee may buy at private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale of the real estate comprised with the Premises, the Collateral and real estate to be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorneys, fees and legal expenses incurred by Mortgagee, shall be applied in satisfaction of the Indebtedness Hereby Secured. The Mortgagee will account to the Mortgagor for any surplus realized on such disposition.

- g) The remedies of the Mortgagee hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other remedies of the Mortgagee, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness Hereby Secured remains unsatisfied.
- h) The terms and provisions contained in this Section 4.0 shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

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5.0 EVENTS OF DEFAULT. If one or more of the following events (herein called "Events of Default") shall occur:

- a) a default of the due and punctual payment of the Note or any installment thereof, either principal or interest, as and when the same is due and payable, or a default of the making of any payment of monies required to be made hereunder, under the Note or any other document securing the Note and the same is not cured within seven (7) days of service of written notice and demand to cure from Mortgagee to Mortgagor, Provided, However, that Mortgagee shall only be required to serve written notice on a single occasion every twelve (12) calendar months and if Mortgagee has served written notice and demand to cure within the previous twelve (12) calendar months, it shall be an Event of Default if Mortgagor fails to make the above described payments within seven (7) days of the due dates thereof;
- b) Mortgagor fails to perform or observe any other covenant, agreement, representation, warranty or other provision contained in the Note, this Mortgage or in the other Loan Documents after the expiration of any grace period expressly allowed in said instrument relative to the cure of such default (including, but not limited to the restrictions on transfer contained in paragraph 5.2 hereof), and such default is not cured within thirty (30) days of written notice and demand to cure from Mortgagee 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 Mortgagor shall, within said thirty (30) day period, initiate and diligently pursue a course of action necessary and required to cure the same but, in all events, such default must be cured within sixty (60) days following notice of the occurrence thereof); or
- c) If default be made in the due and punctual delivery to the Mortgagee of the financial statements or other statements required pursuant to Section 2.12 hereof, after ten (10) days written notice; or
- d) In the event of:
 - (i) The filing by Mortgagor of a request or a petition for liquidation, reorganization, adjustment of debts, arrangement, adjudication as a bankrupt, or similar relief under the bankruptcy, insolvency or similar laws of the United States or any state or territory thereof or any foreign jurisdiction; or the institution by

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Mortgagor of any formal or informal proceeding for the reorganization, dissolution or liquidation of, settlement of claims against or winding up of affairs of Mortgagor, or the cessation by Mortgagor as a going business concern, and the failure of Mortgagor within ninety (90) days to terminate, discharge or otherwise remove such proceeding. Mortgagee is not obligated to advance any undisbursed funds during such ninety (90) day cure period; or

(ii) The filing against Mortgagor of a request or a petition for liquidation, reorganization, adjustment of debts, arrangement, adjudication as a bankrupt or similar relief under the bankruptcy, insolvency or similar laws of the United States or any state or territory thereof or any foreign jurisdiction; or the institution by Mortgagor of any formal or informal proceeding for the reorganization, dissolution or liquidation of, settlement of claims against or winding up of affairs of Mortgagor; and the failure by Mortgagor within ninety (90) days to terminate, discharge or otherwise remove such proceeding. Mortgagee is not obligated to advance any undisbursed funds during such ninety (90) day cure period.

(iii) The appointment of or authorization for a custodian trustee or receiver of Mortgagor, or for a trustee, custodian, receiver or agent to take charge of any property of Mortgagor; provided, such custodian, trustee or receiver or agent shall not have been removed or otherwise discharged within ninety (90) days of the date of his qualification. Mortgagee is not obligated to advance any undisbursed funds during such ninety (90) day cure period.

(iv) Mortgagor shall make an assignment for the benefit of creditors or shall fail to generally pay its debts as they become due or shall make an admission of insolvency or shall consent to the appointment of a receiver or trustee or liquidation of all or a major part of Mortgagor's property, or the Premises.

(v) The transfer of title to any property or any part thereof by Mortgagor as debtor in possession under the Bankruptcy Code, or a trustee for Mortgagor under the Bankruptcy Code, to any third party, whether or not the obligations of Mortgagor under this Agreement are assumed by such third party.

(vi) The Institution of a foreclosure action against the Premises or any part thereof, or the filing of a lien against the Premises or any part thereof, which is

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not removed of record, dismissed or otherwise disposed of to the satisfaction of Mortgagee within thirty (30) days after Mortgagor is notified by Mortgagee or otherwise of such filing.

(vii) any termination or voluntary suspension of the transaction of the business of the Mortgagor or all or a substantial part of the Mortgagor's assets are attached, seized, subjected to a writ or distress warrant, or are levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within sixty (60) days.

- e) If any certificate, statement, representation, warranty or audit heretofore or hereafter furnished by or on behalf of Mortgagor pursuant to or in connection with Mortgagor's application for the Loan, this Mortgage or otherwise (including, without limitation, representations and warranties contained herein) or as an inducement to Mortgagee to extend any credit to or to enter into this or any other agreement with Mortgagor proves to have been false in any material respect at the time as of which the facts therein set forth were stated or certified or to have omitted any substantial contingent or unliquidated liability or claim against Mortgagor, or if on the date of execution of this Mortgage there shall have been any materially adverse changes in any of the facts previously disclosed by any such certificate, statement, representation, warranty or audit, which change shall not have been disclosed to Mortgagee at or prior to the time of such execution.
- f) Any materially adverse change in the financial condition of Mortgagor, or the existence of any other condition which shall constitute any impairment of Mortgagor's ability to perform its obligations under this Mortgage or any of the other Loan Documents, and which condition is not remedied within thirty (30) days after written notice to Mortgagor thereof or, if the condition cannot be fully remedied within said thirty (30) days, substantial progress has not been made within said thirty (30) days toward remedy of the condition.
- g) If default is made in the maintenance and delivery to Mortgagee of insurance required to be maintained and delivered under this Mortgage, within ten (10) days after written notice.
- h) If Mortgagor makes any assignment or conveyance of any rights under any document securing the Note, without Mortgagee's prior written consent.

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- i) The failure of Mortgagor to cause the payment, when due and within seven (7) days of written notice and demand to cure from Mortgagee to Mortgagor, of any indebtedness secured by the Premises, the beneficial interest of Mortgagor, any stock of any corporation if the beneficiary is a corporation or any partnership interests, limited or general, if the beneficiary of Mortgagor is a partnership, or the exercise of any remedies provided in the documents which evidence and secure such indebtedness.
- j) Without the prior written consent of Mortgagee in each instance:
- (i) the dissolution or termination of existence of Mortgagor, voluntarily or involuntarily;
 - (ii) the amendment to or modification of, in any respect, of the agreement establishing Trust; or
 - (iii) the distribution of any of the Mortgagor's capital (in the event a successor or assign of Mortgagor shall be a corporation), except for distributions of the proceeds of the Loan and cash from operations (any cash of the Mortgagor earned from the operation of the Premises, but not from a sale or refinancing of the Premises or from borrowing, available after paying all ordinary and necessary current expenses of the Mortgagor, including expenses incurred in the maintenance of the Premises and after establishing reserves to meet current or reasonably expected obligations of the Mortgagor).
- k) Any other event occurring (including, without limitation, default in order to avoid prepayment penalty or premium) or failing to occur which, pursuant to the Loan Documents or any other document or instrument referenced herein or related hereto, constitutes a default by Mortgagor or gives Mortgagee the right to accelerate the maturity of the Indebtedness Hereby Secured, or any part thereof, and the same shall not have been corrected within thirty (30) days written notice and demand to cure from Mortgagee to Mortgagor;

then the Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of the Mortgagee hereunder, to declare, without additional notice, all Indebtedness Hereby Secured (which shall include any prepayment premium or penalty provided for in the Note) to be immediately due and payable, whether or not such Event of Default be thereafter remedied by

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the Mortgagor, with interest thereon at the annual rate ("Default Rate") of five percent (5%) in excess of the Corporate Base Rate (as defined in the Note) or eighteen percent (18%) per annum, and the Mortgagee may immediately proceed to foreclose this Mortgage and/or to exercise any right, power or remedy provided by this Mortgage, by the Note, by the Assignment of Rents, or by any other loan document securing the Note, or by law or in equity conferred.

For the purposes of this Section 5.0 only, the term "Mortgagor" shall mean and include, where applicable, any beneficiary of a Trustee Mortgagor, any general partner in a partnership Mortgagor or in a partnership which is a beneficiary of a Trustee Mortgagor, any owner of more than ten percent (10%) of the stock in a corporate Mortgagor or a corporation which is the beneficiary of a Trustee Mortgagor and each person who, as guarantor, co-maker or otherwise, shall be or become liable for or obligated upon all or any part of the Indebtedness Hereby Secured or any of the covenants or agreements contained in any of the Security Documents.

5.1 RECISSION OF ELECTION. Acceleration of maturity once made by Mortgagee, may, at the option of Mortgagee, be rescinded, and any proceedings brought to enforce any rights or remedies hereunder may, at Mortgagee's option, be discontinued or dismissed, whereupon, in either of such events, Mortgagor and Mortgagee shall be restored to their former positions, and the rights, remedies and power of Mortgagee shall continue as if such acceleration had not been made or such proceedings had not been commenced, as the case may be.

5.2 RESTRICTIONS ON TRANSFER, LIENS, SECONDARY FINANCING OR OTHER ENCUMBRANCES. It shall be an immediate Event of Default hereunder if, without the prior written consent of the Mortgagee, any of the following shall occur:

- a) If the Mortgagor shall create, effect, contract for or consent to or shall suffer or permit any conveyance, installment sale of Premises, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Premises or any part thereof or interest therein, excepting only sales or other dispositions of collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral, subject to the first and prior lien hereof, of at least equal value and utility;

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- b) If the Mortgagor is a trustee, then if any beneficiary of the Mortgagor shall create, effect or consent to, or shall suffer or permit, any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of such beneficiary's beneficial interest in the Mortgagor;
- c) If the Mortgagor is a corporation, or if any corporation is a beneficiary of a Trustee Mortgagor, or if any corporation directly or indirectly controls Mortgagor or the beneficiary of a trustee mortgagor, then if any shareholder of such corporation shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any such shareholder's shares in such corporation; provided that if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "Over The Counter" market, then this Section 5.2 shall be inapplicable;
- d) If the Mortgagor is a partnership, limited partnership or joint venture, or if any beneficiary of a Trustee Mortgagor is a partnership, limited partnership or joint venture, or if any partnership, limited partnership or joint venture directly or indirectly controls Mortgagor or any beneficiary of a Trustee Mortgagor, then if any partner of a general partnership, general partner of a limited partnership, or joint venturer in such partnership, limited partnership or joint venture, shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any part of the general partnership interest, general partnership interest or joint venture interest, as the case may be;
- e) If there shall be any change in control (by way of transfers of stock ownership, partnership interests or otherwise) in Mortgagor or any general partner which directly or indirectly controls or is a corporation or partnership constituting or included within the Mortgagor or within the beneficiary of a Mortgagor which directly or indirectly controls any corporation or partnership constituting or included within Mortgagor or within the beneficiary of a Mortgagor;

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in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided, that the foregoing provisions of this Section 5.2 shall not apply (i) to liens securing the Indebtedness Hereby Secured; (ii) to the lien of current taxes and assessments not in default; or (iii) to any transfers of the Premises or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests as the case may be, in the Mortgagor or any beneficiary of Mortgagor by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives and/or committee. The provisions of this Section 5.2 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon the Premises, or such beneficial interest in, share of stock of or partnership or joint venture interest in the Mortgagor or any beneficiary of a Mortgagor.

Any waiver by Mortgagee of the provisions of this Paragraph shall not be deemed to be a waiver of the right of the Mortgagee in the future to insist upon strict compliance with the provisions hereof.

In the event Mortgagee gives its written consent to the sale or transfer, whether by operation of law, voluntarily or otherwise, of all of any part of the Premises, (i) Mortgagee shall be authorized and empowered to deal with the vendee or transferee with regard to the Premises, the Indebtedness Hereby Secured, and any of the terms or conditions hereof as fully and to the same extent as it might with Mortgagor, without in any way releasing or discharging Mortgagor from any of its covenants hereunder, and without waiving Mortgagee's right of acceleration as provided herein; (ii) the proposed documents of transfer shall be submitted to Mortgagee and, within ten (10) business days following such transfer, copies of the executed documents of transfer shall be delivered to Mortgagee; and (iii) any party succeeding to title to Premises, including the beneficiary of any land trust holding title to Premises (but excluding the land trustee) shall, by separate document, assume and agree to be liable for the matters specified in the exculpation provision hereof, if any.

Mortgagee may condition any consent upon an increase in the rate of interest payable upon the Indebtedness Hereby Secured, change in monthly payments thereon, change in maturity thereof and/or the payment of a fee, all as Mortgagee may, in its sole discretion, require.

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6.0 REMEDIES.

6.1 FORECLOSURE; LITIGATION EXPENSES. Upon the occurrence of any Event of Default or at any time thereafter, Mortgagee may, at its option, proceed to foreclose the lien of this Mortgage for such Indebtedness or part thereof and to commence foreclosure proceedings against the Premises through judicial proceedings or by advertisement, at the option of Mortgagee, pursuant to the statutes in such case made and provided, and to sell the Premises or to cause same to be sold at public sale either in one or in multiple parcels and to convey the same to the purchaser in accordance with the statutes. In any suit or proceeding to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale, all expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, photocopy expenses, stenographers' charges, environmental risk reports, studies or inspections, publication costs, mail and telephone costs, survey costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title, as the Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree, the true conditions of the title to or the value of the Premises. All expenses and fees of the nature in this Section mentioned, and such expenses and fees as may be incurred in the protection of said Premises and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by the Mortgagee in any litigation or proceedings affecting this Mortgage, the Note, the other Loan Documents or the Premises, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by the Mortgagor, with interest thereon at the Default Rate. In the event of foreclosure of this Mortgage, the Premises may, at the option of Mortgagee, be sold in one or more parcels, any provision of law to the contrary notwithstanding.

6.2 REMEDIES CUMULATIVE AND NON-WAIVER. No remedy or right of the Mortgagee hereunder or under the Note, or any Loan Documents or otherwise, or available under applicable law, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any Event of Default shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or an acquiescence therein, nor shall it affect any subsequent Event of Default of the same or a different

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nature, nor shall it extend or affect any grace period. Every such remedy or right may be exercised concurrently or independently, when and as often as may be deemed expedient by the Mortgagee. All obligations of the Mortgagor, and all rights, powers and remedies of the Mortgagee, expressed herein shall be in addition to, and not in limitation of, those provided by law or in the Note or any Loan Documents or any other written agreement or instrument relating to any of the Indebtedness Hereby Secured or any security therefor.

6.3 APPLICATION OF DEPOSITS HELD BY MORTGAGEE. With respect to any deposits made with or held by Mortgagee or any depository pursuant to any of the provisions of this Mortgage, upon an Event of Default, Mortgagee may, at its option, without being required to do so, apply any monies or securities which constitute such deposits on any of Mortgagor's obligations herein or in the Note contained, in such order and manner as Mortgagee may elect. When the Indebtedness Secured Hereby has been fully paid, any remaining deposits shall be paid to Mortgagor or to the then owner or owners of the Premises. Such deposits are hereby pledged as additional security for the prompt payment of the Note and any other indebtedness hereunder and shall be held to be irrevocably applied by the depository for the purposes for which made hereunder and shall not be subject to the direction or control of the Mortgagor.

6.4 MORTGAGEE'S PERFORMANCE OF MORTGAGOR'S OBLIGATIONS. In case of any Event of Default herein, the Mortgagee, either before or after acceleration of the Indebtedness Hereby Secured, or the foreclosure of the lien hereof and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein, in the Note, any other of the Loan Documents, or any document or instrument related thereto which is required of the Mortgagor (whether or not the Mortgagor is personally liable therefor) in any form and manner deemed expedient to the Mortgagee; and the Mortgagee may, but shall not be required to, make full or partial payments of principal or interest on any permitted prior mortgage or encumbrances; purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises, or contest any Taxes and may, but shall not be required to, complete construction, furnishing and equipping of the Improvements upon the Premises and rent, operate and manage the Premises and such Improvements and pay operating costs and expenses, including management fees, of every Improvements shall be operational and usable for their intended purposes. The Mortgagee may, but shall not be required to, notify any person obligated to the Mortgagor under or with respect to any Third Party Agreements of the existence of the Event of Default and require that performance be made directly to the Mortgagee at the appropriate time to satisfy the Mortgagor's obligations thereunder; and Mortgagor agrees to

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cooperate with the Mortgagee to accomplish the foregoing. All monies paid for any of the purposes herein authorized, and all expenses paid or incurred in connection therewith, including attorneys' fees and any other monies advanced by the Mortgagee to protect the Premises and the lien hereof, or to complete construction, furnishing and equipping or to rent, operate and manage the Premises and such Improvements or to pay any such operating costs and expenses thereof, or to keep the Premises and Improvements operational and usable for their intended purposes, shall be so much additional Indebtedness Hereby Secured, whether or not they exceed the amount of the Note, and shall become immediately due and payable without notice, and with interest thereon at the Default Rate. The Mortgagee is hereby authorized to make any payment with respect to:

- (a) Taxes, according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale forfeiture, tax lien or title or claim thereof;
- (b) the purchase, discharge, compromise or settlement of any other lien, without inquiry as to the validity or amount of any claim for lien which may be asserted, and
- (c) the completion of construction, furnishing or equipping of the Improvements or the Premises or the rental, operation or management of the Premises or the payment of operating costs and expenses thereof;

and may do so in such amounts and to such persons as Mortgagee may deem appropriate and may either enter into such contracts therefor as Mortgagee may deem appropriate or may perform the same itself.

6.5 PROCEEDS OF FORECLOSURE SALE. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Section 6.1 hereof; Second, all other items which, under the terms hereof constitute Indebtedness Hereby Secured additional to interest and principal remaining unpaid upon the Note, with interest on such items, as herein provided; Third, to interest remaining unpaid upon the Note; Fourth to the principal remaining unpaid upon the Note; Fifth, to the extent permitted by law, the amount of any prepayment premium that would otherwise be due and owing if the Mortgage and Note were paid at that time; and lastly, any surplus to the Mortgagor, and its successors or assigns, as their rights may appear.

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6.6 INSURANCE UPON FORECLOSURE. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in Restoring the Improvements, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct.

In the event of the occurrence of a casualty or a Taking following the institution of foreclosure proceedings, all insurance proceeds or Awards, if any, if not applied as specified herein, 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.

In the event of a foreclosure sale, the Mortgagee is hereby authorized, without the consent of the Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as the Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies without credit or allowance to Mortgagor for prepaid premiums thereon.

6.7 RECEIVER. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of the person or persons, if any, liable for the payment of the Indebtedness Hereby Secured at the time of application for such receiver; without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and without bond being required of the Applicant, Mortgagee or any employee or agent thereof may be appointed as such receiver. Without limiting the statutory powers of the receiver, such receiver shall have the power to take possession, control and care of the Premises and to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency where Mortgagor has not waived its statutory rights of redemption, during the full statutory period of redemption, if any, as well as during any further times when the Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits shall have and all other powers which may be necessary or useful or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court may, from time to time, authorize the receiver to apply the net income from the Premises in his hands in payment in whole or in part of:

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- a) The Indebtedness Hereby Secured or the indebtedness secured by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure sale; or
- b) The deficiency in case of a sale and deficiency.

6.8 RIGHTS OF POSSESSION. At any time when, under the provisions of this mortgage, Mortgagee has a right to institute foreclosure proceedings, whether or not the entire Indebtedness Hereby Secured becomes immediately due and payable as aforesaid, or whether before or after the institution of proceedings to foreclose the lien hereof or before or after sale thereunder, Mortgagor shall, forthwith upon demand of Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of the Premises or any part thereof, personally or by its agent or attorneys, and Mortgagee, in its discretion, may enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers, and accounts of Mortgagor or the then owner of the Premises relating thereto, and may exclude Mortgagor, such owner, and any agents and servants thereof wholly therefrom and may, as attorney-in-fact or agent of Mortgagor or such owner, or in its own name as Mortgagee and under the powers herein granted:

- (a) hold, operate, manage, and control all or any part of the Premises and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the Rents of the Premises, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;
- (b) cancel or terminate any Lease or sublease of all or any part of the Premises for any cause or on any ground that would entitle Mortgagor to cancel the same;
- (c) elect to disaffirm any Lease or sublease of all or any Part of the Premises made subsequent to this Mortgage or subordinated to the lien hereof;
- (d) extend or modify any then existing Leases and make new Leases of all or any part of the Premises, which extensions, modifications, and new Leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond

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the maturity date of the Loan evidenced by the Note and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Premises are subject to the lien hereof, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness Hereby Secured, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser; and

- (e) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments, and improvements in connection with the Premises as may seem judicious to Mortgagee, to insure and reinsure the Premises and all risks incidental to Mortgagee's possession, operation, and management thereof, and to receive all Rents therefrom

6.9 PRIORITY OF RENTS PAYMENTS. Any Rents of the Premises received by Mortgagee after taking possession of all or any part of the Premises, or pursuant to any assignment thereof to Mortgagee under the provisions of this Mortgage, any document or instrument referenced herein or any of the other Loan Documents shall be applied in payment of or on account of the following, in such order as Mortgagee or, in case of a receivership, as the court, may determine:

- (a) all costs and expenses (including attorneys' fees) incident to the foreclosure proceedings;
- (b) operating expenses of the Premises (including reasonable compensation to Mortgagee, any receiver of the Premises, any agent or agency to whom management of the Premises has been delegated, and also including lease commissions and other compensation for and expenses of seeking and procuring tenants and entering into leases, establishing claims for damages, if any, and paying premiums on insurance hereinabove authorized);
- (c) Taxes now due or that may hereafter become due on the Premises, or that may become a lien thereon prior to the lien of this Mortgage;
- (d) any and all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Premises (including without

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limitation the cost, from time to time, of installing or replacing ranges, refrigerators, and other appliances and other personal property therein, and of placing the Premises in such condition as will, in the judgment of Mortgagee or any receiver thereof, make it readily rentable or salable);

(e) any Indebtedness Hereby Secured or any deficiency that may result from any foreclosure sale pursuant hereto; and

(f) any remaining funds to Mortgagor or its successors or assigns, as their interests and rights may appear.

6.10 WAIVER. To the full extent permitted by law, the Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any 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 the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions 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 under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. Without limiting the generality of the foregoing, the Mortgagor hereby expressly waives any and all rights of redemption and reinstatement in connection with foreclosure of this Mortgage, on its and their 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 the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption and reinstatement of the Mortgagor and of all other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution 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 have been made or enacted. The Mortgagor hereby expressly waives all homestead rights, if any. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking utilizing any applicable law or laws or otherwise hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee but

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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; for itself and all who or which claim by, through or under Mortgagor, waives any and all right to have Premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose the lien of this Mortgage may order Premises sold as an entirety. If the Mortgagor is a trustee, Mortgagor and the Beneficiary represent that the provisions of this Section (including the waiver of redemption rights) were made at the express direction of the Beneficiary and the persons having the power of direction over Mortgagor and are made on behalf of the Trust Estate of Mortgagor and all beneficiaries of Mortgagor as well as other persons mentioned above.

6.11 WAIVER OF DEFENSES. No action for the enforcement of the lien of this Mortgage shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Note.

6.12 TENDER OF PAYMENT AFTER ACCELERATION. Upon the occurrence of an Event of Default and following the acceleration of maturity as aforesaid, a tender of payment of the amount necessary to satisfy the entire Indebtedness Hereby Secured made at any time prior to foreclosure sale by Mortgagor, its successors or assigns or by anyone in behalf of Mortgagor, its successors or assigns shall constitute an evasion of the prohibition against prepayment of the premium required in connection therewith, whichever the case may be at the time, and any tender of payment in full following default shall be deemed to be a voluntary prepayment hereunder and such voluntary prepayment to the extent permitted by law, will therefore include the prepayment premium set forth in the Note. In case, after legal proceedings are instituted to foreclose the lien of this Mortgage, tender is made of the entire Indebtedness Hereby Secured, Mortgagee shall be entitled to reimbursement for expenses incurred in connection with such legal proceedings, including such expenditures as are enumerated above, and such expenses shall be so much additional indebtedness secured by this Mortgage, and no such suit or proceedings shall be dismissed or otherwise disposed of until such fees, expenses and charges shall have been paid in full.

6.13 INTEREST AT THE DEFAULT RATE. Without limiting the generality of any provision herein or in the Note contained, upon the occurrence of an Event of Default, all of the Indebtedness Hereby Secured shall bear interest at the Default Rate specified in the Note, which amount shall be calculated from the date any payment became due under the Note.

7.0 MISCELLANEOUS PROVISIONS.

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7.1 CHANGE IN TAX LAWS. If, by the laws of the United States of America, or of any state, county, or municipal governmental subdivision having jurisdiction over Mortgagee, Mortgagor or the Premises, any tax is imposed or becomes due in respect of the issuance of the Note or the recording of this Mortgage, Mortgagor shall pay such tax in the manner required by such law. In the event that any law, statute, rule, regulation, order, or court decree has the effect of deducting from the value of the Premises for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of Mortgages or deeds or debts secured by Mortgages or deeds of trust or the interest of Mortgagor or Mortgagee in the Premises, or the manner of collection of taxes, so as to affect this Mortgage, or the Indebtedness Hereby Secured, then Mortgagor shall, upon demand by Mortgagee or any subsequent holder of the Note, pay said taxes, or reimburse Mortgagee therefor on demand, unless Mortgagee determines, in Mortgagee's sole and exclusive judgment, that such payment or reimbursement by Mortgagor is unlawful; in which event that Indebtedness Hereby Secured shall be due and payable within thirty (30) days after written demand by Mortgagee. Nothing in this Paragraph shall require Mortgagor to pay any income, franchise or excise tax imposed upon Mortgagee, excepting only such which may be levied against the income of Mortgagee as a complete or partial substitute for taxes required to be paid by Mortgagor pursuant hereto.

7.2 INSPECTION OF THE PREMISES. The Mortgagor shall at all reasonable times and upon reasonable notice permit the Mortgagee and its agent and designees, to enter on and inspect the Premises; deliver to the Mortgagee certified copies of all Leases, agreements creating or evidencing Personal Property, all amendments and supplements thereto, and any other document which is, or which evidences, governs, or creates the Premises; permit access by the Mortgagee to its books and records, construction progress reports, tenant registers, sales records, offices, insurance policies, supporting data, vouchers and other papers for examination and audit and the making of copies and extracts; and prepare such schedules, summaries, reports and progress schedules as the Mortgagee may request.

7.3 HAZARDOUS SUBSTANCES. The Mortgagor hereby represents, warrants and, covenants that neither the Mortgagor nor, to the best of Mortgagor's knowledge, any other person (including prior owners, tenants or subtenants) has ever caused or permitted any Hazardous Substances (as such term is hereinafter defined) to be placed, stored, treated, manufactured, handled, produced, transported, held, located or disposed of on, under or at the Premises or any part thereof including the ground-water located thereon and neither the Premises nor any

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part thereof has ever been used by the Mortgagor or, to the best of Mortgagor's knowledge, by any other person (including prior owners, tenants and subtenants) as a dump site or storage site (whether permanent or temporary) for any Hazardous Substances. The Mortgagor covenants and agrees that the Mortgagor shall not, nor shall the Mortgagor voluntarily permit any other person or entity to, place, hold, locate or dispose of any Hazardous Substances on, under or at the Premises or any part thereof and that no storage or use will otherwise be allowed on the Premises which will cause or increase the likelihood of causing the release of Hazardous Substances onto the Premises. Without limiting the foregoing, Mortgagor shall not cause or permit the Premises to be used to generate, manufacture, refine or process Hazardous Substances, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any tenant or subtenant, a release of Hazardous Substances onto the Premises or onto any other property. Mortgagor shall comply with and ensure compliance by all tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, and ensure any that all tenants and subtenants obtain and comply with any and all approvals, registrations or permits required thereunder. The Mortgagee reserves the right to require the Mortgagor to obtain environmental risk studies and reports at any time during the term of this Mortgage.

The Mortgagor hereby agrees to indemnify the Mortgagee, its employees, agents, officers and directors, and hold the Mortgagee harmless from and against any and all losses, liabilities (including strict liability), damages, injuries, penalties, fines, settlements, expenses and costs of whatever kind or nature, known or unknown, contingent or otherwise, including, without limitation, reasonable attorneys' fees, of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the Mortgagee by any person or entity or governmental agency, for, with respect to, or as a direct or indirect result of (i) the presence on or under, or the escape, leakage, disposal, spillage, emission, discharge or release from the Premises of any Hazardous Substance; or (ii) at any time, the incorrectness or breach of this covenant, warranty or representation set forth in this Mortgage, including, without limitation, any violation or claim arising under the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation and Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, the Clean Air Act, any so called federal, state or local "Superfund" or "Superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability), or standards of conduct concerning any Hazardous Substance, regardless of whether

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or not caused by, on behalf of, or within the control of the Mortgagor.

For purposes of this Mortgage, the term "Hazardous Substances" shall mean and include those elements or compounds which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency ("EPA") and the list of toxic pollutants designated by Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability (including strict liability) or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereinafter in effect.

If the Mortgagor receives any notice or knowledge of (i) the occurrence of any event involving the use, spill, release, leak, seepage, discharge or cleanup of any Hazardous Substance; or (ii) any complaint, order, citation or other notice with regard to air emissions, water discharges, or any other environmental, health or safety matter affecting the Mortgagor or the Property (an "Environmental Complaint") from any person or entity (including, without limitation, the EPA) then the Mortgagor shall immediately notify the Mortgagee orally and in writing of any such notice and, if the Environmental Complaint is in writing, shall immediately deliver a copy of the Environmental Complaint to Mortgagee. Further, the Mortgagor shall immediately commence all actions necessary to clean up, remove, resolve and comply with any complaint, order, citation, notice or Environmental Complaint.

In addition to all other rights granted to the Mortgagee, upon Mortgagor's receipt of any notice or knowledge specified herein, including, without limitation, an Environmental Complaint and the Mortgagor's failure to commence the cleanup, removal or resolution of any Hazardous Substance or Environmental Complaint within thirty (30) days notice of breach of a covenant or warranty or receipt of notice or knowledge specified herein and to thereafter continuously and diligently proceed with such cleanup, removal or resolution, except as may be delayed by an act of God, strike, act of the public enemy, war, blockade, public riot, fire, storm, flood and explosion ("Force Majeure"), the Mortgagee shall have the right, but not the obligation, to enter onto the Premises or to take such other actions as it deems necessary or advisable to cleanup, remove, resolve or minimize the impact of, or otherwise deal with, any such Hazardous Substance or Environmental Complaint. Any funds of the Mortgagee used for any purpose referred to in this Section shall constitute advances secured by the Loan Documents and shall bear interest at the rate specified in the Note to be applicable after default thereunder.

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The provisions of this Section 7.3 shall be in addition to any and all other obligations and liabilities Mortgagor may have to Mortgagee and shall survive the transactions contemplated herein.

7.4 PREPAYMENT PRIVILEGE. The Mortgagor shall have the privilege of making prepayments on the principal of the Note (in addition to the required payments thereunder) in accordance with the prepayment provisions set forth in the Note, but not otherwise.

7.5 EFFECT OF EXTENSIONS OF TIME, AMENDMENTS ON JUNIOR LIENS AND OTHERS. If the payment of the Indebtedness Hereby Secured, or any part thereof, be extended or varied, or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability, and the lien, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Premises or any interest therein, shall take the said lien subject to the rights of the Mortgagee herein to amend, modify and supplement this Mortgage, the Note and the Assignment hereinafter referred to, and to extend the maturity of the Indebtedness Hereby Secured, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

7.6 EFFECT OF EXTENSIONS, MODIFICATIONS AND AMENDMENTS. If the payment of the Indebtedness Hereby Secured, or any part thereof, be extended or varied, or if any part of the security or guarantees therefor be released, all persons now or at any time hereafter liable therefor or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability, and the lien, and all provisions hereby, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Premises or any part thereof or any interest therein, shall take the said lien subject to the rights of Mortgagee to amend (including, without limitation, changing the rate of interest or manner of computation thereof), modify, extend or release the Note, this Mortgage, or any other document or instrument evidencing, securing or guaranteeing the Indebtedness Hereby Secured, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien except as otherwise expressly

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provided in a separate Subordination Agreement by and between Mortgagee and the holder of such junior lien.

7.7 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 and, except with respect to any request to extend credit or grant additional time to cure an Event of Default, Mortgagee shall reasonably consider all requests for its consent or approval.

Any consent or approval requested of and granted by Mortgagee pursuant hereto shall be narrowly construed to be applicable only to Mortgagor and the matter identified in such consent or approval and no third party shall claim any benefit by reason thereof, and shall not be deemed to constitute Mortgagee a venturer or partner with Mortgagor whatsoever nor shall privity of contract be presumed to have been established with any such third party.

If Mortgagee deems it to be its best interest to retain the assistance of persons, firms or corporations (including, but not limited to, attorneys, appraisers, engineers and surveyors) with respect to a request for consent, Mortgagor shall reimburse Mortgagee for all reasonable costs incurred in connection with the employment of such persons, firms or corporations.

7.8 PARTIAL RELEASES. The lien of this Mortgage may be released as to parts of Premises from time to time, without affecting the validity or priority of the lien hereof as to the remainder of Premises.

7.9 PARTIAL PAYMENTS. Acceptance by Mortgagee of any payment which is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of Mortgagee's right to exercise its option to declare the whole of the principal sum then remaining unpaid, together with all accrued interest thereon, immediately due and payable without notice, or any other rights of the Mortgagee at that time or any subsequent time, nor nullify any prior exercise of such option or such rights of Mortgagee without its express consent except and to the extent otherwise provided by law.

7.10 TITLE IN MORTGAGOR'S SUCCESSORS. In the event that the ownership of the Premises becomes vested in a person or persons other than the Mortgagor, the Mortgagee may, without notice to the Mortgagor, deal with such successor or successors in interest of the Mortgagor with reference to the Premises, this

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Mortgage and the Indebtedness Hereby Secured in the same manner as with the Mortgagor, as fully and to the same extent as it might with Mortgagor, without any way releasing or discharging Mortgagor from said Mortgagor's covenants and undertakings hereunder, and without Mortgagee waiving its rights to accelerate the Note. The Mortgagor will give immediate written notice to the Mortgagee of any conveyance, transfer or change of ownership of the Premises, but nothing in this Section 7.10 contained shall vary or negate the provisions of Section 5.2 hereof.

7.11 INDEMNIFICATION. Mortgagor does hereby covenant and agree That Mortgagee shall have no responsibility for the control, care, management or repair of the Premises and shall not be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, immediate stranger or other person; no liability shall be asserted or enforced against Mortgagee arising out of Mortgagee's exercise of the rights and powers hereby granted to the Mortgagee; and Mortgagor hereby expressly waives and releases any such liability (except for gross negligence or willful and wanton misconduct); and Mortgagor shall and does hereby indemnify and hold Mortgagee harmless from any liability, loss or damage which Mortgagee may or might incur by reason of (i) exercise by Mortgagee of any right hereunder; and (ii) any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligation or undertaking on Mortgagee's part to perform or discharge any of the terms, covenants or agreements contained herein or in any instrument evidencing, securing or relating to the Indebtedness Hereby Secured or in any contracts, agreements or other instruments relating to or affecting the Premises; and any and all such liability, loss or damage incurred by the Mortgagee, together with the costs and expenses, including reasonable attorneys' fees incurred by Mortgagee in the defense (including preparation for defense) of any claims or demands therefor (whether successful or not) shall be so much additional Indebtedness Hereby Secured, and the Mortgagor shall reimburse the Mortgagee therefor on demand, together with interest thereon at the Default Rate from the date of demand to the date of payment.

7.12 SUBROGATION. To the extent that Mortgagee, on or after the date hereof, pays any sum due under or secured by any Senior Lien as hereinafter defined, or Mortgagor or any other person pays any such sum with the proceeds of the Indebtedness Hereby Secured, Mortgagee shall have and be entitled to a lien on the Premises equal in priority to the Senior Lien discharged, and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such Senior Lien, which shall remain in existence and benefit Mortgagee in securing the Indebtedness Hereby Secured; and notwithstanding the release of record of Senior Liens (as

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hereinafter defined) Mortgagee shall be subrogated to the rights and liens of all mortgages, trust deeds, superior titles, vendors' liens, mechanics liens, or liens, charges, encumbrances, rights and equities on the Premises having priority to the lien of this Mortgage (herein generally called "Senior Lien"), to the extent that any obligation secured thereby is directly or indirectly paid or discharged with proceeds of disbursements or advances of the Indebtedness Hereby Secured, whether made pursuant to the provision hereof or of the Note or any document or instrument executed in connection with the Indebtedness Hereby Secured.

7.13 FURTHER ASSURANCES. Mortgagor, at Mortgagor's expense, will execute, acknowledge and deliver all such documents and take all such action as Mortgagee may reasonably request for the Mortgagor assuring Mortgagee of the rights now or hereafter subject to the lien hereof or assigned hereunder or intended so to be.

7.14 SUCCESSOR AND ASSIGNS. This Mortgage and each and every covenant, agreement and other provisions hereof shall be binding upon the Mortgagor and its successors and assigns (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein), and shall inure to the benefit of the Mortgagee and its successors and assigns. Wherever herein the Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note, whether so expressed or not, and each such from time to time holder of the Note shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and hereunder, and may enforce all and every of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such from time to time holder were herein by name specifically granted such rights, privileges, powers, options and benefits and was herein by name designated the Mortgagee.

Mortgagee may, in its sole discretion at any time during the term of the Loan, sell, assign, syndicate or otherwise transfer and/or dispose of all or any part of its interest in the Loan and the Loan Documents. Mortgagor shall permit Mortgagee to submit to Mortgagee's assignees the financial data and all other information furnished to be furnished by Mortgagor pursuant to the Commitment, Note, Mortgage or other Loan Documents.

7.15 USURY; REDUCTION OF INTEREST. Notwithstanding anything to the contrary contained herein or in the Note, any other Loan Document or in any other document or agreement executed and delivered pursuant to the Commitment or required by Loan Documents, whether now existing or hereafter arising and whether written or oral, it is agreed that the aggregate of all interest and any other charges constituting interest, or

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adjudicated as constituting Interest, and contracted for, chargeable or receivable under the Note or otherwise in connection with the debt evidenced thereby, shall under no circumstances exceed that permitted by law. In the event the maturity of the Note is accelerated by reason of an election by the holder thereof resulting from a default thereunder or under any other of the Loan Documents, or by voluntary prepayment by Mortgagor or otherwise, then earned interest may never include more than permitted by law. If from any circumstance any holder of the Note shall ever receive interest or any other charges constituting interest, or adjudicated as constituting interest, the amount, if any, which would exceed that permitted by law (the "Excess Interest"), shall be applied to the reduction of the principal amount owing on the Note, and not to the payment of interest. If the Excess Interest exceeds the unpaid principal balance of the Note, then the Excess Interest shall be refunded to Mortgagor. All sums paid or agreed to be paid to the holder of the Note for the use, forbearance or detention of the indebtedness of Mortgagor to the holder of the Note shall be amortized, prorated, allocated and spread throughout the full term of such indebtedness.

7.16 RETURN OR SURRENDER OF PAYMENTS. If, after receipt of any payment of all or any part of the Indebtedness Secured Hereby, Mortgagee is for any reason compelled to surrender such payment to any person or entity because such payment is determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason, this Mortgage shall continue in full force notwithstanding any contrary action which may have been taken by Mortgagee in reliance upon such payment, and any such contrary action so taken shall be without prejudice to Mortgagee's rights under this Mortgage and shall be deemed to have been conditioned upon such payment having become final and irrevocable, and such payment shall not constitute a release of Mortgagor from any liability hereunder or under the Note to the extent of such payment, and Mortgagor agrees to pay the amount of such payment, together with interest at the Default Rate, to Mortgagee upon demand.

7.17 PROVISIONS SEVERABLE. The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

7.18 CAPTIONS AND PRONOUNS. The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

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7.19 ADDRESSES AND NOTICES. Any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the mailing thereof by certified mail to the following addresses, or to such other place as any party hereto may by notice in writing designate, shall constitute service of notice hereunder. Notice shall be deemed to be received three (3) business days after mailing. Notices shall be mailed as follows:

- a) If to the Mortgagee:

Household Bank, f.s.b.
2700 Sanders Road
Prospect Heights, IL 60070
Attn: Household Commercial Real Estate Services

With a copy to:

Household Bank, f.s.b.
One Mid America Plaza
Suite 920, North Tower
Oak Brook Terrace, Illinois 60181
Attn: Vice President - Administration

- b) If to the Mortgagor:

Pioneer Bank and Trust Company
4000 W. North Avenue
Chicago, Illinois 60639
Attn: Land Trust Department

With a copy to: Beneficiary c/o Joseph Pacini, 132
Rue Touraine, Barrington, Illinois 60010

7.20 TIME OF ESSENCE. It is specifically agreed that time is of the essence of this Mortgage.

7.21 COVENANTS RUN WITH LAND. All of the covenants of this Mortgage shall run with the land constituting the Premises.

7.22 LAW; VENUE; JURISDICTION. This Mortgage is, and shall be deemed to be, a contract entered into and pursuant to the laws of the State of Illinois and shall be in all respects governed, construed, applied and enforced in accordance with the laws of said State, without regard to its conflict of laws principles; and no defense given or allowed by the laws of any other state or country shall be interposed in any action or proceeding hereon unless such undersigned agrees to submit to personal jurisdiction in said State in any action or proceeding arising out of this Mortgage and, in furtherance of such agreement, the undersigned hereby agrees and consents that

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without limiting other methods of obtaining jurisdiction, personal jurisdiction of any court located in said state and that any process or notice of motion or other application to any such court in connection with any such action or proceeding may be served upon the undersigned by certified mail to or by personal service at the last known address of the Mortgagor, whether such address be within or without the jurisdiction of any such court.

7.23 FUTURE ADVANCES. At all times, regardless of whether any proceeds of the Loan have been disbursed, this Mortgage shall also secure:

- (a) future advances and loans from Mortgagee to Mortgagor, as provided in the Commitment dated September 6, 1988 issued by Mortgagee to Mortgagor and the application therefor (the "Commitment") and the other Loan Documents and all advances, disbursements and other payments required pursuant hereto or to the other Loan Documents are obligatory advances and shall, to the fullest extent permitted by law, have priority over any and all mechanics' lien claims and other liens and encumbrances arising after the date of the recording of this Mortgage; and
- (b) all other sums due and owing pursuant to Note and this Mortgage and advanced by Mortgagee to protect the Premises or to preserve the priority of the lien established hereby; PROVIDED THAT such other sums shall not exceed the lesser of one hundred fifty percent (150%) of the Loan or the maximum amount permitted by law.

7.24. LIMITED LIABILITY. This Mortgage is executed by Mortgagor, not personally but solely as trustee under the terms of the aforesaid Trust Agreement, solely in the exercise of the power and authority conferred upon and vested in it as such Trustee (and Mortgagor hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed that:

- (1) Nothing herein or in other Security Documents contained shall be construed as establishing any personal liability upon Mortgagor, personally, to pay Indebtedness Hereby Secured or to perform any of the terms, covenants, conditions and agreements herein or therein contained, all such personal liability being hereby expressly waived by Mortgagee; Mortgagee's only recourse against Mortgagor being against Premises and other property given as security for the payment of Indebtedness Hereby Secured ("Other Security"), in the manner herein, in other Security Documents and by law provided.

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- (2) In the event that Mortgagor or Beneficiary shall default in any of the terms and conditions required of either of them pursuant to Commitment or if an Event of Default shall occur or upon maturity of Indebtedness Hereby Secured, whether by acceleration, passage of time or otherwise, the recourse of Mortgagee shall be limited to judicial foreclosure of Premises or the exercise of other remedies set forth herein and in other Security Documents and, subject to the limitations expressly set forth herein and therein, there shall be no personal liability of Mortgagor for the payment of Indebtedness Hereby Secured.
- (3) Except as herein and in other Security Documents provided, Mortgagee shall look solely to Premises and Other Security upon foreclosure of this Mortgage and no deficiency judgment for Indebtedness Hereby Secured (following the application of Premises, Other Security and the proceeds thereof) shall be instituted, sought, taken or obtained against Mortgagor, PROVIDED THAT, nothing contained herein shall be deemed to prejudice the rights of Mortgagee to recover from Beneficiary:
- a). full payment of Indebtedness Hereby Secured pursuant to the provisions of Note;
 - b). all funds, damages or costs (including, without limitation, attorneys' fees) incurred by Mortgagee as a result of fraud or material misrepresentation by or on behalf of Mortgagor or Beneficiary; or
 - c). all condemnation awards or insurance proceeds which are not utilized in accordance with the terms and conditions hereof and of Loan Papers; or
 - d). all rents, revenues, income, issues, proceeds or profits of Premises held or collected by or on behalf of Mortgagor or Beneficiary following an Event of Default and not applied to Indebtedness Hereby Secured; or
 - e). all funds, damages or costs incurred by Mortgagee as a result of any material waste of Premises; or

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f). any and all costs, expenses, damages or liabilities incurred by Mortgagee, including, but not limited to, all attorneys' fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about Premises of any materials, wastes or substances defined or classified as hazardous or toxic pursuant to federal, state or local laws or regulations;

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed by its general partner and thereunto duly authorized and attested all on and as of the day, month and year first above written.

PIONEER BANK AND TRUST COMPANY,
not personally but solely as
Trustee aforesaid

By: *[Signature]*
Its: DANIEL N. WLODEK
LAND TRUST OFFICER

ATTEST:

[Signature]
ASST. SECRETARY

[Signature]
JOSEPH PACINI

[Signature]
ADELE M. PACINI

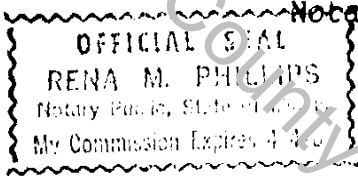
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STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that DANIEL N. WLODEK, TRUST OFFICER of PIONEER BANK & TRUST COMPANY ("Trust") and BARBARA A. CIRMUS, ASST. TRUST OFFICER thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such TRUST OFFICER and ASST. TRUST OFFICER, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of Trust, for the uses and purposes therein set forth; and the said ASST. TRUST OFFICER did also then and there acknowledge that as custodian of the corporate seal of Trust, did affix the said corporate seal thereof to said instrument as her own free and voluntary act, and as the free and voluntary act of Trust, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this OCT 18 1988 day of _____, 1988.

Rena M. Phillips
Notary Public



My Commission Expires: _____

Cook County Clerk's Office

88196321

UNOFFICIAL COPY

LEGAL DESCRIPTION OF PREMISES

PARCEL 1:

THE WEST 405 FEET OF THAT PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH LIES EAST OF THE WEST 30 ACRES THEREOF (EXCEPT THE SOUTH 70 FEET TAKEN FOR DUNDEE ROAD; ALSO EXCEPT THE NORTH 300 FEET OF THE SOUTH 370 FEET OF THE WEST 225 FEET THEREOF; ALSO EXCEPT THE NORTH 2096.75 FEET EAST OF THE WEST 30 ACRES) IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH LIES EAST OF THE WEST 30 ACRES THEREOF (EXCEPT THE SOUTH 70 FEET TAKEN FOR DUNDEE ROAD AND EXCEPT THE EAST 236 FEET THEREOF AND, ALSO EXCEPT THE WEST 405 FEET THEREOF, ALSO EXCEPT THE NORTH 2096.75 FEET EAST OF THE WEST 30 ACRES) IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THE EAST 170.00 FEET OF THAT PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH LIES EAST OF THE WEST 30 ACRES THEREOF (EXCEPT THE SOUTH 70 FEET TAKEN FOR DUNDEE ROAD AND EXCEPT THE EAST 66 FEET THEREOF AND EXCEPT THE NORTH 170 FEET OF THE SOUTH 240 FEET OF THE WEST 170 FEET OF THE EAST 236 FEET THEREOF, ALSO EXCEPT THE NORTH 2096.75 FEET EAST OF THE WEST 30 ACRES); ALSO, THAT PART OF VACATED RIGHT OF WAY OF BALDWIN ROAD DESCRIBED AS FOLLOWS: THAT PART OF THE EAST 66 FEET OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPTING THE NORTH 2096.75 FEET THEREOF), LYING NORTHERLY OF A LINE 66 FEET NORTHWESTERLY OF AND PARALLEL (AS MEASURED AT RIGHT ANGLES) WITH A LINE DRAWN THROUGH A POINT ON THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 1, SAID POINT BEING 327.61 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHEAST 1/4, TO A POINT ON THE EAST LINE OF THE WEST 66 FEET OF SAID SOUTHEAST 1/4 477.61 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHEAST 1/4, IN COOK COUNTY, ILLINOIS.

EXHIBIT "A"

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ADDITIONAL SECURITY DOCUMENTS

1. Assignment of Rents.
2. Specific Assignment of Leases and Rents.
3. Combined Security Agreement and Collateral Assignment.
4. Irrevocable Right to Approve Trust Documents.
5. Amendment to Management Agreement.
6. Agreement Assuming Personal Liability.
7. Security Agreement and UCC-1 and UCC-2 Financing Statements.
8. Security Agreement and Assignment of Contractual Agreements Affecting Real Estate.
9. Other miscellaneous documents executed in connection with Loan.

RECORDED
INDEXED
88-496324
COOK COUNTY CLERK'S OFFICE

EXHIBIT "B"

88-496324

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