88501511

FIRST MORTGAGE AND SECURITY AGREEMENT

THIS FIRST MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made as of the 27th day of October, 1988, by American National Bank and Trust Company of Chicago, not personally but solely as Trustee under Trust Agreement dated October 17, 1988 and known as Trust Number 106801-06 (the "Mortgagor") to WESTERN SAVINGS AND LOAN ASSOCIATION (the "Mortgagee").

W I T N E S S E T H:

WHEREAS, Mortgagor has executed and delivered to Mortgagee a Mortgage Note (the "Note") of even date herewith payable to the order of Mortgagee in the original principal sum of Eight Hundred Thousand Dollars ($800,000.00), bearing interest and payable as set forth in the Note, and due on October 15, 1989.

NOW, THEREFORE, to secure the payment of the principal indebtedness under the Note and interest and premiums, if any, on the principal indebtedness under the Note (and all replacements, renewals and extensions thereof, in whole or in part) according to its tenor and effect, and to secure the payment of all other sums which may be at any time due and owing or required to be paid under the Note, this Mortgage, any of the other Loan Documents (as that term is defined on Exhibit C attached hereto and made a part hereof) and all replacements, renewals and extensions thereof, in whole or in part (collectively, the "Indebtedness Hereby Secured"); and to secure the performance and observance of all the covenants, agreements and provisions contained in this Mortgage, the Note and the other Loan Documents, and to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for other valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the Mortgagor DOES HEREBY GRANT, REMISE, RELEASE, ALIEN, MORTGAGE AND CONVEY unto Mortgagee, its successors and assigns forever, the Land (as hereinafter defined) together with the following described property, rights and interests all of which are hereby pledged primarily and on a parity with the Land and not secondarily (and are, together with the Land, the "Premises"):

THE LAND located in the State of Illinois and legally described in Exhibit A attached hereto and made a part hereof (the "Land");

TOGETHER WITH all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land (including but not limited to all underground and other parking facilities located in or on the Land, all landscaped areas, areas utilized for recreational activities) and all fixtures, machinery, appliances, equipment, furniture, and personal property of every nature whatsoever now or hereafter owned by Mortgagor and located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Land, buildings, structures or other improvements, or in connection with any construction which may be conducted thereon including all extensions, additions, improvements, betterments, renewals, substitutions, and replacements to and proceeds of any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf (the "Improvements"); except that this Mortgage shall not create a lien on any items of personal property which (i) are owned by tenants who are in possession pursuant to a Lease (as hereinafter defined), and (ii) may be removed by such tenants at the expiration or termination of such Lease;

TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements,

88501511

This Instrument Prepared By
And After Recording Return To:

Alan J. Salle, Esq.
Rudnick & Wolfe
203 North LaSalle Street
Suite 1800
Chicago, Illinois 60601

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hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to the Land, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

TOGETHER WITH all rents, royalties, issues, profits, revenue, income and other benefits from the Premises to be applied against the Indebtedness Hereby Secured, provided, however, that permission is hereby given to Mortgagor so long as no Default (as hereinafter defined) has occurred hereunder, to collect, receive, take, use and enjoy such rents, royalties, issues, profits, revenue, income and other benefits as they become due and payable, but not more than one (1) month in advance thereof;

TOGETHER WITH all right, title and interest of Mortgagor in and to any and all leases now or hereafter on or affecting the Premises whether written or oral and all agreements for use of the Premises (the "Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease;

TOGETHER WITH all fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Land or the Improvements or the operation thereof (except that this Mortgage shall not create a lien on any items of personal property which (i) are owned by tenants who are in possession pursuant to a Lease and (ii) may be removed by such tenants at the expiration or termination of such Lease) including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motor vehicles, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals, replacements or proceeds thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Land or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Land or the Improvements shall, so far as permitted by law, be deemed to be fixtures, a part of the realty, and security for the Indebtedness Hereby Secured; notwithstanding the agreement and declaration hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Uniform Commercial Code of Illinois), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Mortgagee as a secured party and Mortgagor as debtor, all in accordance with said Uniform Commercial Code as more particularly set forth in Paragraph 16 hereof;

TOGETHER WITH all proceeds of the foregoing, including without limitation all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof; and Mortgagor hereby authorizes, directs and empowers Mortgagee, at its option, on behalf of Mortgagor, or the successors or assigns of Mortgagor, to adjust, compromise, claim, collect and receive such proceeds, to give proper receipts and acquittances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by Mortgagee, of the Indebtedness Hereby Secured, notwithstanding the fact that the same may not then be due and payable or that the Indebtedness Hereby Secured is otherwise adequately secured; and

TOGETHER WITH all right, title, and interest of Mortgagor in and to all executory contracts affecting the ownership, possession, operation, control and services furnished to the Premises (the "Executory Contracts");

TO HAVE AND TO HOLD the Premises, unto the Mortgagee, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Default as hereinafter defined; the Mortgagor hereby RELEASING AND WAIVING all rights under and by virtue of the homestead exemption laws of the State in which the Premises are located.

PROVIDED, NEVERTHELESS, that if Mortgagor shall pay in full when due the Indebtedness Hereby Secured and shall duly and timely perform and observe all of the terms, provisions, covenants and agreements herein and in the Note and the other Loan Documents provided to be performed and observed by the Mortgagor, then this Mortgage and the estate, right and interest of Mortgagee in the Premises shall cease and become void and of no effect, but shall otherwise remain in full force and effect.

THE MORTGAGOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. **Payment of Indebtedness and Performance of Covenants.** Mortgagor shall (a) pay when due the Indebtedness Hereby Secured; and (b) duly and punctually perform and observe all of the terms, provisions, conditions, covenants and agreements on Mortgagor's part to be performed or observed as provided in the Note, this Mortgage and the other Loan Documents. 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 terms and conditions set forth in the Note but not otherwise.

2. **Representation of Title.** At the time of the delivery of these presents, the Mortgagor is well seized of an indefeasible estate in fee simple in the portion of the Premises which constitutes real property and the beneficiary of Mortgagor owns good title to the portion of the Premises which constitutes personal property subject only to the matters set forth in Exhibit B attached hereto and hereby made a part hereof and any additional matters approved in writing by Mortgagee; and has good right, full power and lawful authority to convey and mortgage and grant a security interest in the same, in the manner and form aforesaid; that, except as set forth in Exhibit B hereto or consented to in writing by Mortgagee, the same is free and clear of all liens, charges, easements, covenants, conditions, restrictions and encumbrances whatsoever, including, as to the personal property and fixtures, security agreements, conditional sales contracts and anything of a similar nature; and that the Mortgagor shall and will warrant and forever defend the title to the Premises against the claims of all persons whomsoever claiming by, through or under Mortgagor.

3. **Maintenance, Repair, Compliance with Law, Use, Etc.** Mortgagor shall (a) promptly repair, restore, replace or rebuild (pursuant to plans and specifications approved by Mortgagee) any portion of the Improvements which may become damaged or be destroyed to be of at least equal value and of substantially the same character as prior to such damage or destruction (whether or not proceeds of insurance are available or sufficient for that purpose); (b) keep the Premises in good condition and repair, free from waste; (c) pay all operating costs of the Premises; (d) complete, within a reasonable time, any building or buildings or other Improvements now or at any time in the process of erection upon the Premises; (e) comply with all requirements of statutes, ordinances, rules, regulations, orders, decrees and other requirements of law relating to the Premises or any part thereof by any federal, state or local authority; (f) 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; (g) comply with any restrictions and covenants of record with respect to the Premises and the use thereof; and observe and comply with any conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions that are applicable to the Premises or its use and occupancy; and (h) cause the Premises to be managed in a competent and professional manner. Without the prior written consent of Mortgagee, Mortgagor shall not cause, suffer or permit any (i) material alterations of the Premises (including without limitation, landscaped and recreation areas and underground on-site paved parking areas and parking pavilion and/or structures) except as required by law or ordinance or except as permitted or required to be made by the terms of any Leases approved by Mortgagee; (ii) change in the intended use or occupancy of the Premises for which the Improvements have been

constructed including without limitation any change which would increase any fire or other hazard; (iii) change in the identity of the person or firm responsible for managing the Premises; (iv) zoning reclassification with respect to the Premises; (v) unlawful use of, or nuisance to exist upon, the Premises; (vii) granting of any easements, licenses, covenants, conditions or declarations of use against the Premises, other than use restrictions contained or provided for in Leases approved by Mortgagee; (vii) buildings or additions to any existing buildings or other structures to be erected on the Premises.

4. **Liens.**

A. **Prohibition.** Subject to the provisions of Paragraph 5 hereof respecting Taxes (as defined below), the Mortgagor shall not create or suffer or permit any mortgage, lien, charge or encumbrance to attach to or be filed against the Premises, whether such lien or encumbrance is inferior, at parity with or superior to the lien of this Mortgage, including mechanic's liens, materialmen's liens, or other claims for lien made by parties claiming to have provided labor or materials with respect to the Premises (collectively, the "Mechanic's Liens") and excepting only the lien of real estate taxes and assessments not due or delinquent, the liens and encumbrances set forth on Exhibit B hereto and any liens and encumbrances of Mortgagee pursuant to this Mortgage and the other Loan Documents.

B. **Contest of Mechanic's Liens Claims.** Notwithstanding the foregoing prohibition against Mechanic's Liens, Mortgagor, or any party obligated to Mortgagor to do so, may in good faith and with due diligence contest the validity or amount of any Mechanic's Lien and defer payment and discharge thereof during the pendency of such contest, provided that: (i) such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such Mechanic's Lien; (ii) within ten (10) days after Mortgagor has been notified of the filing of such Mechanic's Lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such Mechanic's Lien or to cause such other party to contest such Mechanic's Lien; and (iii) Mortgagor either shall have obtained a title insurance endorsement over such Mechanic's Liens insuring Mortgagee against loss or damage by reason of the existence of such Mechanic's Liens or, at the option of Mortgagor, Mortgagor shall have deposited or caused to be deposited with Mortgagee at such place as Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the place of payment designated in the Note, a sum of money which shall be sufficient in the judgment of Mortgagee to pay in full such Mechanic's Lien and all interest which might become due thereon, and shall keep on deposit an amount so sufficient at all times, increasing such amount to cover additional interest whenever, in the judgment of Mortgagee, such increase is advisable. Such deposits are to be held without any allowance of interest. If Mortgagor shall fail to maintain or cause to be maintained sufficient funds on deposit as hereinabove provided, shall fail to prosecute such contest or cause such contest to be prosecuted with due diligence or shall fail to pay or cause to be paid the amount of the Mechanic's Lien plus any interest finally determined to be due upon the conclusion of such contest, to the extent such amount exceeds the amount on deposit with Mortgagee, Mortgagee may, at its option, apply the money as deposited in payment of or on account of such Mechanic's Lien, or that part thereof then unpaid, together with all interest thereon. If the amount of money so deposited shall be insufficient for the payment in full of such Mechanic's Lien, together with all interest thereon, Mortgagor shall forthwith, upon demand, deposit with Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full. If the contest of the Mechanic's Lien claim is ultimately resolved in favor of the claimant, Mortgagee shall apply the money so deposited in full payment of such Mechanic's Lien or that part thereof then unpaid, together with all interest thereon (provided Mortgagor is not then in default hereunder) when furnished with evidence satisfactory to Mortgagee of the amount of payment to be made. Any overplus remaining in the control of Mortgagee shall be paid to Mortgagor, provided Mortgagor is not then in default hereunder.

5. **Taxes.**

A. **Payment.** Mortgagor shall pay or cause to be paid when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever levied or assessed against the Premises or any part

thereof or any interest therein or any obligation or instrument secured hereby, and all installments thereof (collectively, the "Taxes"), whether or not assessed against Mortgagor, and Mortgagor shall furnish to Mortgagee receipts therefor as soon as reasonably possible, but in any event within thirty (30) days after the date the same are due; and shall discharge any claim or lien relating to Taxes upon the Premises, other than matters expressly permitted by the terms hereof.

B. **Contest**. Mortgagor may, in good faith and with due diligence, contest or cause to be contested the validity or amount of any such Taxes, provided that:

(a) such contest shall have the effect of preventing the collection of the Taxes so contested and the sale or forfeiture of the Premises or any part thereof or interest therein to satisfy the same;

(b) Mortgagor has notified Mortgagee in writing of the intention of Mortgagor to contest the same or to cause the same to be contested before any Tax has been increased by any interest, penalties, or costs; and

(c) Mortgagor has deposited or caused to be deposited 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 monies or other security, if any, deposited with Mortgagee pursuant to Paragraph 9 hereof, is sufficient, in Mortgagee's judgment, to pay in full such contested Tax 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 Tax, increasing such amount to cover additional penalties and interest whenever, in Mortgagee's judgment, such increase is advisable.

If Mortgagor fails to prosecute such contest with due diligence or fails to maintain sufficient funds on deposit as hereinabove provided, Mortgagee may, at its option, within ten (10) days following Mortgagee's written notice to Mortgagor (or such shorter period of time necessary in Mortgagee's opinion to prevent the collection of Taxes or the sale or forfeiture of the Premises or any part thereof or interest therein), apply the monies and liquidate any securities deposited with Mortgagee, in payment of, or on account of, such Taxes, or any portion thereof then unpaid, including all penalties and interest thereon. If the amount of the money and any such security so deposited is insufficient for the payment in full of such Taxes, together with all penalties and interest thereon, Mortgagor shall forthwith, 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 Taxes, restore such deposit to an amount satisfactory to Mortgagee. Provided that Mortgagor is not then in 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 for such Taxes, apply the money so deposited in full payment of such Taxes or that part thereof then unpaid, together with all penalties and interest thereon and return any excess, if any, to Mortgagor. All money held by Mortgagee pursuant to this Paragraph 5B shall be held without any allowance of interest thereon.

C. **Tax Services Contract**. If Mortgagee elects, Mortgagor shall maintain, at Mortgagor's expense while any portion of the Indebtedness Hereby Secured is outstanding, a tax services contract issued by a tax reporting agency approved by Mortgagee. If Mortgagee does not so elect, Mortgagor shall reimburse Mortgagee on demand for the cost of making annual tax searches.

6. **Change in Tax Laws**. If, by the laws of the United States of America, or of any state or municipality 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. If 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 debts secured by mortgages or the interest of Mortgagee in the Premises, or the manner of collection of taxes, so as to affect this Mortgage, the Indebtedness Hereby Secured or Mortgagee, then, and in any such event, Mortgagor, upon demand by

Mortgagee, shall pay such 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 the Indebtedness Hereby Secured shall be due and payable within thirty (30) days after written demand by Mortgagee to Mortgagor. Nothing in this Paragraph 6 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. **Insurance Coverage**. Mortgagor will insure the Premises against such perils and hazards, and in such amounts and with such limits, as Mortgagee may from time to time require, and in any event will continuously maintain the following described policies of insurance without cost to Mortgagee (the "Insurance Policies"):

(a) Casualty insurance against loss and damage by all risks of physical loss or damage, including fire, sprinkler leakage, windstorm and other risks covered by the so-called extended coverage endorsement covering the Improvements and the Personal Property in amounts not less than the full insurable replacement value of all Improvements, Personal Property, fixtures and equipment from time to time on the Premises, but in no event less than the full insurable replacement value of all Improvements, fixtures and equipment from time to time on the Premises and bearing a replacement cost agreed amount endorsement with waiver of depreciation;

(b) Comprehensive general public liability against death, bodily injury and property damage with a combined single limit in an amount not less than Two Million Dollars ($2,000,000.00);

(c) Rental or Business interruption insurance, if applicable, in amounts sufficient to pay, for a period of up to one (1) year, all amounts required to be paid by Mortgagor pursuant to the Note and this Mortgage;

(d) Steam boiler, machinery, equipment and pressurized vessel insurance (if any such apparatus are located on the Premises);

(e) If the Federal Insurance Administration (FIA) has designated the Premises to be in a special flood hazard area and designated the community in which the Premises are located eligible for the sale of subsidized insurance, first and second layer flood insurance when and as available; and

(f) The types and amounts of coverage as are customarily (i) maintained by owners or operators of like properties, or (ii) required by sophisticated institutional lenders in like transactions.

8. **Insurance Policies**. All Insurance Policies shall be in form, companies and amounts satisfactory to Mortgagee from time to time. An insurance company shall not be satisfactory unless such insurance company (a) has Best's general policyholder rating of "B+" or better and a financial rating of "Class XII" or better, (b) is licensed in Illinois (or Mortgagee is furnished a service of suit endorsement); (c) if it is a mutual company, is a nonassessable company; and (d) does not provide insurance on any one building in excess of 10% of its policyholder's surplus (including capital). All Insurance Policies insuring against casualty and business interruption and other appropriate policies shall include non-contributing mortgagee endorsements in favor of and with loss payable to Mortgagee, as well as standard waiver of subrogation endorsements, shall provide that the coverage shall not be terminated or materially modified, nor a risk materially changed without thirty (30) days' advance written notice to Mortgagee and shall provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Mortgagee. If a blanket policy is issued, a certified copy of said policy shall be furnished, together with a certificate indicating that Mortgagee is an additional insured under such policy in the designated amount. If any portion of the fire and other risks insured as hereinabove provided are reinsured, the policies shall contain a so-called "cut-through" endorsement. Mortgagor will deliver all Insurance Policies, premium prepaid for a period of one (1) year, to Mortgagee and, in case of Insurance Policies about to expire, Mortgagor will deliver renewal or replacement policies not less than thirty (30) days prior to the date of expiration. The requirements of the preceding sentence shall apply to any separate policies of insurance taken out by Mortgagor concurrent in form or contributing in the event of loss with the Insurance Policies. Insurance Policies maintained by tenants under the Leases may, if in conformity with the requirements of this Mortgage and if approved by Mortgagee, be presented to Mortgagee in satisfaction

of Mortgagor's obligation to provide the insurance coverages provided by those Insurance Policies.

9. **Deposits for Taxes and Insurance Premiums.** In order to assure the payment of Taxes and premiums payable with respect to all Insurance Policies ("Premiums") as and when the same shall become due and payable:

(a) Mortgagor shall, if required by Mortgagee, deposit with Mortgagee on the first business day of each and every month, an amount equal to one-twelfth (1/12) of the Taxes and Premiums thereof to become due upon the Premises between one and thirteen months after the date of such deposit; provided that in the case of the first such deposit, there shall be deposited in addition an amount which, when added to the aggregate amount of monthly deposits to be made hereunder with respect to Taxes and Premiums to become due and payable within thirteen months after such first deposit, will provide (without interest) a sufficient fund to pay such Taxes and Premiums, one month prior to the date when they are due and payable. The amounts of such deposits (herein generally called "Tax and Insurance Deposits") shall be based upon Mortgagee's estimate as to the amount of Taxes and Premiums. Mortgagor shall promptly, upon the demand of Mortgagee, make additional Tax and Insurance Deposits as Mortgagee may from time to time require due to (i) failure of Mortgagee to require or failure of Mortgagor to make, Tax and Insurance Deposits in previous months, (ii) underestimation of the amounts of Taxes and/or Premiums, (iii) the particular due dates and amounts of Taxes and/or Premiums, or (iv) application of the Tax and Insurance Deposits pursuant to Paragraph 9(c) hereof. All Tax and Insurance Deposits shall be held by Mortgagee without any allowance of interest thereon.

(b) Mortgagee will, out of the Tax and Insurance Deposits, upon the presentation to Mortgagee by Mortgagor of the bills therefor, pay the Taxes and Premiums or will, upon the presentation of receipted bills therefor, reimburse Mortgagor for such payments made by Mortgagor. If the total Tax and Insurance Deposits on hand shall not be sufficient to pay all of the Taxes and Premiums when the same shall become due, then Mortgagor shall pay to Mortgagee on demand the amount necessary to make up the deficiency.

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

(d) Notwithstanding anything herein to the contrary, Mortgagee, or its successors and assigns, shall not be liable for any failure to apply the Tax and Insurance Deposits unless Mortgagor, while no Default exists hereunder, shall have requested Mortgagee in writing to make application of such Deposits on hand to the payment of the Taxes or Premiums for the payment of which such Deposits were made, accompanied by the bills therefor.

(e) The provisions of this Mortgage are for the benefit of Mortgagor and Mortgagee alone. No provision of this Mortgage shall be construed as creating in any party other than Mortgagor and Mortgagee any rights in and to the Tax and Insurance Deposits or any rights to have the Tax and Insurance Deposits applied to payment of Taxes and Premiums. Mortgagee shall have no obligation or duty to any third party to collect Tax and Insurance Deposits.

10. **Proceeds of Insurance.** Mortgagor will give Mortgagee prompt notice of any loss or damage to the Premises, and:

(a) In case of loss or damage covered by any of the Insurance Policies, Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such Insurance Policies without the consent of Mortgagor or (ii) allow Mortgagor to settle and adjust such claim without the consent of Mortgagee; provided that in either case

Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds; and the expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness Hereby Secured, and shall be reimbursed to Mortgagee upon demand or, in the event and to the extent sufficient proceeds are available, shall be deducted by Mortgagee from said insurance proceeds prior to any other application thereof. Each insurance company which has issued an Insurance Policy is hereby authorized and directed to make payment for all losses covered by any Insurance Policy to Mortgagee alone, and not to Mortgagee and Mortgagor jointly.

(b) Mortgagee shall, in its sole discretion, elect to apply the proceeds of Insurance Policies consequent upon any casualty either (i) to reduce the Indebtedness Hereby Secured; or (ii) to reimburse Mortgagor for the cost of restoring, repairing, replacing or rebuilding (collectively, "Restoring") the loss or damage of the casualty, subject to the conditions and in accordance with the provisions of Paragraph 11 hereof. If Mortgagee elects to apply the proceeds of Insurance Policies to the Indebtedness Hereby Secured and such proceeds do not discharge that indebtedness in full, the entire Indebtedness Hereby Secured shall become immediately due and payable.

(c) Any portion of the insurance proceeds remaining after payment in full of the Indebtedness Hereby Secured shall be paid to Mortgagor or as ordered by a court of competent jurisdiction.

(d) No interest shall be payable by Mortgagee on account of any insurance proceeds at any time held by Mortgagee.

(e) In the event of foreclosure of the Mortgage or other transfer of title to the Premises in extinguishment of the Indebtedness Hereby Secured, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee, and Mortgagor hereby appoints Mortgagee its attorney-in-fact, in Mortgagor's name, to assign and transfer all such policies and proceeds to such purchaser or grantee.

11. **Disbursement of Insurance Proceeds**. Provided no Default has occurred and is then continuing, insurance proceeds held by Mortgagee for Restoring of the Premises shall be disbursed from time to time upon Mortgagee being furnished with (i) evidence reasonably satisfactory to it of the estimated cost of completion of the Restoring, (ii) funds (or assurances satisfactory to Mortgagee that such funds are available) sufficient in addition to the proceeds of insurance, to complete and fully pay for the completion of the Restoring and (iii) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and such other evidences of cost, payment and performance as Mortgagee may require and approve; and the Mortgagee, in any event, may require that all plans and specifications for such Restoring be submitted to and 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, as such value shall be determined by Mortgagee in its sole and exclusive judgment; funds other than proceeds of insurance shall be disbursed prior to disbursement of such proceeds, except as may otherwise be provided herein; and at all times the undisbursed balance of such proceeds remaining in the hands of Mortgagee, together with funds deposited or irrevocably committed to the satisfaction of Mortgagee by or on behalf of Mortgagor to pay the cost of completion of the Restoring, shall be at least sufficient in the judgment of Mortgagee to pay the entire unpaid cost of the completion of the Restoring, free and clear of all liens or claims for lien. Any surplus which may remain out of insurance proceeds held by Mortgagee after payment of such costs of Restoring shall be paid to Mortgagor. No interest shall be allowed to Mortgagor on account of any proceeds of insurance or other funds held by Mortgagee. If there is a Default while Mortgagee is holding funds for Restoring, Mortgagee may at its sole option apply such funds against the Indebtedness Hereby Secured, in such order or manner as Mortgagee may elect.

12. **Condemnation and Eminent Domain**. Any and all awards (the "Awards") heretofore or hereafter made or to be made to the present, or any subsequent, owner of the Premises, by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Premises, (including any award from the United States government at any time after the allowance of a claim therefor, the ascertainment of the amount thereto, and the issuance of a warrant for payment thereof), or the proceeds from a sale in lieu of such condemnation or eminent domain

are hereby assigned by Mortgagor to Mortgagee, which Awards Mortgagee is hereby authorized to collect and receive from the condemnation authorities, and Mortgagee is hereby authorized to give appropriate receipts and acquittances therefor. Mortgagor shall give Mortgagee immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings affecting all or any part of the Premises and shall deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further agrees to make, execute, and deliver to Mortgagee, at any time upon request, free, clear, and discharged of any encumbrance of any kind whatsoever (except the rights of the holders of any junior mortgage loans expressly consented to in writing by Mortgagee, provided such rights are expressly subordinate to the rights of Mortgagee), any and all further assignments and other instruments deemed reasonably necessary by 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. If any portion of or interest in the Premises is taken by condemnation or eminent domain, either temporarily or permanently, and the remaining portion of the Premises is not, in the judgment of Mortgagee, an architectural and economic unit of the same character and not less valuable than the same was prior to the taking, then, at the option of Mortgagee, the entire Indebtedness Hereby Secured shall immediately become due and payable. After deducting from the Award for such taking all of its expenses incurred in the collection and administration of the Award, including reasonable attorney's fees, Mortgagee shall be entitled to apply the net proceeds toward repayment of such portion of the Indebtedness Hereby Secured as it deems appropriate without affecting the lien of this Mortgage. In the event of any partial taking of the Premises or any interest in the Premises which in the judgment of Mortgagee leaves the Premises as an architectural and economic unit of the same character and not less valuable than the same was prior to the taking, and provided no Default has occurred and is then continuing, the Award shall be applied to reimburse Mortgagor for the cost of restoration and rebuilding the Premises in accordance with plans, specifications and procedures which must be submitted to and approved by Mortgagee, and such Award shall be disbursed in the same manner as is provided in Paragraph 11 hereof for the application of insurance proceeds, provided that any surplus after payment of such costs shall be applied on account of the Indebtedness Hereby Secured. If the Award is not applied for reimbursement of such restoration costs, the Award shall be applied against the Indebtedness Hereby Secured, in such order or manner as Mortgagee shall elect.

13. **Assignment of Rents, Leases and Profits.** To further secure the Indebtedness Hereby Secured, Mortgagor hereby sells, assigns and transfers unto Mortgagee all of the rents, leases, issues and profits now due and which may hereafter become due under or by virtue of any Leases which may have been heretofore or may be hereafter made or agreed to by Mortgagor or the beneficiary or beneficiaries of Mortgagor or the agents of any of them or which may be made or agreed to by Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such Leases, rents and all avails thereunder, to Mortgagee. Mortgagor hereby irrevocably appoints Mortgagee its agent in its name and stead (with or without taking possession of the Premises as provided in Paragraph 20 hereof) to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms as said Mortgagee shall, in its sole and exclusive discretion, determine, and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter, and all now due or that may hereafter become due under each and every of the Leases, written or oral, or other tenancy existing, or which may hereafter exist on the Premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Mortgagee would have upon taking possession pursuant to the provisions of Paragraph 20 hereof. Mortgagor represents and agrees that no rent has been or will be paid by any person in possession of any portion of the Premises for more than one installment in advance and that the payment of none of the rents to accrue for any portion of said Premises has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagor. Mortgagor waives any rights of set off against any person in possession of any portion of the Premises. Mortgagor agrees that it will not assign any of the rents or profits of the Premises, except to a purchaser or grantee of the Premises. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the taking of actual possession of the Premises by Mortgagee pursuant to Paragraph 20 hereof. In the exercise of the powers herein granted Mortgagee, no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor. Mortgagor further agrees to assign and transfer to Mortgagee all future leases upon all or any part of the Premises and to execute and deliver, at the request of Mortgagee, all such further assurances and

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assignments in the Premises as Mortgagee shall from time to time require. Although it is the intention of the parties that the assignment contained in this paragraph shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until a Default shall exist under this Mortgage. From time to time, upon demand by Mortgagee, Mortgagor will furnish Mortgagee with executed copies of each of the Leases and with estoppel letters from each tenant under each of the Leases, which estoppel letters shall be in a form satisfactory to Mortgagee and shall be delivered within thirty (30) days after Mortgagee's written demand therefor. In the event Mortgagee requires that Mortgagor execute and record a separate Collateral Assignment of Rents or separate assignments of any of the Leases to Mortgagee, the terms and provisions of those assignments shall control in the event of a conflict between the terms of this Mortgage and the terms thereof.

14. **Observance of Lease Assignment**. Mortgagor expressly covenants and agrees to perform and fulfill all terms, covenants, conditions and provisions in said Leases, on its part to be performed or fulfilled at the times and in the manner in said Leases provided Mortgagor agrees not to cancel, terminate, amend, modify or void any of the Leases without Mortgagee's prior written consent except as permitted in the Collateral Assignment of Lease and Rents (one of the Loan Documents). Mortgagor shall not suffer or permit to occur any breach or default under the provision of any assignment of any Lease given as additional security for the payment of the Indebtedness Hereby Secured.

15. **Mortgagee's Performance of Mortgagor's Obligations**. In case of Default, Mortgagee, either before or after acceleration of the Indebtedness Hereby Secured or the foreclosure of the lien hereof or foreclosure sale, may, but shall not be required to, make any payment or perform any act herein required of Mortgagor (whether or not Mortgagor is personally liable therefor) in any form and manner deemed expedient to Mortgagee. Upon any such payment or performance of any such act, Mortgagee shall as soon as reasonably possible provide notice thereof to Mortgagor but its failure to do so shall not affect the rights of Mortgagee and the obligation of Mortgagor hereunder. Mortgagee may, but shall not be required to, complete construction, furnishing and equipping of the Improvements and rent, operate and manage the Premises and such Improvements and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Premises shall be operational and useable for their intended purposes. All monies paid, and all expenses paid or incurred in connection therewith, including attorneys' fees and other monies advanced by Mortgagee to protect the Premises and the lien hereof, or to complete construction, furnishing and equipping or to rent, operate and manage the Premises or to pay any such operating costs and expenses thereof or to keep the Premises operational and useable for their intended purpose shall be so much additional Indebtedness Hereby Secured, whether or not the Indebtedness Hereby Secured, as a result thereof, shall exceed the face amount of the Note, and shall become immediately due and payable on demand, and with interest thereon at the Default Rate (as such term is defined in the Note). Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any Default nor shall the provisions of this Paragraph or any exercise by Mortgagee of its rights hereunder prevent any default from constituting a Default. Mortgagee, in making any payment hereby authorized (a) relating to Taxes, may do so 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) for the purchase, discharge, compromise or settlement of any lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted, or (c) in connection with the completion of construction, furnishing or equipping of the Premises or the rental, operation or management of the Premises or the payment of operating costs and expenses thereof, may do so in such amounts and to such persons as Mortgagee may deem appropriate. Nothing contained herein shall be construed to require Mortgagee to advance or expend monies for any purpose mentioned herein, or for any other purpose.

16. **Security Agreement**. Mortgagee, Mortgagor and Leslie C. Barnard, the sole beneficiary of Mortgagor ("Barnard"), pursuant to the attached Joinder, (for the purposes of this Paragraph 16, the term Mortgagor shall include the beneficiary of the Mortgagor) agree that this Mortgage shall constitute a Security Agreement within the meaning of the Illinois Uniform Commercial Code (hereinafter the "Code") with respect to (i) 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 of the provisions of the Mortgage and (ii) with respect to any personal property included in the granting clauses of this Mortgage and Exhibit D hereto, which personal property may not be deemed to be affixed to the Premises or may not

constitute a "fixture" (within the meaning of Section 9-313 of the Code), (which property is hereinafter referred to as "Personal Property") and all replacements of such Personal Property, substitutions for such Personal Property, additions to such Personal Property, and the proceeds thereof (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as the "Collateral"), and that a security interest in and to the Collateral is hereby granted to the Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to the Mortgagee, all to secure payment of the Indebtedness Hereby Secured. 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 provisions of this Paragraph shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

(a) 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, other liens and encumbrances benefitting Mortgagee and no other party, and liens and encumbrances, if any, expressly permitted by this Mortgage (including, without limitation, those certain liens and encumbrances, if any, set forth on Exhibit B hereto) or otherwise expressly consented to in writing by Mortgagee.

(b) The Collateral is to be used by Mortgagor solely for business purposes.

(c) The Collateral will be kept at the Land, and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Land but will not be affixed to any other real estate.

(d) The only persons having any interest in the Premises are Mortgagor, Mortgagee and holders of interests, if any, expressly permitted hereby or otherwise expressly consented to in writing by Mortgagee.

(e) No Financing Statement (other than Financing Statements showing Mortgagee as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted by this Mortgage or otherwise expressly consented to in writing by Mortgagee) 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 Mortgagee such further information and will execute and deliver to Mortgagee such financing statements and other documents in form satisfactory to Mortgagee and will do all such acts and things as Mortgagee may at any time or from time to time 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 other liens or encumbrances, other than liens or encumbrances benefitting Mortgagee and no other party and liens and encumbrances (if any) expressly permitted by this Mortgage; and Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Mortgagee to be necessary or desirable.

(f) Upon Default hereunder, 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 Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace), upon any place which the Collateral or any part thereof 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 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 Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee. Mortgagee will give Mortgagor reasonable notice of the time and place of any public sale of the

Collateral or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor hereinafter set forth at least ten (10) days before the time of the sale or disposition. 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 Premises, the Premises including the Collateral 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 attorneys' fees and legal expenses incurred by Mortgagee, shall be applied against the Indebtedness Hereby Secured in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

(g) The terms and provisions contained in this Paragraph 16 shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

(h) This Mortgage is intended to be a financing statement within the purview of Section 9-402(6) of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Premises. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are hereinafter set forth. This Mortgage is to be filed for record with the Recorder of Deeds of the County or Counties where the Premises are located.

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(i) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover and include all Executory Contracts, any management agreement regarding the Premises and all Leases between Mortgagor (or its beneficiary), as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of Mortgagor, as lessor thereunder, including, without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any and all of the rents, income, revenues, issues and profits and moneys payable as damages or in lieu of the rent and moneys payable as the purchase price of the Premises or any part thereof or of awards or claims for money and other sums of money payable or receivable thereunder howsoever payable, and to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Mortgagor or any lessor is or may become entitled to do under the Leases. Notwithstanding the foregoing, it is expressly understood and agreed that Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until a Default shall exist under this Mortgage.

(j) Notwithstanding anything herein to the contrary, this Paragraph 16 shall not be deemed to apply to any items of personal property which (i) are owned by tenants who are in possession pursuant to a Lease and (ii) may be removed by such tenants at the expiration or termination of such Lease.

17. **Restrictions on Transfer**. Mortgagor shall not, without the prior written consent of Mortgagee, create, effect, contract for, consent to, suffer or permit any "Prohibited Transfer" (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties, rights or interests which occurs, is granted, accomplished, attempted or effectuated without the prior written consent of Mortgagee shall constitute a "Prohibited Transfer":

(a) 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 of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral;

(b) all or any portion of the beneficial interest or power of direction in or to the trust under which Mortgagor is acting, if Mortgagor is a Trustee;

(c) any shares of capital stock of a corporate Mortgagor, a corporation which is a beneficiary of a trustee Mortgagor, a corporation which is a general partner in a partnership Mortgagor, a corporation which is a general partner in a partnership beneficiary of a trustee Mortgagor, or a corporation which is the owner of substantially all of the capital stock of any corporation described in this subparagraph (other than the shares of capital stock of a corporate land trustee or the shares of the capital stock of a corporation whose stock is publicly traded on a national securities exchange or on the National Association of Securities Dealer's Automated Quotation System);

(d) all or any part of the general partnership or joint venture interest, as the case may be, of any Mortgagor or any beneficiary of a trustee Mortgagor if Mortgagor or such beneficiary is a partnership or a joint venture; or

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, however, that the foregoing provisions of this Paragraph 17 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, 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 or personal representatives. Mortgagor shall not create, effect, contract for, consent to or permit any Prohibited Transfer unless otherwise agreed by Mortgagee.

Any consent by the Mortgagee permitting a transaction otherwise prohibited under this Paragraph 17 shall not constitute a consent to or waiver of any right, remedy or power of the Mortgagee to withhold its consent on a subsequent occasion to a transaction not otherwise permitted by the provisions of this Paragraph 17, and notwithstanding the giving of such consent Mortgagor shall not engage in any "prohibited transaction" with any "party-in-interest" as such terms are defined in the Employee Retirement Income Security Act of 1974, as amended from time to time.

No such consent shall be considered by Mortgagee unless the appropriate service fees and legal fees are paid in advance and no such consent shall be given unless Mortgagor agrees, in addition to any other conditions to such consent imposed by Mortgagee, that immediately upon closing of the subject sale or transfer, Mortgagor will provide Mortgagee with a copy of the deed or other instrument conveying title to the Mortgaged Premises to transferee and with affidavit and agreement of indemnification regarding Internal Revenue Code Sections 1445 and 7701 in form satisfactory to Mortgagee executed by the transferee under oath.

In determining whether or not to make the loan secured hereby, Mortgagee evaluated the background and experience of Mortgagor's beneficiary in owning and operating property such as the Premises, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is Mortgagee's security for the Note. Mortgagor's beneficiary is well-experienced in borrowing money and owning and operating property such as the Premises, was ably represented by a licensed attorney at law in the negotiation and documentation of the loan secured hereby and bargained at arm's length and without duress of any kind for all of the terms and conditions of the loan, including this provision. Mortgagor and Mortgagor's beneficiary recognize that Mortgagee is entitled to keep its loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original beneficiary of Mortgagor. Mortgagor and Mortgagor's beneficiary further recognize that any secondary junior financing placed upon the Premises, or the beneficial interest of the beneficiary in Mortgagor (a) may divert funds which would otherwise be used to pay the Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security; (c) would detract from the value of the Premises should Mortgagee come into possession thereof with the intention of selling same; and (d) would impair Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Premises. In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security, both of repayment and of value of the Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor and Mortgagor's beneficiary; (iii) allowing Mortgagee to raise the interest rate and collect assumption fees; and

(iv) keeping the Premises and the beneficial interest free of subordinate financing liens, Mortgagor and Mortgagor's beneficiary agree that if this Paragraph 17 be deemed a restraint on alienation, that it is a reasonable one.

18. **Defaults**. If one or more of the following events (herein called "Defaults") shall occur:

(a) Mortgagor shall default in the payment of principal when due under the Note;

(b) Mortgagor shall default in the due and punctual payment of monies other than principal payments required under the Note, under this Mortgage or under any other document or instrument regulating, evidencing, securing or guarantying any of the Indebtedness Hereby Secured, including, but not limited to, the Loan Documents, as and when the same is due and payable which default continues for a period of ten (10) days;

(c) If any default shall exist for any reason other than the non-payment of money under the Note, under this Mortgage or under any other document or instrument regulating, evidencing, securing or guarantying any of the Indebtedness Hereby Secured, including, but not limited to, the Loan Document which default continues for a period of thirty (30) days after notice thereof by Mortgagee to Mortgagor;

(d) The occurrence of a Prohibited Transfer;

(e) If any of the information contained in any documentation provided to Mortgagee by Mortgagor or the beneficiary of Mortgagor in conjunction with the Indebtedness Hereby Secured shall not be true, accurate and complete in all material respects or shall be misleading;

(f) If (and for the purpose of this Subparagraph 18(f) only, the term Mortgagor shall mean and include not only Mortgagor, but also 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 herein) any of the following shall occur:

(i) Mortgagor shall file a voluntary petition in bankruptcy or for arrangement, reorganization or other relief under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter in effect;

(ii) Mortgagor shall file an answer or other pleading in any proceeding admitting insolvency, bankruptcy, or inability to pay its debts as they mature;

(iii) Within sixty (60) days after the filing against Mortgagor of any involuntary proceeding under the Federal Bankruptcy Code or similar law, state or federal, now or hereafter in effect such proceedings shall not have been dismissed;

(iv) All or a substantial part of 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;

(v) Mortgagor shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its property, or the Premises; or

(vi) Any order appointing a receiver, trustee or liquidator of Mortgagor or all or a major part of Mortgagor's property or the Premises is not vacated within sixty (60) days following the entry thereof;

then Mortgagee is hereby authorized and empowered, at its option and without affecting the lien hereby created or the priority of said lien or any other right of Mortgagee hereunder, to declare, without further notice, all Indebtedness Hereby Secured to be immediately due and payable with interest thereon at the Default Rate, whether or not such Default be thereafter remedied by Mortgagor, and Mortgagee may immediately proceed to foreclose this Mortgage and/or to exercise any right, power or remedy provided by this Mortgage, the Note or any of the other Loan Documents or by law or in equity or any other document or instrument regulating, evidencing, securing or guarantying any of the Indebtedness Hereby Secured.

19. **Foreclosure.** When the Indebtedness Hereby Secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof in accordance with the laws of the State of Illinois and to exercise any other remedies of Mortgagee provided in the Note, this Mortgage or any of the other Loan Documents, or which Mortgagee may have at law, at equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness Hereby Secured in the decree of sale, all expenditures and expenses authorized by the Illinois Mortgage Foreclosure Law, Chapter 110, Sections 15-101 et. seq., Illinois Revised Statutes (1987) (the "Act") and all other expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, reasonable appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication 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, and similar data and assurance with respect to title as Mortgagee may deem 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 expenditures and expenses of the nature mentioned in this Paragraph, and such other expenses and fees as may be incurred in the protection of the Premises and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by 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 of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional Indebtedness Hereby Secured and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate until paid.

20. **Right of Possession.** When the Indebtedness Hereby Secured shall become due, whether by acceleration or otherwise, or in any case in which, under the provisions of this Mortgage, Mortgagee has a right to institute foreclosure proceedings, 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, by its agent or attorneys or be placed in possession pursuant to court order as mortgagee in possession or receiver as provided in Section 15-1701 of the Act, and Mortgagee, in its discretion, personally, by its agents or attorneys or pursuant to court order as mortgagee in possession or receiver as provided in Section 15-1701 of the Act 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, on behalf 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, issues, deposits, profits, and avails 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 without Mortgagee's prior written consent;

(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 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, reinstatement, discharge of the Indebtedness Hereby Secured, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

(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, issues, deposits, profits, and avails therefrom; and

(f) apply the net income, after allowing a reasonable fee for the collection thereof and for the management of the Premises, to the payment of Taxes, Premiums and other charges applicable to the Premises, or in reduction of the Indebtedness Hereby Secured in such order and manner as Mortgagee shall select.

Without limiting the generality of the foregoing provisions of this Paragraph 20, Mortgagee shall also have all power, authority and duties as provided in Section 15-1703 of the Act. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises.

21. **Receiver**. Upon the filing of a complaint to foreclose this Mortgage or at any time thereafter, the court in which such complaint is filed may appoint upon petition of Mortgagee, and at Mortgagee's sole option, a receiver of the Premises pursuant to Section 15-1702 of the Act. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of Mortgagor at the time of application for such receiver, and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by Section 15-1704 of the Act, including the power to make leases to be binding upon all parties, including the mortgagor, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Premises after entry of a judgment of foreclosure, all as provided in Subsection (g) of Section 15-1701 of the Act. In addition, such receiver shall also have the power to extend or modify any then existing leases, which extensions and modifications may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Note and beyond the date 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 provisions to be contained therein, shall be binding upon Mortgagor and all the persons whose interest in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, reinstatement, discharge of the Indebtedness Hereby Secured, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser. In addition, such receiver shall have the power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and such receiver shall have all other powers which may be necessary 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 payment in whole or in part of: (a) the Indebtedness Hereby Secured or the indebtedness secured by a 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.

22. **Foreclosure Sale**. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the provisions of Subsection (c) of Section 15-1512 of the Act. The judgment of foreclosure or order confirming the sale shall provide (after application pursuant to Subsections (a) and (b) of said Section 15-1512) for application of sale proceeds in the following order of priority: First, all items not covered by the provisions of said Subsections (a) and (b), which under the terms hereof constitute Indebtedness Hereby Secured additional to the principal and interest evidenced by the Note in such order as Mortgagee shall elect with interest thereon as herein provided; and Second, all principal and interest remaining unpaid on the Note in such order as Mortgagee shall elect.

23. **Insurance During Foreclosure**. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any Insurance Policy, if not applied in rebuilding or restoring the Improvements, as aforesaid, 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 case of foreclosure of this Mortgage, the court, in its decree, may provide that the mortgagee's clause attached to each of the casualty Insurance Policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said casualty Insurance Policies making the loss thereunder payable to said decree creditor. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all Insurance Policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of the Insurance Policies without credit or allowance to Mortgagor for prepaid premiums thereon.

24. **Waiver of Right of Redemption and other Rights**. To the full extent permitted by law, 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 appraisement 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 claim or exercise any rights under any statute now or hereafter in force to redeem the property, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights to reinstatement and redemption pursuant to Section 15-1601 of the Act, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of reinstatement and redemption of Mortgagor and such other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or 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 will suffer and permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note. If the Mortgagor is a trustee, Mortgagor represents that the provisions of this Paragraph 24 (including the waiver of reinstatement and redemption rights) were made at the express direction of Mortgagor's beneficiaries 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 all other persons named above. The Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act).

25. **Rights Cumulative**. Each right, power and remedy herein conferred upon Mortgagee herein or in any of the other Loan Documents is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter provided by law or in equity, and each and every right, power and remedy herein set forth or

otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient to Mortgagee. The exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein. Except as otherwise specifically required herein, notice of the exercise of any right, remedy or power granted to Mortgagee by this Mortgage is not required to be given. If any provision in this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law.

26. **Successors and Assigns.**

A. **Holder of the Note.** This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon Mortgagor and its successors and assigns (including, without limitation, each and every record owner from time to time of the Premises or any other person having an interest therein), and shall inure to the benefit of Mortgagee and its successors and assigns. Wherever herein 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 holder from time to time 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 holder of the Note from time to time were herein by name specifically granted such rights, privileges, powers, options and benefits and was herein by name designated Mortgagee.

B. **Covenants Run With Land; Successor Owners.** All of the covenants of this Mortgage shall run with the Land and be binding on any successor owners of the Land. In the event that the ownership of Premises or any portion thereof becomes vested in a person or persons other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest of Mortgagor with reference to this Mortgage and the Indebtedness Hereby Secured in the same manner as with Mortgagor without in any way releasing or discharging Mortgagor from its obligations hereunder. Mortgagor will give immediate written notice to Mortgagee of any conveyance, transfer or change of ownership of the Premises, but nothing in this Paragraph shall vary or negate the effect of the provisions of Paragraph 17 hereof.

27. **Effect of Extensions 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 guaranties 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 hereof, 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, modify, extend or release the Note, this Mortgage, or any other document or instrument evidencing, securing or guarantying 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 provided in a separate Subordination Agreement by and between Mortgagee and the holder of such junior lien.

28. **Future Advances.** At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures as part of the Indebtedness Hereby Secured the payment of any and all loan commissions, service charges, liquidated damages, attorneys' fees, expenses and advances due to or incurred by Mortgagee in connection with the Indebtedness Hereby Secured, all in accordance with the Note, this Mortgage and the other Loan Documents; provided, however, that in no event shall the total

amount of the Indebtedness Hereby Secured, including loan proceeds disbursed plus any additional charges, exceed 500% of the face amount of the Note.

29. **Execution of Separate Security Agreements, Financing Statements, Etc.; Estoppel Letter.** Mortgagor will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, conveyances, notes, mortgages, security agreements, financing statements and assurances as Mortgagee shall reasonably require for the better assuring, conveying, mortgaging, assigning and confirming unto Mortgagee all property mortgaged hereby or property intended so to be, whether now owned by Mortgagor or hereafter acquired. Without limitation of the foregoing, Mortgagor will assign to Mortgagee, upon request, as further security for the Indebtedness Secured Hereby, its interests in all agreements, contracts, licenses and permits affecting the Premises, such assignments to be made by instruments reasonably satisfactory to Mortgagee, but no such assignment shall be construed as a consent by the Mortgagee to any agreement, contract, license or permit or to impose upon Mortgagee any obligations with respect thereto. From time to time, Mortgagor will furnish within five (5) days after Mortgagee's request a written and duly acknowledged statement of the Indebtedness Hereby Secured and whether any alleged offsets or defenses exist against the Indebtedness Hereby Secured.

30. **Subrogation.** If any part of the Indebtedness Hereby Secured is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Premises or any part thereof, then Mortgagee shall be subrogated to the rights of the holder thereof in and to such other lien or encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

31. **Option to Subordinate.** At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any and all leases of all or any part of the Premises upon the execution by Mortgagee and recording thereof, at any time hereafter, in the Office of the Recorder of Deeds in and for the county wherein the Premises are situated, of a unilateral declaration to that effect.

32. **Governing Law.** The place of negotiation, execution and delivery of this Mortgage and the location of the Land being the State of Illinois, this Mortgage shall be construed and enforced according to the laws of the State of Illinois, without reference to the conflicts of law principles of that State.

33. **Business Loan.** Mortgagor certifies and agrees that the proceeds of the Note will be used for the purposes specified in the Illinois Revised Statutes, Chapter 17, Section 6404, and that the principal obligation secured hereby constitutes a "business loan" coming within the definition and purview of said section.

34. **Inspection of Premises and Record.** Mortgagee and its representatives and agents shall have the right to inspect the Premises without notice and inspect and make copies of all books, records and documents relating thereto upon five (5) days prior written notice, at all reasonable times, and access shall be permitted for that purpose. Mortgagor shall keep and maintain full and correct books and records showing in detail the income and expenses of the Premises and, shall permit Mortgagee or its agents to examine, such books, income tax returns and records and all supporting vouchers and data upon five (5) days prior written notice, at any time and from time to time on request at its offices at the address hereinafter identified or at such other location as may be mutually agreed upon.

35. **Financial Statements.** Mortgagor will, within ninety (90) days after the end of each fiscal year of Mortgagor, furnish to Mortgagee financial and operating statements of the Premises for such fiscal year all in form satisfactory to Mortgagee in its sole discretion, including, but without limitation, a balance sheet and supporting schedules, detailed statement of income and expenditures and supporting schedules, all prepared in accordance with generally accepted principles of accounting consistently applied. Such financial and operating statements shall be prepared and certified by an independent certified public accountant being prepared in accordance with generally accepted accounting principals consistently applied and without material qualification. Each statement shall include income and expense statements and a schedule of gross sales of each tenant having a percentage lease. The statements shall be either addressed to Mortgagee or shall be accompanied by a written acknowledgement from the accountants preparing such statements that Mortgagee shall have whatever rights it would have if it were named as an addressee of such statements.

36. **Time of the Essence.** Time is of the essence of the Note, this Mortgage, and any other document or instrument evidencing or securing the Indebtedness Hereby Secured.

37. **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.

38. **Notices.** Any notice, demand or other communication which any party hereto may desire or may be required to give to any other party hereto shall be in writing, and shall be deemed given (i) if and when personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth below, or (iii) on the second (2nd) business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set forth below, or to such other address as the party to receive such notice may have designated to all other parties by notice in accordance herewith (but service of or delivery of courtesy copies shall not be required):

(a) If to Mortgagee: Western Savings and Loan Association
950 Milwaukee Avenue
Glenview, Illinois 60025
Attention: Richard J. Krohn

and

Rudnick & Wolfe
203 North LaSalle Street
Suite 1800
Chicago, Illinois 60601-1293
Attention: Thomas H. Fraerman, Esq.

(b) If to Mortgagor American National Bank and
Trust Company of Chicago
Land Trust No. 106801-06
33 North LaSalle Street
Chicago, Illinois 60690
Attention: Land Trust Department

and

Mr. Leslie C. Barnard
2630 Flossmoor Road
Flossmoor, Illinois 60422

Except as otherwise specifically required herein, notice of the exercise of any right, power or option granted to Mortgagee by this Mortgage is not required to be given.

39. **Environmental Matters.** Mortgagor covenants and represents to Mortgagee that (i) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating thereto (collectively, the "Environmental Regulations"), and also including urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos-containing materials, nuclear fuel or waste, and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the owner of the Premises to any damages, penalties or liabilities under any applicable Environmental Regulation (collectively, the "Hazardous Substances") are now or have ever been located, produced, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Premises; (ii) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Premises into the environment; (iii) the Premises have not ever been used as or for a mine, a landfill, a dump or other disposal facility or a gasoline service station; (iv) no underground storage tank is now located in the Premises or has previously been located therein but has been removed therefrom; (v) no violation of any Environmental Regulation now exists or has ever existed in, upon, under, over or from the Premises, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now nor has there ever been any investigation or report involving the Premises by any governmental entity or agency which in any way relates

to Hazardous Substances; (vi) no person, party or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (i) above; (vii) there are not now, nor have there ever been, any actions, suits, Proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under, over or from the Premises; (viii) the Premises are not listed in the United States Environmental Protection Agency's List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and (ix) the Premises are subject to no lien or claim for lien in favor of any governmental entity or agency as a result of any release or threatened release of any Hazardous Substance. Mortgagor covenants and agrees that it shall not locate, produce, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance in, upon, under, over or from the Premises, shall not permit any Hazardous Substance to be located, produced, treated, transported, incorporated, discharged, emitted, released, deposited, disposed of or to escape therein, thereupon, thereunder, thereover or therefrom, and shall comply with all Environmental Regulations which are applicable to the Premises. If for a reasonably justifiable cause Mortgagee so requests, Mortgagor shall have any environmental review, audit, assessment and/or report relating to the Premises heretofore provided to Mortgagee updated, at Mortgagor's sole cost and expense, by an engineer or scientist acceptable to Mortgagee, or shall have such a review, audit, assessment and/or report prepared for Mortgagee, if none has previously been so provided. Mortgagor shall indemnify Mortgagee against, shall hold Mortgagee harmless from, and shall reimburse Mortgagee for, any and all claims, demands, judgments, penalties, fines, liabilities, costs, damages and expenses, including court costs and attorneys' fees incurred by Mortgagee (prior to trial, at trial and on appeal) in any action against or involving Mortgagee, resulting from any breach of the foregoing covenants, from the incorrectness or untruthfulness of any covenant or representation set forth in this Paragraph 39, or from the discovery of any Hazardous Substance in, upon, under or over, or eminating from, the Premises, it being the intent of Mortgagor and Mortgagee that Mortgagee shall have no liability or responsibility for damage or injury to human health, the environment or natural resources caused by, for abatement and/or clean-up of, or otherwise with respect to, Hazardous Substances by virtue of the interest of Mortgagee in the Premises created hereby or as the result of Mortgagee exercising any of its rights or remedies with respect thereto hereunder, including but not limited to becoming the owner thereof by foreclosure or conveyance in lieu of foreclosure. The foregoing representations and covenants of this Paragraph 39 shall be deemed continuing covenants and representations for the benefit of Mortgagee, and any successors and assigns of Mortgagee, including but not limited to any purchaser at a foreclosure sale, any transferee of the title of Mortgagee or any other purchaser at a foreclosure sale, and any subsequent owner of the Premises, and shall survive the satisfaction or release of this Mortgage, any foreclosure of this Mortgage and/or any acquisition of title to the Premises or any part thereof by Mortgagee, or anyone claiming by, through or under Mortgagee, by deed in lieu of foreclosure or otherwise. Any amounts covered by the foregoing indemnification shall be so much additional Indebtedness Hereby Secured and shall bear interest from the date incurred at the Default Rate, shall be payable on demand, and shall be secured hereby.

40. **Mortgagee Not A Joint Venturer**. Any provision hereof to the contrary notwithstanding, Mortgagee, by virtue of its acceptance of this Mortgage and the making of the loan secured hereby or any action taken pursuant hereto or contemplated hereby or by virtue of an affiliate of Mortgagee having an ownership interest in the beneficiary of Mortgagor shall not be deemed to be by such action or ownership a partner or joint venturer with Mortgagor or any guarantor or any other parties. Mortgagor shall indemnify Mortgagee against, shall hold Mortgagee harmless from, and shall reimburse Mortgagee for, any and all claims, demands, judgments, penalties, fines, liabilities, costs, damages and expenses, including court costs and attorneys' fees incurred by Mortgagee (prior to trial, at trial and on appeal) on any action against or involving Mortgagee resulting from such a construction of the parties and their relationship. Any inspection of the Premises, any review of any plans, contracts, subcontracts or any analysis of the Premises made by Mortgagee or any of its agents, architects or consultants is intended solely for the benefit of Mortgagee and shall not be deemed to create or form the basis of any warranty, representation, covenant, implied promise or liability to the Mortgagor or any of its employees or agents, any guest or invitee upon the Premises or any other person.

41. **Report of Real Estate Transaction**. Mortgagor has made or provided for making, on a timely basis, any reports or returns required under Section 6045(e) of the

Internal Revenue code of 1986 (and any similar reports or returns required by state or local law) relating to the Premises, notwithstanding the fact that the primary reporting responsibility may fall on Mortgagee, counsel for Mortgagee, or any other party. Mortgagor's obligations under this Paragraph will be deemed to be satisfied if proper and timely reports and returns required under this Paragraph are filed by a title company or real estate broker involved in the real estate transaction relating to the Premises, but nothing contained herein shall be construed to require such returns or reports to be filed by Mortgagee or counsel for Mortgagee.

42. **Expenses.** Mortgagor agrees to pay all recording and filing fees, transfer taxes, title insurance premiums, escrow and other title company charges, attorneys' fees (including the fees and expenses of outside counsel for Mortgagee and excluding fees and expenses of in-house counsel for Mortgagee), appraisal and survey fees, consulting architect fees, if any, fees of engineers and other consultants, financial consultant fees, insurance costs and all other expenses in connection with the making of the loan evidenced by the Note. Mortgagee shall have the right, at its option, to pay any such expenses and upon such payment such expenses shall be deemed to be a part of the Indebtedness Hereby Secured and shall be payable on demand with interest at the Default Rate.

43. **Sale and Release of Units.** The Premises consists of nine separate parcels (the "Units") which Mortgagor intends to sell separately. Mortgagor and Mortgagee have agreed that upon the sale of each Unit, Mortgagee shall receive as a release price (the "Release Price") the net sale proceeds (the gross sales price under a bona fide third party arms length contract for the sale of a Unit less customary seller expenses for title insurance premiums, escrow charges, recording charges, survey fees, reasonable attorney's fees, transfer taxes and customary brokerage commissions payable to a person not affiliated with Mortgagor or its beneficiary). Mortgagor will not contract to sell any Unit (i) at a price that would yield less than the price that a third party bona fide purchaser in any arms length transaction would pay for such Unit, and (ii) unless Mortgagee has approved the form and content of the sale contract and proposed escrow agreement with the Unit purchaser. Provided that: (a) Mortgagor has complied with the other provisions of this Paragraph 43; (b) no Default then exists and no circumstance then exists that would result in a Default with the passage of time or giving of notice or both; and (c) Mortgagor shall concurrently therewith pay to Mortgagee the Release Price for such Unit, upon the sale of a Unit, Mortgagee shall execute and deliver to Mortgagor a partial release of the lien of this Mortgage, and the lien or security interest of any other collateral for the repayment of the Indebtedness Hereby Secured, with respect to such Unit. The payments received by Mortgagee as the Release Price shall be applied from time to time, when and as received by Mortgagee, in repayment of the unpaid principal balance of the indebtedness evidenced by the Note until such indebtedness is repaid in full and any remainder shall be applied against the Indebtedness Hereby Secured in such order as Mortgagee shall elect; provided, however, that if a Default then exists, such payments may be applied by Mortgagee against the Indebtedness Hereby Secured in such order as Mortgagee shall elect.

44. **Trustee's Exculpatory Clause.** This Mortgage is executed by the undersigned, not personally, but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants in its individual capacity that it possess full power and authority and has been properly directed to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Trustee personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, representation, agreement or condition, either express or implied herein contained, or with regard to any warranty contained in this Mortgage except the warranty made in this Paragraph, all such liability, if any, being expressly waived by Mortgagee and by every person nor or hereafter claiming any right or security hereunder; provided that nothing herein contained shall be construed in any way so as to limit or restrict any of the rights and remedies of Mortgagee in any such foreclosure proceedings or other enforcement of the payment of the Indebtedness Hereby Secured out of and from the security given therefor in the manner provided herein, or construed in any way so as to limit or restrict any of the rights and remedies of Mortgagee under any other document or instrument evidencing, securing or guarantying the Indebtedness Hereby Secured.

IN WITNESS WHEREOF, Mortgagor through its duly authorized officers has signed, sealed and delivered this Mortgage the day and year first above written.

MORTGAGOR:

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

By: _____
Title: VP

[SEAL]

ATTEST:

_____
Title: ASST SECY

88501511

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, L. M. SOVIENSKI, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that J. MICHAEL WHELAN, _____ Vice President of American National Bank and Trust Company of Chicago, known to me to be acting not personally but as Trustee under Trust Agreement dated October 17, 1988, and known as Trust Number 106801-06 and Peter H. Johansen, ASSISTANT Secretary of said Bank/Trust Company, are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ Vice President and ASSISTANT Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said Bank/Trust Company, as Trustee as aforesaid, for the uses and purposes therein set forth; and said ASSISTANT Secretary then and there acknowledged that he, as custodian of the corporate seal of said Bank/Trust Company, did affix the corporate seal of said Bank/Trust Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank/Trust Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this ~~27th~~ 28th day of October, A.D., 1988.

L. M. Sovienski
Notary Public

My Commission Expires: _____

"OFFICIAL SEAL"
L. M. Sovienski
Notary Public State of Illinois
My Commission Expires 6/27/92

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88501511

SCHEDULE A CONTINUED

FILE NO. 88-156 COMMITMENT 817-774606

EXHIBIT A

PARCEL 1:

LOTS 13, 14, 15 AND 16 IN BLOCK 16 IN HERRINGTON'S ADDITION TO CHICAGO, IN THE NORTHWEST FRACTIONAL 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 17-22-107-006
17-22-107-007
17-22-107-008
17-22-107-009

LOCATION: 1421-29 S. WABASH
CHICAGO, ILLINOIS

PARCEL 2:

LOTS 1 & 2 IN BLOCK 4 IN WAKEFORD 6TH ADDITION BEING FRANK T. CRAWFORD'S SUBDIVISION OF THAT PART OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 14, LYING NORTH OF THE SOUTH 90 RODS THEREOF AND WEST OF THE EAST 503 FEET THEREOF, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 20-27-400-005

LOCATION: 7506 S. VERNON
CHICAGO, ILLINOIS

PARCEL 3:

THE NORTH 1/2 OF LOT 41, ALL OF LOT 42 AND THE SOUTH 1/2 OF LOT 43 IN BLOCK 3 IN GEORGE A. CHAMBAR'S SUBDIVISION OF THAT PART OF THE NORTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 20-33-101-029-0000

LOCATION: 7926 S. UNION
CHICAGO, ILLINOIS

88501511

SCHEDULE A CONTINUED

FILE NO. 88-156 COMMITMENT 817-774606

EXHIBIT A CONTINUED

PARCEL 4:

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER, THENCE NORTH, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER OF SECTION 34, A DISTANCE OF 155 FEET TO A POINT ON THE SOUTH LINE OF 179TH STREET. THENCE WESTERLY ALONG THE SOUTH LINE OF 179TH STREET TO THE INTERSECTION WITH THE WEST LINE OF CYPRESS AVENUE, FOR A POINT OF BEGINNING: THENCE NORTH 80 DEGREES, 58 MINUTES, 00 SECONDS WEST, A DISTANCE OF 1,071.77 FEET TO A POINT: THENCE NORTH 00 DEGREES, 03 MINUTES, 00 SECONDS EAST, A DISTANCE OF 202.17 FEET TO A POINT ON THE SOUTH LINE OF THE 40 FOOT DRAINAGE EASEMENT DEDICATED BY PLAT OF JAMES EDWARD'S CONSTRUCTION COMPANY'S CAMBRIDGE UNIT NO. 1, RECORDED AS DOCUMENT 24,155,008. THENCE SOUTH 80 DEGREES, 57 MINUTES,22 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 955.56 FEET TO A POINT: THENCE NORTH 46 DEGREES, 47 MINUTES, 00 SECONDS EAST, ALONG THE SOUTHEASTERLY LINE OF SAID 40 FEET DRAINAGE EASEMENT, A DISTANCE OF 113.69 FEET TO A POINT ON THE WESTERLY LINE OF CYPRESS AVENUE, THENCE SOUTHEASTERLY, ALONG SAID WESTERLY LINE OF CYPRESS AVENUE. (SAID WESTERLY LINE BEING THE ARC OF A CIRCLE, CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 211.50 FEET.) A DISTANCE OF 166.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 28-34-201-009

LOCATION: VACANT LAND
117TH & CRAWFORD AVENUES
COUNTRY CLUB HILLS, ILLINOIS

8 8 5 0 1 5 1 1

SCHEDULE A CONTINUED

FILE NO. 88-156 COMMITMENT 817-774606

EXHIBIT A CONTINUED

PARCEL 5:

LOT 11, 12, 14 AND 15 IN BLOCK 1 IN ARTHUR T. MCINTOSH AND COMPANY'S CRAWFORD COUNTRYSIDE UNIT NUMBER 1 IN THE NORTHEAST 1/4 OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 31-15-203-002-0000
31-15-203-003-0000
31-15-203-007-0000

LOCATION: VACANT LAND
VOLLMER ROAD EAST OF KEYSTONE AVENUE
UNINCORPORATED COOK COUNTY, ILLINOIS

PARCEL 6:

LOT 2 IN H.W.W. SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 35 NORTH, RANGE 14 LYING EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 32-09-101-027

LOCATION: VACANT LAND
195TH & HALSTED
GLENWOOD, ILLINOIS

PARCEL 7:

LOTS 8 AND 9 IN BLOCK P IN ACADEMY ADDITION TO HARVEY, A SUBDIVISION OF THAT PART OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 36 NORTH, RANGE 14 LYING SOUTH OF THE CALUMET RIVER AND WEST OF THE ILLINOIS CENTRAL RAILROAD AND ALL THAT PART OF THE NORTH EAST 1/4 OF SECTION 8, TOWNSHIP 36 NORTH, RANGE 14 LYING EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 29-08-217-030

LOCATION: 14516 S. UNION
HARVEY, ILLINOIS

SCHEDULE A CONTINUED

FILE NO. 88-156 COMMITMENT 817-774606

EXHIBIT A CONTINUED

PARCEL 8:

THE SOUTH 30 FEET OF LOTS 12 AND 13 IN BLOCK 45 IN ROGERS PARK, BEING A SUBDIVISION OF THE NORTH EAST 1/4 AND THAT PART OF THE NORTH WEST 1/4 LYING EAST OF RIDGE ROAD OF SECTION 31, AND ALSO THE WEST 1/2 OF THE NORTH WEST 1/4 OF SECTION 32, AND ALSO ALL OF SECTION 30 LYING SOUTH OF THE INDIAN BOUNDARY LINE, ALL IN TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 11-31-224-023-0000

LOCATION: 6801 N. WOLCOTT AVENUE
CHICAGO, ILLINOIS

PARCEL 9:

BEGINNING AT A POINT AT THE SOUTHEAST CORNER OF LOT 7 IN CLEARBROOK INDUSTRIAL PARK SUBDIVISION IN THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 41 NORTH, RANGE 11, THENCE NORTH 455.0 FEET TO A POINT, THENCE EAST 99.48 FEET TO A POINT, THENCE SOUTH 455.00 FEET TO A POINT, THENCE WEST 99.48 FEET TO THE POINT OF BEGINNING, ALL IN LOT 7 IN OWNER'S SUBDIVISION OF THE WEST 15 RODS OF THE SOUTHEAST 1/4 AND THE EAST 46/80THS OF THE EAST 1/2, OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 41 NORTH, RANGE 11 ALSO THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 08-15-303-010

LOCATION: VACANT LAND
ARLINGTON HEIGHTS, ILLNOIS

EXHIBIT B

TO
FIRST MORTGAGE
AND SECURITY AGREEMENT

Permitted Exceptions

Those agreed to in writing by Mortgagee.

EXHIBIT C

TO
FIRST MORTGAGE
AND SECURITY AGREEMENT

Loan Documents

The term "Loan Documents," as used in this Mortgage, means the following documents and any other documents previously, now, or hereafter given to evidence, secure, or govern the disbursement of the Indebtedness Hereby Secured, including any and all extensions, renewals, amendments, modifications, and supplements thereof or thereto:

1. The Note;

2. Mortgage Note of even date herewith, made by American National Bank and Trust Company, not personally, but solely as Trustee under Trust Agreement dated October 17, 1988, and known as Trust No. 106715-01 (the "Related Trustee"), to Lender, in the amount of $1,800,000.00 (the "Related Note");

3. Obligations of Barnard in the amount of $108,097.50 ($1,302.38 per lot) under that certain Real Estate Sales Contract dated October 1, 1988, by and between Mortgagee, as seller, and Barnard as purchaser, in consideration for the assignment by Mortgagee to Barnard of the $108,097.50 credit from the Village of Cary for payment of a portion of the water and sewer tap on fees for each lot;

4. The following security documents:

(a) this Mortgage;

(b) A First Mortgage and Security Agreement of even date herewith from the Related Trustee to Lender, affecting property located at First Street and Three Oaks Road, Cary, Illinois as more particularly described therein;

(c) Those certain Uniform Commercial Code Financing Statements made by Mortgagor and Barnard, as debtor, in favor of Mortgagee, as secured party;

(d) Those certain Uniform Commercial Code Financing Statements made by the Related Trustee and Barnard, as debtor, in favor of Mortgagee, as secured party;

(e) A Collateral Assignment of Beneficial Interest of even date herewith made by Barnard in favor of Mortgagee with respect to Mortgagor's Land Trust;

(f) Collateral Assignment of Beneficial Interest of even date herewith made by Barnard in favor of Mortgagee with respect to the Related Trustee's Land Trust;

(g) A Guaranty of Payment of even date herewith made by Barnard in favor of Mortgagee with respect the Note; and

(h) A Guaranty of Payment of even date herewith made by Barnard in favor of Mortgagee with respect the Related Note.

EXHIBIT D

TO
FIRST MORTGAGE
AND SECURITY AGREEMENT

Description of Collateral

All of the following property now or at any time hereafter owned by Debtor (as defined in Paragraph 16 of this Mortgage and also referred in this Exhibit D as "Debtor") or in which the Debtor may now or at anytime hereafter have any interest or rights, together with all of Debtor's right, title and interest therein (excepting any items of personal property which (i) are owned by tenants who are in possession pursuant to leases or license agreements approved by Secured Party, and (ii) may be removed by such tenants at the expiration or termination of such lease or license agreements);

1. All fixtures and personal property now or hereafter owned by Debtor and attached to or contained in and used or useful in connection with the Premises or any of the improvements now or hereafter located thereon, including without limitation any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, fans, fittings, floor coverings furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, kitchen equipment and utensils, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, all renewals or replacements thereof or articles in substitution therefor, and all Premises owned by Debtor and now or hereafter used for similar purposes in or on the "Land" (as described on Exhibit A hereto);

2. Articles or parts now or hereafter affixed to the property described in Paragraph 1 of this Exhibit or used in connection with such property, any and all replacements for such property, and all other property of a similar type or used for similar purposes now or hereafter in or on the Premises or any of the improvements now or hereafter located thereon;

3. Debtor's right, title, and interest in all personal property used or to be used in connection with the operation of the Premises or the conduct of business thereon, including without limitation business equipment and inventories located on the Premises or elsewhere, together with files, books of account, and other records, wherever located;

4. Debtor's right, title, and interest in and to any and all contracts now or hereafter relating to the Premises executed by any architects, engineers, or contractors, including all amendments, supplements, and revisions thereof, together with all Debtor's rights and remedies thereunder and the benefit of all covenants and warranties thereon, and also together with all drawings, designs, estimates, layouts, surveys, plats, plans, specifications and test results prepared by any architect, engineer, or contractor, including any amendments, supplements, and revisions thereof and the right to use and enjoy the same, as well as all building permits, environmental permits, approvals and licenses, other governmental or administrative permits, licenses, names, authorizations, agreements and rights relating to construction or operation of the Premises;

5. Debtor's right, title, and interest in and to any and all contracts now or hereafter relating to the operation of the Premises or the conduct of business thereon, including without limitation all management and other service contracts, the books and records, and the right to appropriate and use any and all trade names used or to be used in connection with such business;

6. Debtor's right, title, and interest in the rents, issues, deposits (including security deposits and utility deposits), and profits in connection with all leases, contracts, and other agreements made or agreed to by any person or entity (including without limitation Debtor and Secured Party under the powers granted by the First Mortgage and Security Agreement made between Debtor and Secured Party and the other Loan Documents) with any person or entity pertaining to all or any part of the Premises, whether such agreements have been heretofore or are hereafter made;

7. Debtor's right, title, and interest in all sale contracts, earnest money deposits, proceeds of sale contracts, accounts receivable, and general intangibles relating to the Premises excluding, however, any such right arising from a transfer permitted by the terms of Paragraphs 17(i), 17(ii) and 17(iii) of this Mortgage;

8. All rights in and proceeds from all fire and hazard, loss-of-income, and other non-liability insurance policies now or hereafter covering improvements now or hereafter located on the Premises or described in the First Mortgage and Security Agreement, the use or occupancy thereof, or the business conducted thereon;

9. All awards or payments, including interest thereon, that may be made with respect to the Premises, whether from the right of the exercise of eminent domain (including any transfer made in lieu of the exercise of said right) or for any other injury to or decrease in volume of the Premises; and

10. All proceeds from the sale, transfer, or pledge of any or all of the foregoing property.

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JOINDER

The undersigned, being the owner of one hundred percent (100%) of the beneficial interest in, and being the sole beneficiary of the Trust which is the Mortgagor under the foregoing Mortgage, hereby consents to and joins in the terms and provisions of Section 16 of the foregoing Mortgage, intending hereby to bind any interest it or its respective heirs, executors, administrators, successors or assigns may have in the Premises described in the foregoing Mortgage, as fully with the same effect as if the undersigned was named as the Mortgagor in said Mortgage.

Dated: October 27, 1988

Leslie C. Barnard

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, KAREN M. CHAPPELL, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Leslie C. Barnard, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27th day of October, 1988.

Karen M. Chappell
Notary Public

My Commission Expires:
October 30, 1989

DEPT-01 RECORDING $59.00
T#2222 TRAN 3686 10/31/88 16:26:00
#3927 # B *-88-501511
COOK COUNTY RECORDER

-88-501511

5800

AJS0415 10/25/88 1130

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