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Record and Return to:

John A. Crean, Esq.  
MONY Real Estate Investment Management  
2302 Parklake Drive, N.E.  
Suite 300  
Atlanta, Georgia 30345

3-062288  
MONY Loan No. 300118

Box 333

33.00

## MORTGAGE DEED AND SECURITY AGREEMENT

THIS INDENTURE, hereinafter referred to as "Mortgage," made this 24 day of June, 1988 by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as trustee under Illinois Land Trust No. 56354 pursuant to Trust Agreement dated January 7, 1983, (herein referred to as "Mortgagor" and sometimes as "Trust No. 56354"), the sole beneficiary of which is KEDZIE PLAZA SOUTH ASSOCIATES, an Illinois limited partnership (the "Beneficiary") and THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK (MONY), a New York corporation whose address is 1740 Broadway, New York, New York 10019, (herein referred to as "Mortgagee").

### W I T N E S S E T H :

WHEREAS, Mortgagor is justly indebted to Mortgagee upon the installment note hereinafter described in the principal sum of FIVE MILLION THREE HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$5,340,000.00) evidenced by a certain Note Secured by First Real Estate Lien of even date herewith (herein referred to as the "Note"), made payable to the order of and delivered to Mortgagee, in and by which said Mortgagor promises to pay at the place designated in said Note, said principal sum and interest at the rate of and in installments as provided in said Note, with a final payment of the balance due on the first day of July, 1993, unless extended in accordance with the terms of said Note.

WHEREAS, Mortgagee is desirous of securing the prompt payment of said Note, together with interest and prepayment fee, if any, thereon in accordance with the terms of said Note, and any future payments, advances or expenditures made by Mortgagee pursuant to said Note or this Mortgage which indebtedness secured hereby shall in no event exceed \$10,680,000.00 plus interest and prepayment fees as provided in the Note and any disbursements made by Mortgagee pursuant hereto for the payment of taxes, special assessments, or insurance on the Premises (as hereinafter defined).

NOW, THEREFORE, Mortgagor, to secure the payment of said principal sum of money and said interest in accordance with the terms, provisions and limitations of this Mortgage and of the Note secured hereby, and the performance of the covenants and agreements herein contained, by Mortgagor to be performed, and also in consideration of the sum of One Dollar (\$1.00) in hand paid, the receipt whereof is hereby acknowledged, does by these presents GRANT, REMISE, RELEASE, ALIEN and CONVEY unto Mortgagee, its successors and assigns, the real estate and all of its estate, right, title and interest therein, situate, lying and being in the City of Chicago, County of Cook, and State of Illinois, bounded and described as set forth in Schedule A attached hereto and made a part hereof, which with the property, interests, title and rights hereinafter described, is referred to herein as the "Premises".

TOGETHER with all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to said Premises and including all trade, domestic and ornamental fixtures, and articles of personal property of every kind and nature whatsoever (hereinafter collectively called "equipment") owned by Mortgagor, now or hereafter located in, upon or under said Premises or any part thereof and used or usable in connection with any present

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or future operation of said Premises, including but not limiting the generality of the foregoing, all heating, air conditioning, sprinklers, freezing, lighting, laundry, incinerating and dynamo and generating equipment; engines, pipes, pumps, tanks, motors, conduits; switchboards, plumbing fixtures; lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating and communications apparatus; boilers, ranges, furnaces, oil burners or units thereof; appliances, air cooling and air conditioning apparatus; vacuum cleaning systems; elevators, escalators; shades, awnings; screens; storm doors and windows; stoves; wall beds, refrigerators, cooking apparatus and mechanical equipment, gas and electric fixtures; partitions; mantels, built-in mirrors, window shades, blinds, furniture of public spaces, halls and lobbies, attached cabinets, partitions, ducts and compressors; rugs and carpets; draperies; furniture and furnishings used in the operation of the Premises (which furniture and furnishings shall be free of liens prior to the lien evidenced hereby); together with all additions thereto and replacements thereof (Mortgagor hereby agreeing with respect to all additions and replacements, to execute and deliver from time to time such further instruments as may be requested by Mortgagee to confirm the conveyance, transfer and assignment of any of the foregoing).

TOGETHER with all right, title and interest of the Mortgagor, if any, including any after acquired title or reversion, in and to the land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the above described Premises and real estate to the center line thereof.

TOGETHER with any and all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the Premises as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, or (c) any other injury to or decrease in the value of the Premises, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by the Mortgagee, and of the reasonable counsel fees, costs and disbursements incurred by the Mortgagee in connection with the collection of such award or payment. The Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by the Mortgagee to confirm such assignment to the Mortgagee of any such award or payment.

TOGETHER WITH all of Mortgagor's rights further to encumber said Premises for debt except by such encumbrances which, by their actual terms and specifically expressed intent, shall be and at all times remain subject and subordinate to any and all leases and/or tenancies (a) which are in existence when such encumbrances become effective or (b) which are thereafter created, Mortgagor hereby representing to Mortgagee, as a special inducement to Mortgagee to make this loan, that as of the date hereof there are no other encumbrances to secure debt, and covenanting that there are to be none as of the date this Mortgage becomes of record, except in either case encumbrances having the prior written approval of Mortgagee, and all of Mortgagor's rights to enter into any lease or lease agreement which would create a tenancy that is or may become subordinate in any respect to any mortgage or deed of trust other than this Mortgage.

TO HAVE AND TO HOLD the Premises unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth. Mortgagor covenants and agrees that the lien evidenced hereby is and shall remain a first lien on the Premises and all portions thereof and that the Premises and all portions thereof are and shall remain free of all encumbrances except the encumbrance evidenced hereby and such other encumbrances as MONY may approve, in writing, in its sole discretion.

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## IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Mortgagor shall pay each item of indebtedness secured by this Mortgage when due according to the terms hereof or of the Note.

2. Mortgagor shall pay before any penalty attaches all general taxes, and pay all special taxes, special assessments, water charges, sewer service charges, and other charges against the Premises when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagor shall pay in full under protest, or as may be required pursuant to a Certificate of Error, or in the manner provided by statute, any tax or assessment which Mortgagor may desire to contest.

3. Mortgagor covenants and agrees to deposit at such place as the Mortgagee may from time to time in writing appoint, commencing on the first day on which monthly payments of principal and/or interest are due under said Note, and on the first day of each month thereafter until the indebtedness secured by this Mortgage is fully paid, a sum equal to one-twelfth of the last total annual taxes and assessments for the last ascertainable year (general and special) on said Premises (unless said taxes are based upon assessments which exclude the improvements or any part thereof now constructed or to be constructed, in which event the amount of such deposits shall be based upon the Mortgagee's reasonable estimate of the amount of taxes and assessments to be levied and assessed). Mortgagor, concurrently with the disbursement of the loan, will also deposit with Mortgagee an amount, based upon the taxes and assessments so ascertainable or so estimated by the Mortgagee, as the case may be, for taxes and assessments on said Premises, on an accrual basis, for the period from the date the last taxes and assessments were due and paid to and including date of the first deposit in this paragraph hereabove mentioned. Such deposits are to be held without any allowance of interest and are to be used for the payment of taxes and assessments (general and special) on said Premises next due and payable when they become due. If the funds so deposited are insufficient to pay any such taxes or assessments (general and special) for any year when the same shall become due and payable; the Mortgagor shall within ten (10) days after receipt of demand therefor, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year, the excess shall be applied on a subsequent deposit or deposits. As long as Mortgagor complies with the provisions of this paragraph, the obligation for direct payment of taxes and assessments set forth in Paragraph 2 above shall be suspended. Notwithstanding the foregoing, Mortgagor shall have the right to contest any assessment (general or special) in the manner provided by law without being in default under the terms of this Mortgage, so long as no penalty and/or fine shall be imposed upon the Mortgagor or the Mortgage in connection therewith and further so long as no foreclosure of the lien for taxes has been initiated.

4. In the event of a default in any of the provisions contained in this Mortgage or in the Note secured hereby, Mortgagee may, at its option, without being required to do so, apply any monies at the time on deposit pursuant to Paragraph 3 hereof as said paragraph may be applicable, on any of Mortgagor's obligations herein or in the Note contained, in such order and manner as the Mortgagee may elect. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagor or the owner or owners of the Premises. Such deposits are hereby pledged as additional security for the indebtedness hereunder and shall be held in trust to be irrevocably applied by the depository for the purposes for which made hereunder and shall not be subject

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to the direction or control of the Mortgagor; provided however, that neither the Mortgagee nor said depository shall be liable for any failure to apply to the payment of taxes and assessments any amount so defaulted, unless Mortgagor, while not in default hereunder, shall have requested said depository in writing to make application of such funds to the payment of particular taxes or assessments for payment of which they are deposited, accompanied by the bills for such taxes and assessments.

5. (a) Mortgagor shall keep all buildings and improvements now or hereafter a part of said Premises insured against loss or damage by fire and such other hazards as may reasonably be required by Mortgagee, including, without limitation on the generality of the foregoing, war damage insurance whenever in the opinion of Mortgagee such protection is reasonably necessary, coverage for vandalism, malicious mischief and rent, and such broad form extended coverages as Mortgagee may require. All policies of insurance to be furnished hereunder shall be in forms, companies and amounts satisfactory to Mortgagee, with mortgagee clauses attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to the Mortgagee. Mortgagor shall deliver all policies or photocopies of all policies or blanket policies covering the Premises, including additional and renewal policies, to Mortgagee, and in case of insurance about to expire, shall deliver renewal policies or photocopies of all renewal policies or blanket policies covering the Premises not less than ten (10) days prior to their respective dates of expiration. On blanket policies, an Agreed Amount Endorsement shall be required.

(b) In case of loss, the Mortgagee (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) is hereby authorized either (i) to settle and adjust any claim under such insurance policies without consent of Mortgagor, or (ii) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, Mortgagee is authorized to collect and receipt for any such insurance money. Subject to the provisions of Section 51 hereof, such insurance proceeds may, at the option of Mortgagee, either be applied in reduction of the indebtedness secured hereby, whether due or not, or be held by the Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoration of buildings or improvements on said Premises. In the event there is a shortfall in the amount of such insurance proceeds and the amount required to restore the Premises to its condition prior to the loss, Mortgagor shall restore the Premises utilizing its own resources.

In case of loss after foreclosure proceedings have been instituted, the proceeds of any such insurance policy or policies 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 to the owner of the equity of redemption if he shall then be entitled to the same or as the court may direct. In case of the foreclosure of this Mortgage, the court in its decree may provide that the Mortgagee's clause attached to each of said insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said policies making the loss thereunder payable to said decree creditor; and any such foreclosure decree may further provide that in case of one or more redemptions under said decree, pursuant to the statute in each case made and provided, then and in every such case, each successive redeemer may cause the preceding loss clause attached to each insurance policy to be cancelled and a new loss clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale,

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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 said insurance policies.

6. Mortgagor shall or shall require its tenants to: (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Premises which may become damaged or be destroyed; (b) keep said Premises in good condition and repair, without waste, and free from mechanics' liens (for which Mortgagor shall have the right to contest and during such contest Mortgagor shall not be in default solely because of the existence of such mechanics' lien) or claims for lien not expressly subordinated to the lien hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the Premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon said Premises; (e) comply with all requirements of law, municipal ordinances, or restrictions of record with respect to the Premises and the use thereof; (f) make no material alterations in said Premises except as required by law or municipal ordinance subject to Section 13 hereof; (g) suffer or permit no change in the general nature of the occupancy of the Premises, without Mortgagee's written consent; (h) initiate or acquiesce in no zoning reclassification without Mortgagee's written consent; (i) replace with new equipment, any equipment which shall have become worn out, obsolete or shall have been disposed of by Mortgagor.

7. Mortgagee shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

8. Mortgagor shall do all things needful to keep all ground and space leases affecting the Premises or any portion thereof in full force and effect and to operate the Premises in a first class manner with all improvements therein being in tenantable condition and free of structural deficiency. In the event Mortgagor defaults in the performance of any obligations imposed by any lease affecting the Premises conveyed hereby, Mortgagee (at its option but without obligation so to do), at any time and from time to time, may give written notice to or demand upon Mortgagor to perform such obligations, (Mortgagor shall then have thirty (30) days to cure such default) Mortgagee may then perform the same or any other obligation of Mortgagor under said lease and pay such sums in such manner and to such extent as Mortgagee, in its sole discretion, deems advisable to cure such default, without thereby waiving or curing any default hereunder. Mortgagee is authorized for such purposes to enter upon said Premises and shall not be deemed guilty of trespass in so doing. Mortgagor covenants and agrees that it will pay on demand all sums so expended and any reasonable cost so incurred with interest thereon from date of expenditure at the Augmented Rate specified in the Note. It is further agreed that all sums so expended, costs so incurred and interest thereon shall be secured hereby. All leases are to be satisfactory to the Mortgagee in all respects (and Mortgagor shall not enter into any future lease without Mortgagee's prior written consent thereto, provided that Mortgagee shall be deemed to have approved any such future lease unless, within five (5) business days after Mortgagee's receipt of such lease in its entirety, Mortgagee advises Mortgagor of Mortgagee's disapproval thereof), and subordinate or superior, at Mortgagee's option, to the lien evidenced hereby. No lease shall be subordinate to a lien or charge other than that evidenced hereby, or those liens and charges which the lien evidenced hereby is subordinate to, and no lease shall depend in any manner upon any property not subject to the lien hereof.

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9. The Mortgagor upon request, made either personally or by mail, shall certify by a writing duly acknowledged to the Mortgagee or to any proposed assignee of this Mortgage, the amount of principal and interest then owing on this Mortgage and whether any offsets or defenses exist against the mortgage debt, within ten (10) days in case the request is made personally, or within twenty (20) days after the mailing of such request in case the request is made by mail. Mortgagee hereby agrees, within ten (10) days in case the request is made personally, or within twenty (20) days after the mailing of such request in case the request is made by mail to provide Mortgagor upon written request with an estoppel letter setting forth the principal amount due under the terms of this loan, the date to which interest has been paid, any amount being held by Mortgagor in escrow and whether there is a default under the terms of this Mortgage.

10. Mortgagor will execute and deliver (and pay the costs of preparation and recording thereof) to Mortgagee and to any subsequent holder from time to time upon demand, any further reasonable instrument or instruments, including but not limited to mortgages, security agreements, financing statements, assignments and renewal and substitution notes, so as to reaffirm, to correct, and to perfect the evidence of the obligation hereby secured and the lien of Mortgagee to all or any part of the Premises intended to be hereby mortgaged, whether now mortgaged, later substituted for, or acquired subsequent to the date of this Mortgage and extensions or modifications thereof.

11. Mortgagor covenants and agrees to furnish to Mortgagee within ninety (90) days after the close of each fiscal year of the operation of the Premises, commencing with the current fiscal year, an annual operating statement of income and expenses with respect to the Premises as of the close of each fiscal year. Said operating statement shall be in form and detail satisfactory to Mortgagee, and shall be prepared by a certified public accountant acceptable to Mortgagee, or supported by an affidavit given by a principal of the Mortgagor's Beneficiary.

12. Mortgagor represents and agrees that no rent has been or will be collected for any reason, more than two monthly installments in advance of the accrual thereof.

13. There shall be no alterations to the structure, accessibility, or appearance of the Premises or any portion thereof covered by the lien of this Mortgage at any time without the prior written consent of Mortgagee. Notwithstanding the above, however, Mortgagor shall not be required to obtain such consent in the following circumstances only: (a) a modification to the appearance of the Premises (which modification does not in any way affect the structural integrity of the improvements on the Premises) but only provided such modification does not exceed \$10,000 in cost; and (b) tenant improvements to be performed by Mortgagor or its contractors (which do not in any way affect the structural integrity of the improvements on the Premises) but only if, prior to the commencement of construction of such tenant improvements, Mortgagee has approved of the subject lease, unexecuted but otherwise in the form it will take when executed, and further only if, within thirty (30) days after such tenant improvements have been completed, a tenant estoppel, in form and substance acceptable to Mortgagee, is provided by Mortgagor to Mortgagee, which tenant estoppel must be executed by the subject tenant.

14. If (a) default be made in the payment when due of any portion of the principal sum evidenced by said Note or in the payment of any interest accrued thereon, and if such default shall continue beyond any period of grace which, by the provisions of the Note, is applicable thereto; or (b) Mortgagor or any beneficiary of the Mortgagor shall file a petition in voluntary bankruptcy or

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under other provisions of the Federal Bankruptcy Act or any similar law, state or federal, whether now or hereafter existing or an answer admitting insolvency or inability to pay its debts, or fail to obtain a vacation or stay of involuntary proceedings within ninety (90) days, as hereinafter provided; or (c) Mortgagor or any beneficiary of the Mortgagor shall be adjudicated a bankrupt, or a trustee or a receiver shall be appointed for Mortgagor (or any beneficiary of the Mortgagor) or for all of its property, or the major part thereof in any involuntary proceeding, or any court shall have taken jurisdiction of the property of Mortgagor (or any beneficiary of the Mortgagor) or the major part thereof in any involuntary proceeding for the reorganization, dissolution, liquidation, or winding up of the Mortgagor, and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within ninety (90) days; or (d) Mortgagor or any beneficiary of the 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 of its property or the major part thereof; or (e) default shall be made in the due observance or performance of any other of the covenants, agreements or conditions hereinbefore or hereinafter contained, required to be kept or performed or observed by Mortgagor, then and in every such case the whole of said principal sum hereby secured shall at once, at the option of Mortgagee, become immediately due and payable, together with accrued interest thereon without notice to Mortgagor. Notwithstanding the foregoing, however, with respect to nonmonetary defaults only, and except in instances of Mortgagor's willful neglect or negligence, no default will be declared until thirty (30) days' prior written notice thereof has been given by Mortgagee to the Mortgagor, provided that, if Mortgagor timely initiates and diligently proceeds to cure such nonmonetary default, then no acceleration shall occur for a period not to exceed an additional thirty (30) days, provided that such diligent pursuit continues to completion.

15. In any case in which, under the provisions of this Mortgage, the Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the Premises or any part thereof personally or by its agents or attorneys, as for condition broken, and Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of said Premises, together with all documents, books, records, papers and accounts of the Mortgagor or then owner of the Premises relating thereto, and may exclude the Mortgagor, its agents or servants, wholly therefrom and may as attorney-in-fact or agent of the Mortgagor, or in its own name as Mortgagee under the powers herein granted, hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to the Mortgagor, and with full power to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same, to elect to disaffirm any lease or sublease made subsequent to this

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Mortgage or subordinated to the lien hereof, to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as to it may seem judicious, insure and reinsure the same and all risks incidental to Mortgagee's possession, operating, and management hereof and to receive all of such avails, rents, issues and profits.

The Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases, and the Mortgagor shall and does hereby agree to indemnify and hold the Mortgagee harmless of and from any and all liability (except for Mortgagee's gross negligence or willful misconduct), loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should the Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and the Mortgagor shall reimburse the Mortgagee therefor immediately upon demand.

16. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Paragraph 22 hereof; second, all other items which under the terms hereof are due and payable at the time of such foreclosure, other than the indebtedness evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note together with any prepayment premium due thereunder; fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

17. Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of said Premises. Such appointment may be made either before or after sale, without notice, without regard to the 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 the Mortgagee hereunder or any holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said Premises during the pendency of such foreclosure suit, and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and 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 from time to time may authorize the receiver to apply the net income in his hands in payment in whole or part of the indebtedness secured hereby, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale.

18. If, by the laws of the United States of America, or of any state having jurisdiction over the Mortgagor, any tax is due or becomes due in respect of the issuance of the Note hereby secured, the Mortgagor covenants and agrees to pay such tax in the manner required by any such law. The Mortgagor further covenants to hold

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harmless and agrees to indemnify the Mortgagee, its successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Note secured hereby.

19. To further secure the indebtedness secured hereby, Mortgagor does hereby sell, assign and transfer unto the Mortgagee all rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of or of any agreement for the use or occupancy of the Premises or any part thereof, which may have been heretofore, or may be hereafter made or agreed to or which may be made or agreed to by the Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all of such leases and agreements, and all the avails thereunder, unto the Mortgagee, and Mortgagor does hereby appoint irrevocably the Mortgagee its true and lawful attorney in its name and stead (with or without taking possession of the Premises as provided in Paragraph 15 hereof) to rent, lease or let all or any portion of said Premises to any party or parties at such rental and upon such terms as said Mortgagee shall, in its 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 rents, issues and profits arising from or accruing at any time hereafter, and all now due or that may hereafter become due under such and every of the leases and agreements, written or verbal, or other tenancy existing, or which may hereafter exist on said Premises, with the same rights and powers and subject to the same immunities, exonerations of liability and rights of recourse and indemnity as the Mortgagee would have upon taking possession pursuant to the provisions of Paragraph 15 hereof. The Mortgagor represents and agrees that the payment of none of the rents to accrue for any portion of the Premises has been or will be waived, released, reduced, discounted, or otherwise discharged or compromised by the Mortgagor. The Mortgagor waives any rights of set off against any person in possession of any portion of the Premises. Mortgagor agrees that it will not further assign any of the rents, leases or profits of said Premises, except to a purchaser or grantee of the Premises and any such assignment shall be subject and subordinate to all of the provisions of this Mortgage and of any separate security for the indebtedness secured hereby.

Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession in the absence of the taking of actual possession of the Premises by the Mortgagee pursuant to Paragraph 15 hereof. In the exercise of the powers herein granted the Mortgagee, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by Mortgagor.

Although it is the intention of the parties that the assignment contained in this Paragraph 19 shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that the Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until a default shall exist hereunder.

At any time within thirty (30) days after notice and demand by Mortgagee, Mortgagor will deliver to Mortgagee, but not more frequently than once in every twelve (12) month period, a statement with respect to the leases and any subleases relating to the Premises, which statement shall be under oath and shall be in such reasonable detail as Mortgagee may request. On demand, Mortgagor will furnish to Mortgagee executed counterparts of any leases relating to the Premises. A default under this paragraph shall be subject to applicable notice provisions contained in Section 14(e) hereof.

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20. Mortgagee, in the exercise of the rights and powers herein conferred upon it by Paragraph 15 and Paragraph 19 hereof, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following in such order as Mortgagee may determine:

- (a) To the payment of the operating expenses of said Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases) establishing claims for damages, if any, and premiums on insurance hereinabove authorized;
- (b) To the payment of taxes and special assessments now due or which may hereafter become due on said Premises;
- (c) To the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of said Premises and of placing said property in such condition as will, in the judgment of the Mortgagee, make it readily rentable;
- (d) To the payment of any indebtedness under the Note secured hereby or any other amounts secured hereby or any deficiency which may result from any foreclosure sale;
- (e) Surplus to Mortgagor.

21. In the event of the enactment after this date of any Federal, state or local law deducting from the value of land for the purpose of taxing any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or lien herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holder thereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment might result in the imposition of interest, beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect by notice in writing given to the Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable ninety (90) days from the giving of such notice.

22. When the indebtedness under the Note or any other amount secured hereby, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness, amount or part thereof. Notwithstanding the foregoing sentence, however, Mortgagee shall have no right to foreclose the lien hereof when the subject indebtedness comes due on the scheduled maturity date set forth in the Note provided that such indebtedness is paid in full on such scheduled maturity date. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and

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costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of said Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or said Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Augmented Rate of interest specified in the Note, and shall be secured by this Mortgage.

23. In case of default therein, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said Premises or contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee to protect the Premises and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable with written notice and with interest thereon at the Augmented Rate of interest specified in the Note.

24. Mortgagee in making any payment hereby authorized: (a) relating to taxes and assessments (but subject to Mortgagor's right to contest as provided in Section 2 hereof), may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purpose, discharge, compromise or settlement of any other prior lien, may do so on reasonable inquiry as to the validity or amount of any claim for lien which may be asserted.

25. When and if Mortgagor and Mortgagee shall respectively become a debtor and secured party in any Uniform Commercial Code Financing Statement affecting property either referred to or described herein or in any way connected with the use and enjoyment of these Premises, the Mortgage shall be deemed the Security Agreement as defined in said Uniform Commercial Code and the remedies for any violation of the covenants, terms and conditions or the agreements herein contained shall be (i) as prescribed herein, (ii) by general law, or (iii) as to such part of the security which is also reflected in said Financing Statement by the specified statutory consequences now or hereafter enacted and specified in the Uniform Commercial Code, all at Mortgagee's sole election. Mortgagor and Mortgagee agree that the filing of such a Financing Statement in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing this declaration and hereby stated intention of the parties hereto that everything used in connection with the production of income from the mortgaged Premises and/or adapted for use therein and/or which is described or reflected in this Mortgage is and at all times and for all purposes and in all proceedings both legal and equitable shall be regarded as part of the real estate irrespective of whether (i) any such item is physically

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attached to the improvements (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with the Mortgagee, (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time. Similarly, the mention in any such Financing Statement of (1) the rights in or the proceeds of any fire and/or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) the debtor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the property conveyed hereby, whether pursuant to lease or otherwise, shall never be construed as in anywise altering any of the rights of Mortgagee as determined by this instrument or impugning the priority of the Mortgagee's lien granted hereby or by any other recorded document, but such mention in the Financing Statement is declared to be for the protection of the Mortgagee in the event any Court or Judge shall at any time hold with respect to (1), (2), and (3) that notice of Mortgagee's priority of interest to be effective against a particular class of persons, including but not limited to the Federal Government, must be filed in the Commercial Code Records.

26. If from any circumstances whatever, fulfillment of any provision of the Mortgage, the Note which it secures or any other instrument securing or evidencing this loan, shall transcend the limit of validity prescribed by the usury statute or any other law of the State of Illinois, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity so that in no event shall any exaction be possible under this Mortgage, the Note which it secures or such other instrument that is in excess of the limit of such validity, but such obligation shall be fulfilled to the limit of such validity. And in no event shall the Mortgagor, its successors or assigns, be bound to pay for the use or detention of the money loaned and secured hereby, or for Mortgagee's forbearance in collecting same, interest of more than the maximum rate lawfully collectible in accordance with the applicable laws of the State of Illinois; the right to demand any such excess shall be and is hereby waived. The provision of this paragraph shall control every provision of the Mortgage, the Note which it secures and any other undertaking, agreement or document evidencing, supporting or securing this loan.

27. Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement of foreclosure of this Mortgage, but hereby waives the benefit of such laws to the extent permitted by Illinois law. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold as an entirety. The Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure, pursuant to rights herein granted, on behalf of the Mortgagor, the trust estate and all persons beneficially interested therein if Mortgagor is a land trust, and each and every person acquiring any interest in, or title to, the Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by the provisions of the Illinois Statutes, including without limitation, Chapter 110, Paragraph 15-1101, et seq. of the Illinois Revised Statutes as amended by P.A. 85-907.

28. Notwithstanding any taking in eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the Mortgagor shall continue to pay the installments

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payable under the Note until any such award or payment shall have been actually received by the Mortgagee and any reduction in the principal sum resulting from the application by the Mortgagee of such award or payment as hereinafter set forth shall be deemed to take effect only on the date of such receipt. Mortgagor hereby assigns, transfers and sets over unto Mortgagee all such proceeds that Mortgagor is entitled to under the terms of the leases affecting the Premises and which are not used to restore the Premises that Mortgagor may receive through any proceeding in eminent domain or by condemnation. Mortgagee may elect to apply any such proceeds of the award upon or in reduction of the indebtedness secured hereby, whether due or not, or to require Mortgagor to restore or rebuild, in which event the proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoring of buildings or improvements on said Premises in accordance with plans and specifications to be submitted to and approved by Mortgagee.

29. Any payment made in accordance with the terms of this Mortgage by any person at any time liable for the payment of the whole or any part of the sums now or hereafter secured by this Mortgage, or by any subsequent owner of the Premises, or by any other person whose interest in the Premises might be prejudiced in the event of a failure to make such payment, or by any stockholder, officer or director of a corporation which at any time may be liable for such payment or may own or have such an interest in the Premises, shall be deemed, as between the Mortgagee and all persons who at any time may be liable as aforesaid or may own the Premises, to have been made on behalf of all such persons.

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

31. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said 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, the right of recourse (if any) against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.

32. If the Mortgagor shall grant any lien or mortgage on the Premises junior to this Mortgage, such junior lien or mortgage shall be subject to all such renewals and extensions, modifications, releases, increases, changes or exchanges, without the consent of such junior lien holder or mortgage holder, and without any obligation to give notice of any kind thereto.

33. The Mortgagee shall have the right from time to time to sue for any sums whether interest, damages for failure to pay principal or any installment thereof, taxes, installments of principal or any other sums required to be paid under the terms of this Mortgage, as the same become due, without regard as to whether or not the principal sum secured or any other sums secured by the Note and Mortgage shall be due and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced.

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34. Any notice which any parties hereto may desire or be required to give to the other party shall be in writing and shall be forwarded either by certified mail return receipt requested or by overnight courier service. In the event transmittal is made by certified mail, notice shall be deemed given three (3) business days after such notice was deposited with the U.S. Postal Service. In the event transmittal is made by overnight courier service, notice shall be deemed made the following business day after such notice was deposited with the overnight courier service. The designated place of notice set forth below may be changed from time to time by the parties hereto by written notice of such change. Notices required hereunder shall be addressed as follows:

To Mortgagee:

THE MUTUAL LIFE INSURANCE  
COMPANY OF NEW YORK  
1740 Broadway  
New York, New York 10019  
Attention: President  
MONY Real Estate  
Investment Management

with copies to:

MONY Real Estate Investment Management  
2302 Parklake Drive, N.E.  
Suite 300  
Atlanta, Georgia 30345  
Attention: Vice President

To Mortgagor:

AMERICAN NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO  
c/o Kedzie Plaza South Associates  
2933 N. Lawler Avenue, Suite 516  
Skokie, Illinois 60071

with copies to:

Altheimer & Gray  
333 West Wacker Drive, Suite 2600  
Chicago, Illinois 60606  
Attention: Kathleen M. Vyborny

35. This Mortgage and all provisions shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the Note or this Mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein, and the holder or holders, from time to time, of the Note secured hereby.

36. No remedy or right of Mortgagee shall be exclusive of, but each such remedy or right shall be in addition to, every other remedy or right now or hereinafter existing at law or in equity. No delay in the exercise or omission to exercise of any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or an acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

37. INTENTIONALLY LEFT BLANK.

38. This Mortgage cannot be changed except by an agreement in writing.

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39. Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby.

40. Mortgagor agrees to indemnify, protect, defend, and hold Mortgagee harmless from all loss, damage and expense, including reasonable attorneys' fees, incurred in connection with any suit or proceeding in or to which Mortgagee may be made a party due to the existence of this Mortgage or to which suit or proceeding Mortgagee may become a party for the purpose of protecting the lien of this Mortgage.

41. Mortgagor represents to Mortgagee that the proceeds of the Note secured by this Mortgage will be used for the purposes specified in Section 6404 (1) (c) of Chapter 17 of the Illinois Revised Statutes that the principal obligation secured hereby constitutes a "business loan" within the purview of said section.

42. Subject to the provisions of Sub-Section 47(i) hereof, Mortgagor covenants and agrees that at all times prior to the release of the lien of this Mortgage, the management of the Premises shall not be changed without the Mortgagee's prior written consent to do so.

43. There shall be no subordinate financing without Mortgagee's prior written consent. Mortgagor covenants, acknowledges and agrees that if Mortgagor shall grant any lien or mortgage on the Premises junior to this Mortgage, such junior lien or mortgage shall be subject and subordinate to leases of parts or portions of the Premises made either before or after the date of recording of such junior lien or mortgage, and Mortgagor shall not execute and deliver any such junior lien or mortgage unless such junior lien or mortgage shall expressly provide that such junior lien shall be subject and subordinate to all leases of parts or portions of the Premises, irrespective of whether made before or after the date of recording of such junior lien or mortgage.

44. Nothing contained herein to the contrary, Mortgagor shall have the right, upon thirty (30) days' prior notice thereof to Mortgagee, to encumber the Premises with secondary financing if, but only if, each of the following requirements is satisfied as solely determined by Mortgagee:

- (a) The total mortgage debt, including the mortgage debt secured hereby, the proposed secondary financing mortgage debt, and any other mortgage debt then encumbering the property, must not exceed eighty-five percent of the appraised value of the Premises (which appraised value shall be determined solely by Mortgagee);
- (b) The annual Net Operating Income generated by the Premises must be sufficient to cover the combined total annual debt service payments of all mortgage-secured debt, including the proposed new mortgage-secured debt, at least 1.10 times. Net Operating Income is defined as gross annual rental receipts, which shall take into account current lease rents (to be evidenced by a current rent roll certified by Mortgagor), less total annual operating expenses. Such total annual operating expenses must be evidenced by the latest full-year certified (by Mortgagor pursuant to Section 11 hereof) operating statement for the Premises, the information of which shall act as a guide for Mortgagee's determination of the current total annual operating expenses.
- (c) If debt service on such secondary financing contemplates the accrual of debt service (but excepting therefrom

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interim accruals for periods not in excess of thirty-one (31) days which are part of regular installment payments due under such secondary financing), such accrual amounts must be secured with security other than the Premises in a manner satisfactory to the Mortgagor, or, in the alternative, if secured by the Premises, such accrual amounts, in whole or in part, shall not be payable unless simultaneous with or after maturity of the loan secured hereby;

- (d) Such secondary financing must be expressly subordinate to the loan secured hereby and to all present and future leases affecting the Premises or any portion thereof, all in a manner satisfactory to Mortgagee's legal counsel, unless otherwise approved by Mortgagee in writing;
- (e) Such secondary financing must be evidenced and secured by documents acceptable, in form and substance, by Mortgagee and its legal counsel.

In the event that the foregoing requirements of this Section 44 have been satisfied and Mortgagor obtains such secondary financing, Mortgagor may, relative thereto, grant an Assignment of Leases to the secondary lender, but only if such document is expressly subordinate to the lien and interest of the Mortgagee, both hereunder and under the Assignment of Lessor's Interest in Leases of even date herewith, given to secure the indebtedness evidenced by the Note.

45. The occurrence of an event of default under any assignment of rents or assignment of leases made and delivered by Mortgagor to Mortgagee as additional security for the payment of the indebtedness secured by this Mortgage, and the continuance of such event of default beyond any period of grace applicable thereto under the terms and provisions of any such assignment, shall constitute an event of default under this Mortgage.

46. Whenever and wherever by the provisions of this Mortgage (including but not limited to the provisions of Paragraphs 11 and 19) any certificate(s), affidavit(s), indemnification(s), or statement(s) (herein collectively called "statement") is required to be delivered by Mortgagor, if and for so long as Mortgagor shall be a corporate fiduciary holding legal title to the Premises, such statement shall be deemed made by the beneficiary or beneficiaries of the trust which holds legal title to the Premises and of which Mortgagor is the trustee; provided, however, that if the beneficiary is a limited partnership, such statement shall be deemed made by a majority of the general partners, and if said beneficiary is a general partnership or a joint venture, such statement shall be deemed made by each of the general partners or joint venturers, as the case may be. The individual(s) deemed to have made the statement shall be afforded the same nonrecourse protections as to the repayment of the indebtedness only, as are afforded the Assignor pursuant to the tenth grammatical paragraph of the note evidencing the subject loan and Section 56 of the mortgage securing the said note.

47. Mortgagor covenants and agrees that at all times prior to the release of the lien of this Mortgage:

- (i) The Premises shall be managed by competent professional management satisfactory to Mortgagee. Mortgagor shall provide Mortgagee with a copy of the management contract which shall be subject to Mortgagee's approval. In the event of any change of management or termination or modification of the management contract without Mortgagee's prior written consent, Mortgagee may at its sole option

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declare this loan immediately due and payable. Mortgagor hereby collaterally assigns to the Mortgagee, as additional security for the loan secured hereby, all its right, title and interest to the management agreement. Upon receipt by Mortgagee of a written notice from the Mortgagor of a change in management, the Mortgagee shall notify the Mortgagor in writing if the new management is unacceptable. Upon receipt of such notice from Mortgagee, the Mortgagor shall have thirty (30) days in which to provide substitute management which is satisfactory to Mortgagee, as evidenced by Mortgagee's written notice of such satisfaction. The Mortgagee hereby acknowledges and approves of The Taxman Corporation as the initial manager of the Premises.

(ii) There shall be maintained at all times during the term of this loan on the Premises described in Schedule A at least Two Hundred Thirty (230) on-site paved and striped parking spaces, which paved parking spaces must be sufficient in size to accommodate standard-size American cars and a sufficient number of parking spaces to satisfy the cumulative requirements of all laws and ordinances and all leases and other agreements, written or verbal then in effect for the use or occupancy of the Premises or any part thereof. All other parking requirements of such laws, ordinances, and leases shall be complied with.

48. The Mortgagee acknowledges and agrees that two portions of the Premises (the "Outlots"), the perimeter legal description of which is attached hereto and incorporated herein as Schedule B, are adjacent to each other and located on the northeast corner of the Premises and contain, collectively, 21,250 square feet. The Mortgagor covenants and agrees that all leases of the Outlots or any portion thereof must be acceptable to the Mortgagee and its legal counsel; that all tenants of the Outlots must be acceptable to the Mortgagee; and that all plans and specifications of any and all improvements to be constructed on the Outlots must be approved prior to the commencement of construction in writing, by Mortgagee and its Engineering Division, which approval or disapproval must be made by Mortgagee within twenty (20) business days after Mortgagee's receipt of such complete plans and specifications.

49. Wherever used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein the word "lease" shall mean "tenancy, subtenancy, lease and/or sublease," the "Mortgagor" shall mean Mortgagor and any subsequent owner or owners of the Premises," the word "Mortgagee" shall mean "Mortgagee or any subsequent holder or holders of this Mortgage," the word "Note" shall mean "note, bond or other obligation secured by this Mortgage," and the word "person" shall mean "an individual, corporation, partnership or unincorporated association."

50. As an inducement to Mortgagee to make the loan evidenced by the note which this Mortgage secures, Mortgagor covenants and agrees that during the term of the loan, title to the real estate described herein shall be vested solely in Mortgagor, and if any time during the term, all or any part of said real estate or any interest therein shall, without the prior written consent of Mortgagee, be conveyed or transferred (whether voluntary or by operation of law or otherwise), the indebtedness secured hereby shall, at the option of Mortgagee, become immediately due and payable. If Mortgagor is a partnership, a change in the composition of the partnership or of any of the partners shall be considered a change of ownership for purposes of this paragraph.

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If Mortgagor is a Trust, a change of Trustees or a change of beneficial interest (including, without limitation, any transfer or assignment of all or any portion of the beneficial interest or power of direction in or under said Trust No. 56354 and any change in the identity of any of the beneficiaries owning the beneficial interest and power of direction in and under Trust No. 56354); or, if Mortgagor is a corporation, a transfer of stock resulting in a change in controlling interest, shall be considered a change of ownership for purposes of this paragraph. Mortgagor shall give Mortgagee prior written notice of any proposed transaction which requires Mortgagee's consent, and shall furnish to Mortgagee such information as Mortgagee may reasonably require. Any consent by Mortgagee to a change in ownership or a transfer of interest in the Mortgagor or the principals of the Mortgagor may be conditioned upon payment of a reasonable fee for processing a request for approval and an increase in the rate of interest on the unpaid balance of the indebtedness to a current market rate, and/or changing the other terms and conditions to reflect the then current market conditions.

Notwithstanding the foregoing provisions of this Section 50, the following will not be deemed transfers of ownership:

- a) Any sale, conveyance, assignment, or other transfer of a cumulative forty-nine percent or less of all partnership interests in the Beneficiary, but only provided that Seymour Taxman remains the managing general partner thereof and further that Seymour Taxman, James S. Schultz, and Donald M. Mazzone collectively maintain at least fifty-one percent of the ownership, management and control of the said Beneficiary; and
- b) (On a one-time basis only) any sale, conveyance, assignment or other transfer of the Premises or of the beneficial interest in the Trust, to Seymour Taxman, James S. Schultz, Judy W. Wolf, and Donald M. Mazzone as Tenants in Common; and
- c) (On a one-time basis only) a transfer of ownership of the Premises to a qualified purchaser approved by the Mortgagee, but only if the Mortgagor pays to the Mortgagee a fee equal to one percent (1%) of the outstanding principal balance of the loan secured hereby at the closing of such transfer. A "qualified purchaser" is a purchaser with a credit rating satisfactory to Mortgagee, with demonstrable management ability to operate the Premises, as determined by Mortgagee in its sole judgment as a prudent lender. Such transfer as contemplated under this sub-paragraph c) shall be allowed without any other changes in the terms of this instrument.
- d) Only in the event that AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO is selling its entire trust business to another institution or entity, a conveyance initiated by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO of Trust No. 56354 to such other institution or entity, to effect such a sale.

51. The Mortgagee shall maintain the option of application of casualty loss insurance proceeds towards repair and/or restoration of the Premises or towards paydown of the outstanding balance of the loan secured hereby. However, the Mortgagee shall not exercise its option to apply such insurance proceeds as a credit upon any portion of the outstanding balance of the loan secured hereby and instead, shall make such proceeds available for repair and/or restoration of the Premises, subject to such reasonable procedures

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and safeguards as the Mortgagee shall determine at the time, if and only if all of the following conditions are simultaneously satisfied, at the time the said insurance proceeds are received by the Mortgagee:

- a) There is no default by the Mortgagor or the Mortgagor's Beneficiary under any of the documents evidencing or securing the loan secured hereby; and
- b) The dollar amount of the cost of such repair and/or restoration does not exceed twenty-five percent of the principal balance outstanding on the loan secured hereby; and
- c) The subject damage occurs prior to the date exactly one (1) year prior to the scheduled maturity date of the Note; and
- d) Such repair and/or restoration completion is reasonably possible prior to the scheduled maturity of the loan secured hereby; and
- e) All commercial space leases for space within the Premises remain in full force and effect during the repair and/or restoration period; and
- f) In the event that the subject insurance proceeds are not sufficient to complete the said repair and/or restoration, the Mortgagor must deposit the total additional amount necessary, in Mortgagee's sole judgment, to complete such repair and/or restoration, with the Mortgagee, immediately upon the demand therefor by the Mortgagee.

52. ERISA. Mortgagor covenants and represents that (i) no assets of any employee benefit plan, as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), as now or hereafter amended, will be used in the satisfaction, exercise or performance of any of the obligations, rights or transactions specified or contemplated herein or in the Note or in any of the other loan documents; (ii) the Premises does not now, and will not, constitute an asset of any such employee benefit plan; and (iii) notwithstanding any other provisions of this Mortgage, Mortgagor will not sell, convey or transfer the Premises to any person or entity which at the time of such transfer does not satisfy the representations set forth in clauses (i) and (ii) above, regardless of whether any of the above described conditions arises by operation of law or otherwise.

53. Violation of ERISA. Without limitation on the rights and remedies of Mortgagee arising under this Mortgage, in the event that Mortgagor or any subsequent owner of the Premises or any part thereof shall at any time sell, convey or transfer or attempt to sell, convey or transfer the Premises or any part thereof in violation of the provisions of Section 52 of this Mortgage, then Mortgagee shall, in addition to any other rights and remedies it may have at law or in equity or under this Mortgage, be entitled to a decree or order restraining and enjoining such sale, conveyance or transfer, and Mortgagor or such subsequent owner shall not plead in defense thereof that there would be an adequate remedy at law (it being hereby expressly acknowledged and agreed that damages at law would be an inadequate remedy for breach or threatened breach of the provisions of Section 52 of this Mortgage).

54. This Mortgage Deed and Security Agreement is executed by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee as aforesaid under the provisions of the Trust Agreement aforementioned, in the exercise of the power and

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authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein or in the Note contained shall be construed as creating any liability in said AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, either express or implied, herein contained, all such liability, if any, being expressly waived by said Mortgagee.

55. The holder of this Mortgage shall have the irrevocable right to approve or disapprove the trust documents (and any proposed amendments thereto) of Trust No. 56354.

56. The Mortgagee agrees that it will not at any time bring any action, suit or proceeding against the maker of the Note, its successors or assigns, to recover a money judgment for repayment of the indebtedness evidenced thereby and secured hereby (it being agreed and understood that an action to foreclose this Mortgage shall not constitute an action to recover a money judgment), and in such foreclosure action, the said Mortgagee, for itself, its successors and assigns, by the acceptance of said Note, this Mortgage and the other documents securing the subject indebtedness (this Mortgage and such other security documents being collectively referred to in this paragraph as the "lien documents") waives its right to a deficiency judgment and agrees to look only to the Property described in any of the lien documents for the satisfaction of the indebtedness secured hereby.

57. If at any time during the term of the indebtedness secured hereby, the Mortgagor requests the Mortgagee take any action or perform any act to accommodate the Mortgagor (or its successors) with regard to the Premises or any of the documents evidencing or securing the subject indebtedness, and the accomplishment thereof requires the services of any professional, such as an engineer, architect, or attorney, and other costs are incurred by the Mortgagee, the Mortgagor will pay all fees of such professionals and all such costs within thirty (30) days of receipt of a statement therefor.

58. The Mortgagor agrees to hold the Mortgagee harmless and shall protect, defend, and indemnify the Mortgagee from any and all expenses relating to the indebtedness secured hereby, including, without limitation, all brokerage claims, all appraisal and credit report costs, all attorney's fees, all escrow fees and mortgage recording taxes, if any.

59. During the six month period that immediately follows the execution of this document, Mortgagor agrees to use its best efforts to obtain estoppel statements from 100% of the tenants of the Premises or any portion thereof, it being understood and agreed that the tenant estoppel statements received at closing of the loan secured hereby may be utilized in determining compliance with this provision. In the event that a tenant lease provides for the Mortgagor to act as an attorney-in-fact for the said tenant, the Mortgagee will accept an estoppel statement from that tenant executed by the Mortgagor as such attorney-in-fact, accompanied by a letter from the Mortgagor certifying that its best efforts were used to obtain the estoppel directly from the tenant in question.

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IN WITNESS WHEREOF, AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee as aforesaid, has caused these presents to be signed by Suzanne G. Baker, its Second Vice President, as of the day and year first written above.

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

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

By: [Signature]  
Its: Trustee

ATTEST: (SEAL)

By: [Signature]  
Its: Notary

STATE OF ILLINOIS )  
COUNTY OF COOK ) s.:

I, KAREN E. BURNS, a Notary Public in and for the county and state aforesaid, do hereby certify that SUZANNE G. BAKER, the Second Vice President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, and Peter H. Johannes, the Assistant Secretary of said corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Second Vice President and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their free and voluntary act and as the free and voluntary act of said corporation, as Trustee as aforesaid, for the uses and purposes therein set forth; and said Assistant Secretary then and there acknowledged that he/she, as custodian of the corporate seal of said corporation, did affix the corporate seal of said corporation to said instrument as his/her own free and voluntary act and as the free and voluntary act of said corporation, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 24 day of June, 1988.

OFFICIAL SEAL  
Karen E. Burns  
Notary Public, State of Illinois  
My commission expires 8/27/90

[Signature]  
Notary Public

COOK COUNTY, ILLINOIS  
FILED FOR RECORD  
1988 JUN 27 PM 2:25

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MONY Loan No. 300118

SCHEDULE 'A'

## PARCEL 1:

THE SOUTH 410 FEET (EXCEPT THE NORTH 60 FEET THEREOF) OF THE NORTH 853 FEET OF THE WEST 472 FEET OF THE EAST 505 FEET OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

## PARCEL 2:

THAT PART OF THE NORTH EAST 1/4 OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF A LINE 913 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID NORTH EAST 1/4 WITH A LINE 375 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID NORTH EAST 1/4, AND RUNNING THENCE SOUTH ALONG THE LAST ABOVE MENTIONED PARALLEL LINE, A DISTANCE OF 328.00 FEET TO A POINT 1241.00 FEET SOUTH OF SAID NORTH LINE OF SAID NORTH EAST 1/4; THENCE SOUTHWESTWARDLY ALONG A STRAIGHT LINE A DISTANCE OF 83.36 FEET TO A POINT 1260.04 FEET SOUTH OF SAID NORTH LINE AND 456.25 FEET WEST OF SAID EAST LINE OF SAID NORTH EAST 1/4; THENCE WEST ALONG A STRAIGHT LINE, A DISTANCE OF 43.75 FEET TO A POINT WHICH IS 1260.10 FEET SOUTH OF SAID NORTH LINE AND 500 FEET WEST OF SAID EAST LINE OF SAID NORTH EAST 1/4; THENCE WESTWARDLY ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 374 FEET AND CONVEX SOUTHERLY, A DISTANCE OF 224.02 FEET TO A POINT WHICH IS 1233.14 FEET SOUTH OF SAID NORTH LINE AND 20.35 FEET WEST OF SAID EAST LINE OF THE NORTH EAST 1/4; THENCE NORTHEASTWARDLY ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 259 FEET AND CONVEX SOUTHEASTERLY, A DISTANCE OF 255.23 FEET TO A POINT WHICH IS 504 FEET WEST OF SAID EAST LINE OF THE NORTH EAST 1/4 AND ON A LINE 1016.96 FEET SOUTH OF AND PARALLEL TO SAID NORTH LINE OF THE NORTH EAST 1/4; THENCE WEST ALONG THE LAST ABOVE MENTIONED PARALLEL LINE, A DISTANCE OF 1 FOOT TO ITS INTERSECTION WITH A LINE 505 FEET WEST OF AND PARALLEL TO SAID EAST LINE OF THE NORTH EAST 1/4; THENCE NORTH ALONG THE LAST ABOVE MENTIONED PARALLEL LINE, A DISTANCE OF 103.96 FEET TO ITS INTERSECTION WITH THE HEREINBEFORE MENTIONED PARALLEL LINE WHICH IS 913 FEET SOUTH OF AND PARALLEL TO SAID NORTH LINE OF THE NORTH EAST 1/4; AND THENCE EAST ALONG THE LAST ABOVE MENTIONED PARALLEL LINE, A DISTANCE OF 130 FEET TO THE POINT OF BEGINNING, (EXCEPTING THAT PART THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF A LINE WHICH IS 913.00 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID NORTH EAST 1/4, WITH A LINE WHICH IS 375.00 FEET WEST FROM AND PARALLEL WITH THE EAST LINE OF SAID NORTH EAST 1/4, AND RUNNING THENCE SOUTH ALONG SAID LAST DESCRIBED PARALLEL LINE, A DISTANCE OF 75.00 FEET; THENCE WEST ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID NORTH EAST 1/4, A DISTANCE OF 35.00 FEET; THENCE NORTH ALONG A LINE PARALLEL WITH THE EAST LINE OF SAID NORTH EAST 1/4, A DISTANCE OF 75.00 FEET TO AN INTERSECTION WITH THE HEREINBEFORE MENTIONED PARALLEL LINE WHICH IS 913.00 FEET SOUTH FROM THE NORTH LINE OF SAID NORTH EAST 1/4, AND THENCE ALONG SAID MENTIONED PARALLEL LINE, A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

19-11-201-031, 034, 039,  
040, + 051

4775 + 478<sup>th</sup> 575 + Kedzie Ave.  
Chicago, IL

THIS INSTRUMENT WAS PREPARED BY  
AND SHOULD BE RECORDED AND RETURNED TO:

John A. Crean, Esq.  
MONY Financial Services  
2302 Parklake Drive, N.E.  
Suite 300  
Atlanta, Georgia 30345

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SCHEDULE 13 2004

THE SOUTH 250 FEET OF THE NORTH 753 FEET OF THE WEST 85 FEET  
OF THE EAST 118 FEET OF SECTION 11, TOWNSHIP 38, NORTH, RANGE  
13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,  
ILLINOIS.

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