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CONSTRUCTION LOAN MORTGAGE AND SECURITY AGREEMENT

$55.00

from

LUTHER VILLAGE LIMITED PARTNERSHIP,
an Illinois limited partnership

to

THE NORTHERN TRUST COMPANY
an Illinois banking corporation

Dated as of November 8, 1989

Permanent Tax Index Numbers:

03-19-400-001

Address of Premises:

Oakton Avenue & Kennicott
Arlington Heights, Illinois

This Instrument Prepared By and to be Returned After Recording to:

Alvin L. Kruse
James A. Schraidt
Seyfarth, Shaw, Fairweather & Geraldson
Suite 4200
55 East Monroe Street
Chicago, Illinois 60603

Box 333

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CONSTRUCTION LOAN MORTGAGE AND SECURITY AGREEMENT

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CONSTRUCTION LOAN MORTGAGE AND SECURITY AGREEMENT

THIS CONSTRUCTION LOAN MORTGAGE AND SECURITY AGREEMENT dated as of November 8, 1989, from LUTHER VILLAGE LIMITED PARTNERSHIP, an Illinois limited partnership (the "Mortgagor"), to THE NORTHERN TRUST COMPANY an Illinois banking corporation (the "Mortgagee");

W I T N E S S E T H:

WHEREAS, the Mortgagor is the owner and holder of a leasehold interest in the real estate described in Exhibit A attached hereto pursuant to the Ground Lease (as defined in Article I hereof); and

WHEREAS, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee its Construction Loan Mortgage Note (the "Note") bearing even date herewith in the principal sum of $35,000,000, payable to the order of the Mortgagee, the terms of which are more fully described in Section 2.1 hereof; and

WHEREAS, the Note evidences a construction loan being made by the Mortgagee to the Mortgagor for the purpose of financing the improvement of the real estate described in Exhibit A attached hereto by the construction thereon of a planned residential community to consist of two multi-story buildings each containing approximately 125 one and two bedroom apartments, 24 buildings, each containing four villa townhome units, 10 buildings, each containing six courtyard townhome units, a community building containing approximately 39,000 square feet of commercial and/or common facilities, a man-made lake, roadways, infrastructure and recreation and parking facilities and related landscaping;

NOW, THEREFORE, THIS CONSTRUCTION LOAN MORTGAGE AND SECURITY AGREEMENT WITNESSETH THAT:

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness hereby secured, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor hereby grants, bargains, sells, conveys and mortgages to the Mortgagee and its successors and assigns forever, under and subject to the terms and conditions hereinafter set forth, all of the Mortgagor's right, title and interest in and to the real property located in the Village of Arlington Heights, County of Cook, State of Illinois, described in Exhibit A attached hereto and by this reference incorporated herein, including all improvements now and hereafter located thereon;

TOGETHER WITH all right, title and interest of the Mortgagor, now owned or hereafter acquired, in and to the following:

(a) All rents, issues, profits, royalties and income with respect to the said real estate and improvements and other benefits derived therefrom, subject to the right, power and authority given to the Mortgagor to collect and apply same; and

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(b) All leases or subleases covering the said real estate and improvements or any portion thereof now or hereafter existing or entered into, including, but not limited to, the Leases (as defined in Article I hereof), including, without limitation, all cash security deposits, advance rentals, and deposits or payments of similar nature; and

(c) All privileges, reservations, allowances, hereditaments and appurtenances belonging or pertaining to the said real estate and improvements and all rights and estates in reversion or remainder and all other interests, estates or other claims, both in law and in equity, which the Mortgagor now has or may hereafter acquire in the said real estate and improvements which are appurtenant to the said real estate and improvements; and

(d) All easements, rights-of-way and rights used in connection with the said real estate and improvements or as a means of ingress and egress thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same; and

(e) Any land lying within the right-of-way of any street, open or proposed, adjoining the said real estate and improvements, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the said real estate and improvements in each case to the extent that the same are appurtenant to the Mortgagor's estate or interest in the said real estate and improvements; and

(f) Any and all buildings and improvements now or hereafter erected on the said real estate, including, but not limited to, all the fixtures, attachments, appliances, equipment, machinery, and other articles attached to said buildings and improvements; and

(g) All materials intended for construction, reconstruction, alteration and repairs of the said real estate and improvements, all of which materials shall be deemed to be included within the said real estate and improvements immediately upon the delivery thereof to the said real estate; and

(h) All fixtures now or hereafter owned by the Mortgagor attached to or contained in and used in connection with the said real estate and improvements, including, but not limited to, all machinery, motors, elevators, fittings, radiators, awnings, shades, screens, and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures and appurtenances thereto; and all items of furniture, furnishings, equipment and personal property used or useful in the operation of the said real estate and improvements; and all renewals, substitutions and replacements for any or all of the foregoing, and all proceeds

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therefrom, whether or not the same are or shall be attached to the said real estate and improvements in any manner; it being mutually agreed, intended and declared that all the aforesaid property placed by the Mortgagor on and in the said real estate and improvements shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and for the purpose of this Mortgage to be real estate and covered by this Mortgage; and as to any of the aforesaid property which does not so form a part and parcel of the real estate or does not constitute a "fixture" (as such term is defined in the Uniform Commercial Code of Illinois), this Mortgage is deemed to be a security agreement under the Uniform Commercial Code of Illinois for the purpose of creating hereby a security interest in such property, which the Mortgagor hereby grants to the Mortgagee as secured party; and

(i) All the estate, interest, right, title or other claims or demands, including claims or demands with respect to any proceeds of insurance related thereto, in the said real estate and improvements or personal property and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the said real estate and improvements or personal property, including without limitation any awards resulting from a change of grade of streets and awards for severance damages; and

(j) All right, title and interest of the Mortgagor (but not its obligations) in, to and under the Ground Lease (as defined in Article I hereof) as amended from time to time, and the leasehold estate created thereunder, and any extension thereof; and

(k) All right, title and interest of the Mortgagor in, to and under the Development Agreement (as defined in Article I hereof); and

(l) All right, title and interest of the Mortgagor in, to and under all contracts for the sale of Dwelling Units (as defined in Article I hereof) and all proceeds thereof; and

(m) All right, title and interest of the Mortgagor in, to and under the Capital Contribution Agreement (as defined in Article I hereof) and any payments to be made to the Mortgagor thereunder, and all right, title and interest of the Mortgagor as lessee under any and all proprietary leases of Dwelling Units (as defined in Article I hereof), and any and all proceeds of either of the foregoing;

the said real estate and improvements and the property and interests described in (a) through (m) above being collectively referred to herein as the "Premises"; and as to any portion of the Premises constituting property subject to the Uniform Commercial Code of Illinois, this Mortgage shall be deemed to be a security agreement

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under such Code for the purpose of creating hereby a security interest in such portion of the Premises, which the Mortgagor hereby grants to the Mortgagee as secured party.

TO HAVE AND TO HOLD the same unto the Mortgagee and its successors and assigns forever, for the purposes and uses herein set forth.

FOR THE PURPOSE OF SECURING:

(a) Payment of the indebtedness evidenced by the Note, and including the principal thereof and interest thereon and any and all modifications, extensions and renewals thereof, and performance of all obligations of the Mortgagor under the Note; and

(b) Performance and observance by the Mortgagor of all of the terms, covenants and provisions of this Mortgage; and

(c) Performance and observance by the parties thereto of all of the terms, covenants and provisions of the other Loan Documents (as defined in Article I hereof); and

(d) Payment of all sums advanced by the Mortgagee to perform any of the terms, covenants and provisions of this Mortgage or any of the other Loan Documents (as defined in Article I hereof), or otherwise advanced by the Mortgagee pursuant to the provisions hereof or any of such other documents to protect the property hereby mortgaged and pledged; and

(e) Performance and observance of all of the terms, covenants and provisions of any other instrument given to evidence or further secure the payment and performance of any indebtedness hereby secured or any obligation secured hereby; and

(f) Payment of any future or further advances (not exceeding $70,000,000) which may be made by the Mortgagee at its sole option to and for the benefit of the Mortgagor, its successors, assigns and legal representatives.

PROVIDED, HOWEVER, that if the Mortgagor shall pay the principal and all interest as provided in the Note, and shall pay all other sums herein provided for, or secured hereby, and shall well and truly keep and perform all of the covenants herein contained, then this Mortgage shall be released at the cost of the Mortgagor, otherwise to remain in full force and effect.

TO PROTECT THE SECURITY OF THIS CONSTRUCTION LOAN MORTGAGE AND SECURITY AGREEMENT, THE MORTGAGOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

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ARTICLE I

DEFINITIONS

Section 1.1. Definitions. The terms defined in this Section (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Mortgage shall have the respective meanings specified in this Section.

"Assignment of Rents" means the Construction Loan Assignment of Rents and Leases dated as of November 8, 1989, from the Mortgagor to the Mortgagee.

"Assignment of Rents Phase II Parcel" means the Construction Loan Assignment of Rents and Leases dated as of November 8, 1989, from the General Partner to the Mortgagee.

"Capital Contribution Agreement" means the Capital Contribution Agreement dated as of November 8, 1989, by and between the Mortgagor and the Co-op Association.

"CHS, Inc." means CHS Arlington, Inc., a Delaware corporation, the general partner of the General Partner.

"Co-op Association" means Luther Village Owners Corporation, an Illinois corporation.

"Development Agreement" means the Development Agreement and Agreement to Ground Lease dated as of November 8, 1989, between the Ground Lessor and the Mortgagor.

"Development Agreement Phase II Parcel" means the Development Agreement and Agreement to Ground Lease dated as of November 8, 1989, between the Ground Lessor and the General Partner.

"Dwelling Unit" or "Dwelling Units" means Dwelling Unit or Dwelling Units as defined in the Loan Agreement.

"event of default" when used in reference to this Mortgage means an event of default specified in Section 4.1 hereof.

"General Partner" means CHS Arlington Associates Limited Partnership, an Illinois limited partnership.

"Ground Lease" means the Development Ground Lease dated as of November 8, 1989, between the Ground Lessor, as lessor, and the Mortgagor, as lessee, a memorandum of which was recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on November 17, 1989, as Document No. 89548960.

"Ground Lease Phase II Parcel" means the Development Ground Lease dated as of November 8, 1989, between the Ground Lessor, as lessor, and the General Partner, as lessee, a memorandum of which was recorded in the Office of the Recorder of Deeds of Cook

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County, Illinois, on November 11, 1989, as Document No. 89548964.

"Ground Lessor" means Lutheran Home and Services for the Aged, Inc., an Illinois corporation.

"Guaranty" means the Construction Loan Guaranty of Payment and Completion dated as of November 8, 1989, from the General Partner, CHS, Inc. and the Individual Guarantors to the Bank.

"Hazardous Material" means any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, The Toxic Substances Control Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect; asbestos or any substance or compound containing asbestos; polychlorinated biphenyls or any substance or compound containing any polychlorinated biphenyl; and any other hazardous, toxic or dangerous waste, substance or material.

"Impositions" means Impositions as defined in Section 2.6(a) hereof.

"Improvements" means Improvements as defined in the Loan Agreement.

"Individual Guarantors" means Charles H. Shaw, Robert J. Winter, Jr., Dennis J. Stine and Cheryl F. Holmes.

"Leases" means the lease or leases described in Exhibit B attached hereto.

"Loan Agreement" means the Construction Loan Agreement dated as of November 8, 1989, by and between the Mortgagor and the Mortgagee.

"Loan Documents" means the Loan Agreement, the Note, this Mortgage, the Mortgage Phase II Parcel, the Assignment of Rents, the Assignment of Rents Phase II Parcel, the Security Agreement, the Guaranty, and all other documents and instruments at any time evidencing and securing the indebtedness secured by this Mortgage.

"Mortgage" means this Construction Loan Mortgage and Security Agreement dated as of November 8, 1989, from the Mortgagor to the Mortgagee.

"Mortgage Phase II Parcel" means this Construction Loan Mortgage and Security Agreement dated as of November 8, 1989, from the General Partner to the Mortgagee.

"Mortgagee" means The Northern Trust Company, an Illinois banking corporation.

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"Mortgagor" means Luther Village Limited Partnership, an Illinois limited partnership.

"Note" means the Construction Loan Mortgage Note of the Mortgagor dated November 8, 1989, in the principal amount of $35,000,000 made payable to the order of the Mortgagee.

"Permitted Encumbrances" means Permitted Encumbrances as defined in the Loan Agreement.

"Premises" means the real estate described in Exhibit A attached hereto and all improvements now and hereafter located thereon, and all other property, rights and interests described in the foregoing granting clauses of this Mortgage.

"Security Agreement" means the Security Agreement dated as of November 8, 1989, from the Mortgagor to the Mortgagee.

ARTICLE II

COVENANTS AND AGREEMENTS OF MORTGAGOR

Section 2.1. Payment of Indebtedness. The Mortgagor covenants and agrees that it will pay when due the principal of and interest on the indebtedness hereby secured evidenced by the Note, all other sums which may become due pursuant thereto or hereto, and all other indebtedness hereby secured as described in the foregoing granting clauses of this Mortgage, including, but not limited to, all charges, fees and all other sums to be paid by the Mortgagor as provided in the Loan Documents, and that it will duly and punctually perform, observe and comply with all of the terms, provisions and conditions herein and in the other Loan Documents provided to be performed and observed by the Mortgagor. The Note, which is hereby incorporated into this Mortgage by reference with the same effect as if set forth in full herein, is in the principal amount of $35,000,000 and bears interest at a variable rate of 3/4% per annum in addition to the Mortgagee's Prime Rate (as defined below) from time to time in effect while the Note is outstanding, except as otherwise provided below. For such purposes, the term "Prime Rate" shall mean the rate of interest per year announced from time to time by the Mortgagee called its prime rate, which rate at any time may not be the lowest rate charged by the Mortgagee. Changes in the rate of interest on the Note resulting from a change in the Prime Rate shall take effect on the date of change in the Prime Rate set forth in each announcement. The Mortgagor has the option from time to time in the manner provided in the Note to convert the interest rate on the Note from a rate based on the Mortgagee's Prime Rate to a rate based on the rate at which dollar deposits are offered in immediately available funds in the London Interbank Market to the Mortgagee by leading banks in the Eurodollar Market, calculated as provided in the Note. The Mortgagor also has the option from time to time in the manner provided in the Note to convert the interest rate on the Note from a rate based on the Mortgagee's Prime Rate to

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a rate based on the rate of interest in the secondary market for certificates of deposit issued by the Mortgagee, calculated as provided in the Note. Interest is payable on the Note in arrears on the first day of each month commencing with the month following the month in which the first disbursement of principal occurs. All of the unpaid principal of and accrued interest on the Note shall be due and payable on November 1, 1993.

Section 2.2. Escrow Deposits. Except to the extent that a reserve for taxes has been created and exists under the Loan Agreement, if requested by the Mortgagee, in order to provide moneys for the payment of the Impositions on the Premises required to be paid by the Mortgagor pursuant to Section 2.6 hereof and the premiums on the insurance required to be carried by the Mortgagor pursuant to Section 2.4 hereof, the Mortgagor shall pay to the Mortgagee with each monthly interest payment on the Note such amount as the Mortgagee shall estimate will be required to accumulate, by the date 30 days prior to the due date of the next annual installment of such Impositions and insurance premiums, through substantially equal monthly payments by the Mortgagor to the Mortgagee, amounts sufficient to pay such next annual Impositions and insurance premiums. All such payments shall be held by the Mortgagee in escrow, and shall bear interest at the Mortgagee's then applicable money market account or other similar rate. Amounts held in such escrow shall be made available by the Mortgagee to the Mortgagor for the payment of the Impositions and insurance premiums on the Premises when due, or may be applied thereto by the Mortgagee if it in its sole discretion so elects. The Mortgagee may at any time and from time to time waive the requirement for the escrow deposits provided for in this Section. In the event of any such waiver, the Mortgagee may thereafter in its sole discretion elect to require that the Mortgagor commence making such escrow deposits by giving the Mortgagor not less than 10 days' written notice of such election. No such waiver shall impair the right of the Mortgagee thereafter to require that such escrow deposits be made.

Section 2.3. Completion, Maintenance, Repair, Alterations. The Mortgagor covenants and agrees that it will:

(a) keep the Premises in good condition and repair;

(b) after completion of construction, not remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or governmental regulations) any of the improvements which are a part of the Premises;

(c) complete promptly and in a good and workmanlike manner the construction of the Improvements as contemplated by Section 6.1(l) of the Loan Agreement, or any other improvements which may be constructed on or at the Premises;

(d) promptly repair and restore any portion of the Premises which may become damaged or be destroyed so as to be

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of at least equal value and of substantially the same character as prior to such damage or destruction;

(e) subject to Section 2.13(a) hereof, pay when due all claims for labor performed and materials furnished to and for the Premises;

(f) comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Premises or any part thereof or requiring any alterations or improvements;

(g) not commit or permit any waste or deterioration of the Premises or any portion thereof;

(h) keep and maintain the Premises and abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair and free of nuisance ordinary wear and tear excepted;

(i) not commit, suffer or permit any act to be done in or upon the Premises in violation of any law, ordinance or regulation;

(j) not initiate or acquiesce in any zoning change or reclassification of the Premises; and

(k) subject to Section 2.13(a) hereof, keep the Premises free and clear of all liens and encumbrances of every sort.

<u>Section 2.4</u>. <u>Required Insurance</u>. The Mortgagor shall at all times provide, maintain and keep in force the following policies of insurance:

(a) Insurance against loss or damage to the Premises by fire and any of the risks covered by insurance of the type now known as "fire and extended coverage", in an amount not less than the full replacement cost thereof (exclusive of the cost of excavations, foundations and footings below the lowest basement floor), and with not more than $10,000 deductible from the loss payable for any casualty.

(b) Comprehensive public liability insurance, including coverage for elevators and escalators, if any, on the Premises, on an occurrence basis against claims for personal injury, including without limitation bodily injury, death or property damage occurring on, in or about the Premises and the adjoining streets, sidewalks and passageways, such insurance to afford immediate minimum protection to a limit of not less than $1,000,000 for one person and $3,000,000 per occurrence for personal injury or death and $500,000 per occurrence for damage to property.

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(c) Workers' compensation insurance in accordance with the requirements of Illinois law.

(d) During the course of any construction or repair at the Premises, builder's risk insurance against all risks of physical loss, on a completed value basis, including collapse and transit coverage, with a deductible not to exceed $10,000, in nonreporting form (except that the builder's risk insurance pertaining to the Low-Rise Buildings, as that term is defined in the Loan Agreement, may be in reporting form), covering the total value of work performed and equipment, supplies and materials furnished, and containing the "permission to occupy upon completion of work" endorsement.

(e) If applicable, boiler and machinery insurance covering pressure vessels, air tanks, boilers, machinery, pressure piping, heating, air conditioning and elevator equipment and escalator equipment located on the Premises, and insurance against loss of occupancy or use arising from any breakdown therein, all in such amounts as are satisfactory to the Mortgagee.

(f) If requested by the Mortgagee, and only with respect to that portion of the Premises which is under lease and encumbered by any of the Loan Documents, business interruption, use and occupancy or rent loss insurance on the Premises covering loss of the use of the Premises caused by the perils covered by the policies described in (a) and (e) above, for a period of not less than six months in such amount as the Mortgagee may require.

(g) If the Premises are located in an area that has been identified by the United States Department of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, flood insurance in an amount at least equal to the replacement cost of the Premises or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

(h) Such other insurance, and in such amounts as may from time to time be required by the Mortgagee against the same or other hazards.

All policies of insurance required by terms of this Mortgage shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of the Mortgagor which might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of set-off, counterclaim or deductions against the Mortgagor, and shall provide that the

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amount payable for any loss shall not be reduced by reason of co-insurance.

Section 2.5. Delivery of Policies; Payment of Premiums. All policies of insurance required by the terms of this Mortgage shall be issued by companies and in amounts in each company satisfactory to the Mortgagee. All policies of insurance shall be maintained for and name the Mortgagor and the Mortgagee as insureds, as their respective interests may appear, and the policies required by paragraphs (a), (d), (e), (f) and (g) of Section 2.4 hereof shall have attached thereto a mortgagee's loss payable endorsement for the benefit of the Mortgagee in form satisfactory to the Mortgagee. The Mortgagor shall furnish the Mortgagee with certificates of all required policies of insurance. At least 30 days prior to the expiration of each such policy, the Mortgagor shall furnish the Mortgagee with evidence satisfactory to the Mortgagee of the payment of the premium and the reissuance of a policy continuing insurance in force as required by this Mortgage. Each policy of insurance required by this Mortgage shall contain a provision that such policy will not be cancelled or materially amended, including any reduction in the scope or limits of coverage, without at least 30 days' prior written notice to the Mortgagee. Each policy of insurance required by this Mortgage shall also comply with the requirements of the Ground Lease.

Section 2.6. Taxes and Impositions.

(a) The Mortgagor agrees to pay or cause to be paid, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including without limitation any non-governmental levies or assessments such as maintenance charges, owner association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting the Premises, which are assessed or imposed upon the Premises, or become due and payable, and which create, may create or appear to create a lien upon the Premises, or any part thereof (all of which taxes, assessments and other governmental charges and non-governmental charges of the above-described or like nature are hereinafter referred to as "Impositions"); provided however, that if, by law, any such Imposition is payable, or at the option of the taxpayer may be paid, in installments, the Mortgagor may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

(b) At the request of the Mortgagee, the Mortgagor shall furnish to the Mortgagee within 30 days after the date upon which any Imposition is due and payable by the Mortgagor, official receipts of the appropriate taxing authority, or other proof satisfactory to the Mortgagee, evidencing the payment thereof.

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(c) The Mortgagor shall have the right before any delinquency occurs to contest or object to the amount or validity of any Imposition by appropriate legal proceedings properly instituted and prosecuted in such manner as shall stay the collection of the contested Impositions and prevent the sale or forfeiture of the Premises to collect the same; provided that no such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Mortgagor's covenants to pay any such Imposition at the time and in the manner provided in this Section unless the Mortgagor has given prior written notice to the Mortgagee of the Mortgagor's intent to so contest or object to an Imposition, and unless, at the Mortgagee's sole option, (i) the Mortgagor shall demonstrate that legal proceedings instituted by the Mortgagor contesting or objecting to such impositions shall conclusively operate to prevent the sale or forfeiture of the Premises, or any part thereof, to satisfy such Imposition prior to final determination of such proceedings; and/or (ii) the Mortgagor shall furnish a good and sufficient bond or surety as requested by the Mortgagee, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Premises during the pendency of such contest, adequate fully to pay all such contested Impositions and all interest and penalties upon the adverse determination of such contest.

Section 2.7. Utilities. The Mortgagor shall pay or cause to be paid when due all utility charges which are incurred by the Mortgagor or others for the benefit of or service to the Premises or which may become a charge or lien against the Premises for gas, electricity, water or sewer services furnished to the Premises and all other assessments or charges of a similar nature, whether public or private, affecting the Premises or any portion thereof, whether or not such assessments or charges are liens thereon.

Section 2.8. Actions by Mortgagee to Preserve Premises. Should the Mortgagor fail to make any payment or to do any act as and in the manner provided herein or in any of the other Loan Documents, the Mortgagee in its own discretion, without obligation so to do and without releasing the Mortgagor from any obligation, may make or do the same in such manner and to such extent as it may deem necessary to protect the security hereof. In connection therewith (without limiting its general powers), the Mortgagee shall have and is hereby given the right, but not the obligation, (i) to enter upon and take possession of the Premises in accordance with applicable law; (ii) to make additions, alterations, repairs and improvements to the Premises which it may consider necessary and proper to keep the Premises in good condition and repair; (iii) to appear and participate in any action or proceeding affecting or which may affect the Premises, the security hereof or the rights or powers of the Mortgagee; (iv) to pay any Impositions (as defined in Section 2.6 hereof) asserted against the Premises and to do so according to any bill, statement or estimate procured from the appropriate office without inquiry into the accuracy of the bill,

statement or estimate or into the validity of any Imposition; (v) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of the Mortgagee may affect or appears to affect the Premises or the security of this Mortgage or which may be prior or superior hereto, unless same are being contested in accordance with section 2.13 hereof; (vi) to pay any rents, additional rents, and other amounts payable under or in connection with the Ground Lease, (vii) to complete the construction of the Improvements and to take such actions in connection therewith as are provided for in the Loan Agreement; and (viii) in exercising such powers, to pay necessary expenses, including employment of and payment of compensation to counsel or other necessary or desirable consultants, contractors, agents and other employees. The Mortgagor irrevocably appoints the Mortgagee its true and lawful attorney in fact, at the Mortgagee's election, to do and cause to be done all or any of the foregoing in the event the Mortgagee shall be entitled to take any or all of the action provided for in this Section. The Mortgagor shall immediately, upon demand therefor by the Mortgagee, pay all costs and expenses incurred by the Mortgagee in connection with the exercise by the Mortgagee of the foregoing rights, including without limitation, costs of evidence of title, court costs, appraisals, surveys and attorneys' fees, all of which shall constitute so much additional indebtedness secured by this Mortgage immediately due and payable, with interest thereon at a rate two percent (2%) above the then prevailing interest rate on the Note.

Section 2.9. Damage and Destruction.

(a) The Mortgagor shall give the Mortgagee prompt notice of any damage to or destruction of any portion or all of the Premises, and the provisions contained in the following paragraphs of this Section shall apply in the event of any such damage or destruction.

(b) In the case of loss covered by policies of insurance, the Mortgagee is hereby authorized at its option either (i) to settle and adjust any claim under such policies without the consent of the Mortgagor, provided that the Mortgagor may settle and adjust any such claim or claims for less than $100,000 individually and in the aggregate, or (ii) to allow the Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss; and in any case the Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds; and the reasonable expenses incurred by the Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional indebtedness secured by this Mortgage, and shall be reimbursed to the Mortgagee upon demand.

(c) In the event of any insured damage to or destruction of the Premises or any part thereof the proceeds of insurance payable as a result of such loss shall be applied upon the indebtedness secured by this Mortgage or applied to the repair and restoration of the Premises, as the Mortgagee in its sole discretion

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shall elect; provided, however, that (i) if an uncured default then exists under this Mortgage and if any applicable grace period has not expired, the Mortgagee shall not make an election under this paragraph (c) until all applicable grace periods have expired without such default having been cured, unless such election is to have such proceeds applied to the repair and restoration of the Premises.

(d) In the event that the Mortgagee shall elect that proceeds of insurance are to be applied to the repair and restoration of the Premises, the Mortgagor hereby covenants promptly to repair and restore the same. In such event such proceeds shall be made available, from time to time, to pay or reimburse the costs of such repair and restoration in the manner and on the terms provided in the Loan Agreement for disbursements of construction loan proceeds.

(e) Notwithstanding any provision herein to the contrary and in particular Section 2.9(c) hereof, in the event of any such damage or destruction, the Mortgagee shall make the proceeds of insurance received as a result of such damage or destruction available for the repair and restoration of the Premises, subject to the following conditions: (i) that there does not then exist any event of default under this Mortgage or any condition which with the passage of time or the giving of notice, or both, would constitute such an event of default (provided that if an uncured default then exists under this Mortgage and if any applicable grace period has not expired, the Mortgagee shall not be deprived of the benefits of this paragraph (e) until all applicable grace periods have expired without such default having been cured); (ii) that all then existing leases and subleases of the Premises shall continue in full force and effect without reduction or abatement of rental (except during any period of untenantability); (iii) that the Mortgagee shall first be given satisfactory proof that such improvements have been fully repaired and restored, or that by the expenditure of such money will be fully repaired and restored, free and clear of all liens, except the lien of this Mortgage and other Permitted Encumbrances; (iv) that in the event such proceeds shall be insufficient to repair and restore the Premises, the Mortgagor shall promptly deposit with the Mortgagee the amount of such deficiency; (v) that in the event the Mortgagor shall fail within a reasonable time, subject to delays beyond its control, to repair and restore the Premises, then the Mortgagee, at its option, may repair and restore the Premises for or on behalf of the Mortgagor and for such purpose may do all necessary acts, including using said funds deposited by the Mortgagor as aforesaid; (vi) that waiver of the right of subrogation shall be obtained from any insurer under such policies of insurance who, at that time, claims that no liability exists as to the Mortgagor or the then owner or the assured under such policies; (vii) such insurance proceeds shall be disbursed as provided in Section 2.9(d) hereof; and (viii) that the excess of said insurance proceeds above the amount necessary to complete such repair and restoration shall be applied upon the indebtedness secured by this Mortgage. In the

event any of the said conditions are not or cannot be satisfied, then the alternate disposition of such insurance proceeds as provided in Section 2.9(c) hereof shall become applicable. Under no circumstances shall the Mortgagee become personally liable for the fulfillment of the terms, covenants and conditions contained in any of the said leases or subleases nor obligated to take any action to repair and restore the Premises.

Section 2.10. Eminent Domain.

(a) Should the Premises or any part thereof or interest therein be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner, or should the Mortgagor receive any notice or other information regarding any such proceeding, the Mortgagor shall give prompt written notice thereof to the Mortgagee, and the provisions contained in the following paragraphs of this Section shall apply.

(b) The Mortgagee shall be entitled to all compensation, awards and other payments or relief therefor to the extent of the outstanding indebtedness secured by this Mortgage, and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings. The Mortgagee shall also be entitled to make any compromise or settlement in connection with such taking or damage in consultation with the Mortgagor. All proceeds of compensation, awards, damages, rights of action and proceeds awarded to the Mortgagor are hereby assigned to the Mortgagee and the Mortgagor agrees to execute such further assignments of such proceeds as the Mortgagee may require.

(c) In the event that any portion of the Premises are taken or damaged as aforesaid, all such proceeds shall be applied upon the indebtedness secured by this Mortgage or applied to the repair and restoration of the Premises, as the Mortgagee in its sole discretion shall elect; provided, however, that in the event of a taking of less than all of the Premises, (i) if an uncured default then exists under this Mortgage and if any applicable grace period has not expired, the Mortgagee shall not make an election under this paragraph (c) until all applicable grace periods have expired without such default having been cured, unless such election is to have such proceeds applied to the repair and restoration of the Premises.

(d) In the event that the Mortgagee shall elect that such proceeds are to be applied to the repair and restoration of the Premises, the Mortgagor hereby covenants promptly to repair and restore the same. In such event such proceeds shall be made available, from time to time, to pay or reimburse the costs of such repair and restoration in the manner and on the terms provided in the Loan Agreement for disbursements of construction loan proceeds.

(e) Notwithstanding any provision herein to the contrary and in particular Section 2.10(c) hereof, in the event of any such

taking or damage of less than all of the Premises, the Mortgagee shall make such proceeds received as a result of such taking or damage available for the repair and restoration of the Premises, subject to the following conditions: (i) that there does not then exist any event of default under this Mortgage or any condition which with the passage of time or the giving of notice, or both, would constitute such an event of default (provided that if an uncured default then exists under this Mortgage and if any applicable grace period has not expired, the Mortgagee shall not be deprived of the benefits of this paragraph (e) until all applicable grace periods have expired without such default having been cured); (ii) that all then existing leases and subleases of the Premises shall continue in full force and effect without reduction or abatement of rental (except during any period of untenantability); (iii) that the Mortgagee shall first be given satisfactory proof that such improvements have been fully repaired and restored, or that by the expenditure of such money will be fully repaired and restored, free and clear of all liens, except the lien of this Mortgage and other Permitted Encumbrances; (iv) that in the event such proceeds shall be insufficient to repair and restore the Premises, the Mortgagor shall promptly deposit with the Mortgagee the amount of such deficiency; (v) that in the event the Mortgagor shall fail within a reasonable time, subject to delays beyond its control, to repair and restore the Premises, then the Mortgagee, at its option, may repair and restore the Premises for or on behalf of the Mortgagor and for such purpose may do all necessary acts, including using said funds deposited by the Mortgagor as aforesaid; (vi) such proceeds shall be disbursed as provided in Section 2.10(d) hereof; and (vii) that the excess of said proceeds above the amount necessary to complete such repair and restoration shall be applied upon the indebtedness secured by this Mortgage. In the event any of the said conditions are not or cannot be satisfied, then the alternate disposition of such insurance proceeds as provided in Section 2.10(c) hereof shall become applicable. Under no circumstances shall the Mortgagee become personally liable for the fulfillment of the terms, covenants and conditions contained in any of the said leases or subleases nor obligated to take any action to repair and restore the Premises.

Section 2.11. Inspection of Premises. The Mortgagee, or its agents, representatives or workmen, are authorized to enter at any reasonable time, with such prior notice as shall be reasonable under the circumstances, upon or in any part of the Premises for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of this Mortgage or any of the other Loan Documents.

Section 2.12. Inspection of Books and Records. The Mortgagor shall keep and maintain full and correct records showing in detail the income and expenses of the Premises and shall make such books and records and all supporting vouchers and data available for examination by the Mortgagee and its agents at any

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time and from time to time on request at the offices of the Mortgagee, or at such other location as may be mutually agreed upon.

Section 2.13. Liens and Conveyances.

(a) Except for Permitted Encumbrances, the Mortgagor shall not, without the prior written consent of the Mortgagee, which may be given or withheld in its sole discretion, create, suffer or permit to be created or filed against the Premises, or any part thereof or interest therein, any mortgage lien or other lien, charge or encumbrance, either superior or inferior to the lien of this Mortgage. The Mortgagor shall have the right to contest in good faith the validity of any such lien, charge or encumbrance, provided the Mortgagor shall first deposit with the Mortgagee a bond, title insurance or other security satisfactory to the Mortgagee in such amounts or form as the Mortgagee shall require; provided further that the Mortgagor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. The Mortgagor shall also have the right to contest mechanics' lien claims in accordance with Section 6.1(k) of the Loan Agreement. If the Mortgagor shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of the Mortgagee, the Mortgagee may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond for the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law and any amounts expended by the Mortgagee in so doing shall be so much additional indebtedness secured by this Mortgage. Except for Permitted Encumbrances and liens, charges and encumbrances being contested as provided above, in the event the Mortgagor shall suffer or permit any superior or junior lien to be attached to the Premises, the Mortgagee, at its option, shall have the unqualified right to accelerate the maturity of the Note causing the full principal balance and accured interest on the Note to become immediately due and payable without notice to the Mortgagor.

(b) In the event that the Mortgagor shall sell, transfer, convey or assign the title to all or any portion of the Premises, whether by operation of law, voluntarily, or otherwise, or the Mortgagor shall contract to do any of the foregoing, the Mortgagee, at its option, shall have the unqualified right to accelerate the maturity of the Note causing the full principal balance and accrued interest on the Note to become immediately due and payable without notice to the Mortgagor, except that the Mortgagor may make partial transfers of the Premises following satisfaction of the conditions precedent to release of this Mortgage with respect thereto described in Sections 2.3, 2.4 and 2.5 of the Loan Agreement.

(c) Any waiver by the Mortgagee of the provisions of this Section shall not be deemed to be a waiver of the right of the Mortgagee to insist upon strict compliance with the provisions of this Section in the future.

Section 2.14. Taxes Affecting Mortgage.

(a) If at any time any federal, state or municipal law shall require any documentary stamps or other tax hereon or on the Note, or shall require payment of any tax upon the indebtedness secured hereby, then the said indebtedness and the accrued interest thereon shall be and become due and payable at the election of the Mortgagee upon 30 days' notice to the Mortgagor; provided, however, said election shall be unavailing and this Mortgage and the Note shall be and remain in effect, if the Mortgagor lawfully may pay for such stamps or such tax including interest and penalties thereon to or on behalf of the Mortgagee and the Mortgagor does in fact pay, when payable, for all such stamps or such tax, as the case may be, including interest and penalties thereon.

(b) In the event of the enactment after the date of this Mortgage of any law of the state in which the Premises are located deducting from the value of the Premises for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein 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 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 hereof, 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, however, that if, in the opinion of counsel for the Mortgagee, (i) it might be unlawful to require Mortgagor to make such payment or (ii) 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 due and payable within 30 days from the giving of such notice. Notwithstanding the foregoing, it is understood and agreed that the Mortgagor is not obligated to pay any portion of Mortgagee's federal or state income tax.

Section 2.15. Environmental Matters.

(a) The Mortgagor hereby represents and warrants to the Mortgagee that neither the Mortgagor nor any of its affiliates or subsidiaries, nor, to the best of the knowledge of the Mortgagor, any other person or entity, has ever caused or permitted any Hazardous Material to be placed, held, located or disposed of on, under or at the Premises or any part thereof, and that no portion of the Premises has ever been used by the Mortgagor or any of its affiliates or subsidiaries, or, to the best of the knowledge of the Mortgagor, by any other person or entity, as a treatment, storage or disposal site (whether permanent or temporary) for any Hazardous Material, and that there are no underground storage tanks located on the Premises.

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(b) Without limitation on any other provision hereof, the Mortgagor hereby agrees to indemnify and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any kind whatsoever (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the following (collectively, "Environmental Laws"): the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, now or hereafter in force, regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material) paid, incurred, suffered by or asserted against the Mortgagee as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of, the Mortgagor: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release of any Hazardous Material from (A) the Premises or any part thereof, or (B) any other real property in which the Mortgagor or any of its affiliates or subsidiaries holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust the beneficial interest in which is owned, in whole or in part, by the Mortgagor or any of its affiliates or subsidiaries), or (ii) any liens against the Premises permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligations of the Mortgagor or any of its affiliates or subsidiaries under any Environmental Laws, or (iii) any actual or asserted liability or obligations of the Mortgagee or any of its affiliates or subsidiaries under any Environmental Law relating to the Premises.

(c) The representations, covenants, indemnities and obligations provided for in this Section 2.15 shall survive the payment, performance, satisfaction, discharge, cancellation, termination, release and foreclosure of this Mortgage; provided, however, that such representations, warranties, covenants, indemnities and obligations shall not apply with respect to Hazardous Materials which are first placed on the Premises on or after the date on which the Mortgagee or any other party obtains title to and possession of the Premises pursuant to an exercise by the Mortgagee of its remedies under this Mortgage or any of the other Loan Documents or as a result of a conveyance of title to the Premises by the Mortgagor to the Mortgagee or such other party in lieu of such exercise of remedies.

Section 2.16. Concerning the Ground Lease.

(a) This Mortgage is subject to all the agreements, terms, covenants and conditions of the Ground Lease.

(b) The Mortgagor hereby represents and warrants to the Mortgagee as follows:

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(i) The Ground Lease is in full force and effect and has not been modified or amended.

(ii) All rents (including additional rents and other charges) required to be paid under the Ground Lease have been paid to the extent they were payable prior to the date hereof.

(iii) There is no existing default under the provisions of the Ground Lease or in the performance of any of the terms, covenants, conditions or warranties thereof on the part of the Mortgagor to be observed and performed.

(c) The Mortgagor shall defend the leasehold estate created under the Ground Lease for the entire remainder of the term set forth therein, against all persons claiming the same or any part thereof.

(d) The Mortgagor shall pay or cause to be paid all rents, additional rents, taxes, assessments, water rates, sewer rents and other charges and impositions mentioned in and made payable by the Ground Lease, when and as often as the same shall become due and payable, and shall cause the lessor under the Ground Lease to pay any portion of said taxes, assessments, rates, charges and impositions to be borne by the lessor that might become liens on the Premises or its leasehold estate when due, and the Mortgagor shall in every case take, or cause to be taken, a proper receipt for any such item so paid and shall within 10 days after written request of the Mortgagee deliver, or cause to be delivered, to the Mortgagee the original receipts for any such payments.

(e) Subject to any applicable grace periods and cure rights contained in the Ground Lease, the Mortgagor shall at all times promptly and faithfully keep and perform, or cause to be kept and performed, all the covenants and conditions contained in the Ground Lease by the Mortgagor to be kept and performed and in all respects conform to and comply with the terms and conditions of the Ground Lease, and the Mortgagor shall not do or permit anything which will impair or tend to impair the security of this Mortgage or will be grounds for declaring a forfeiture of the Ground Lease.

(f) The Mortgagor shall not modify, amend, extend or in any way alter the terms of the Ground Lease or cancel or surrender the Ground Lease, or waive, execute, condone or in any way release or discharge the lessor thereunder of or from the obligations, covenants, conditions and agreements by said lessor to be done and performed; and the Mortgagor does by this Mortgage expressly release, relinquish and surrender to the Mortgagee all of its right, power and authority to cancel, surrender, amend, modify or alter in any way the terms and provisions of the Ground Lease, except that the Mortgagor may amend the Ground Lease to remove portions of the Premises therefrom following satisfaction of the conditions

precedent to release of this Mortgage with respect thereto described in Sections 2.3, 2.4 and 2.5 of the Loan Agreement.

(g) The Mortgagor shall give the Mortgagee immediate notice of the receipt by it of any notice of default from the lessor under the Ground Lease, and the Mortgagor shall furnish to the Mortgagee immediately any and all information which it may request concerning the performance by the Mortgagor of the covenants of the Ground Lease, and shall permit the Mortgagee or its representative at all reasonable times to make investigation or examination concerning the performance by the Mortgagor of the covenants of the Ground Lease. The Mortgagor shall also deposit with the Mortgagee an exact copy of any notice, communication, plan, specification or other instrument or document received or given by it in any way relating to or affecting the Ground Lease which may concern or affect the estate of the lessor or the lessee in or under the Ground Lease or in the premises thereby demised.

(h) In the event of any failure by the Mortgagor to perform any covenant on the part of lessee to be observed and performed under the Ground Lease, the performance by the Mortgagee on behalf of the Mortgagor of the Ground Lease covenant (as provided in Section 2.8 hereof) shall not remove or waive, as between the Mortgagor and the Mortgagee, the corresponding event of default under the terms hereof.

(i) To the extent permitted by law, the price payable by the Mortgagor, or by any other party so entitled, in the exercise of the right of redemption, if any, from sale under any order or decree of foreclosure of this Mortgage shall include all rents paid and other sums advanced by the Mortgagee on behalf of the Mortgagor, as lessee under the Ground Lease.

(j) So long as any of the indebtedness secured by this Mortgage shall remain unpaid, unless the Mortgagee shall otherwise in writing consent, the fee title and the leasehold estate in the Premises shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates either in the lessor or in the lessee, or in a third-party, by purchase or otherwise; and the Mortgagor covenants and agrees that in case it shall acquire the fee title, or any other estate, title or interest in the premises covered by the Ground Lease, this Mortgage shall attach to and be a first lien upon such other estate so acquired and such other estate so acquired by the Mortgagor shall be considered as mortgaged, assigned or conveyed to the Mortgagee and the lien hereof spread to cover such estate with the same force and effect as though specifically herein mortgaged, assigned or conveyed and spread. The provisions of this paragraph shall not apply in the event the holder of the Note acquires the fee of the mortgaged premises except if the Mortgagee shall so elect.

Section 2.17. Estoppel Letters. The Mortgagor shall furnish from time to time within 15 days after the Mortgagee's

request, a written statement, duly acknowledged, of the amount due upon this Mortgage and whether any alleged offsets or defenses exist against the indebtedness secured by this Mortgage.

ARTICLE III

ASSIGNMENT OF RENTS; DECLARATION OF SUBORDINATION TO LEASES

Section 3.1. Assignment of Rents. As further security for the indebtedness secured by this Mortgage, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee the Assignment of Rents, wherein and whereby, among other things, the Mortgagor has assigned to the Mortgagee all rents, avails, issues and profits under all leases of the Premises, and all such leases, all as therein more specifically set forth, which Assignment of Rents is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length. The Mortgagor agrees that it will duly perform and observe all of the terms and provisions on its part to be performed and observed under the Assignment of Rents. The Mortgagor further agrees (i) that it will not enter into any lease of the Premises or any portion thereof without the prior written consent of the Mortgagee; (ii) that it will at all times duly perform and observe all of the terms, provisions, conditions and agreements on its part to be performed and observed under any and all leases of the Premises, or any portion thereof, including, but not limited to, the Leases, and shall not suffer or permit any default or event of default on the part of the lessor to exist thereunder; (iii) that it will not agree or consent to, or suffer or permit, any termination, modification or amendment of any lease of the Premises or any portion thereof, including, but not limited to, the Leases, without the prior written consent of the Mortgagee; and (iv) except for security deposits not to exceed one month's rent for any one lessee, that it will not collect any rent for more than one month in advance of the date same is due. All leases of space in the Premises shall be prepared on a lease form which has been approved by the Mortgagee. Any consent or approval by the Mortgagee pursuant to this section shall not be unreasonably withheld or delayed and shall be deemed to have been given unless notice to the contrary is given by the Mortgagee within 10 business days after such consent or approval is requested. Nothing herein contained shall be deemed to obligate the Mortgagee to perform or discharge any obligation, duty or liability of the lessor under any lease of the Premises, and the Mortgagor shall and does hereby indemnify and hold the Mortgagee harmless from any and all liability, loss or damage which the Mortgagee may or might incur under any leases of the Premises or by reason of the Assignment of Rents; and any and all such liability, loss or damage incurred by the Mortgagee, together with the costs and expenses, including reasonable attorneys' fees, incurred by the Mortgagee in the defense of any claims or demands therefor (whether successful or not), shall be so much additional indebtedness secured by this Mortgage, and the Mortgagor shall reimburse the Mortgagee therefor on demand.

Section 3.2. Further Assignment. Without limiting the generality of any other provisions hereof, and without limiting the effectiveness of the Assignment of Rents referred to in Section 3.1 hereof, as additional security, the Mortgagor hereby assigns to the Mortgagee the rents, issues and profits of the Premises and upon the occurrence of any event of default hereunder, the Mortgagee may receive and collect said rents, issues and profits so long as such event of default shall exist and during the pendency of any foreclosure proceedings and the Mortgagor shall have the right to collect said rents, issues and profits so long as no event of default shall exist hereunder. As of the date of this Mortgage as additional security, the Mortgagor also hereby assigns to the Mortgagee any and all written and oral leases, whether now in existence or which may hereafter come into existence during the term of this Mortgage, or any extension hereof, and the rents thereunder, covering the Premises or any portion thereof, including, but not limited to, the Leases, and any and all guarantees of the lessee's obligations under any of such leases; provided, that the collection of rents by the Mortgagee pursuant to this Section or pursuant to the Assignment of Rents shall in no way waive the right of the Mortgagee to foreclose this Mortgage in the event of any event of default, but provided always, that nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession.

Section 3.3. Declaration of Subordination to Leases. At the option of the 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 of the county wherein the Premises are situated, of a unilateral declaration to that effect.

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

Section 4.1. Events of Default. Any of the following events shall be deemed an "event of default" hereunder:

(a) Default shall be made in the payment when due of any installment of principal of or interest on the Note or in the payment when due of any other amount required to be paid by the Mortgagor hereunder or under any of the other Loan Documents, or in the payment when due of any other indebtedness secured by this Mortgage, and such default shall continue for a period of 10 days after written notice to the Mortgagor; or

(b) The Mortgagor or any guarantor under the Guaranty shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking or acquiescing in any reorganization,

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arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Mortgagor or any such guarantor or of all or any part of the Premises, or of any or all of the royalties, revenues, rents, issues or profits thereof, or shall make any general assignment for the benefit of creditors, or shall admit in writing its or his inability to pay its or his debts generally as they become due; or

(c) A court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against the Mortgagor or any guarantor under the Guaranty seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of 60 days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator of the Mortgagor or any such guarantor or of all or any part of the Premises, or of any or all of the royalties, revenues, rents, issues or profits thereof, shall be appointed and such appointment shall remain unvacated and unstayed for an aggregate of 60 days (whether or not consecutive); or

(d) A writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the Premises, or any judgment involving monetary damages shall be entered against the Mortgagor which shall become a lien on the Premises or any portion thereof or interest therein and such execution, attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within 60 days after its entry or levy; or

(e) If any representation or warranty of the Mortgagor contained in this Mortgage, or of the Mortgagor or any of the guarantors under the Guaranty contained in any of the other Loan Documents or any certificate or other document delivered in connection with the loan evidenced by the Note, shall prove untrue or incorrect in any material respect and shall not be made true or cured to the satisfaction of the Mortgagee within 30 days after written notice to the Mortgagor; or

(f) If in the judgment of the Mortgagee (which judgment shall be controlling unless manifestly unreasonable), the Mortgagor will be unable to complete the construction of the Improvements or any portion thereof in accordance with the Loan Agreement by the date required thereby; or

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(g) If any default has occurred or been declared under the Ground Lease which has not been cured within any applicable grace period, or if the Ground Lease is terminated, surrendered, modified or amended except as permitted by Section 2.16(f) hereof; or

(h) If there has occurred any other breach of or default under any term, covenant, agreement, condition or provision contained in this Mortgage other than as described in (a) through (g) above, and such breach or default shall continue for a period of 30 days after written notice to the Mortgagor, or if such breach or default is of such a nature that it cannot reasonably be cured within such 30-day period, and provided such default is susceptible of cure, it shall not constitute an event of default if corrective action is instituted within such 30-day period and diligently pursued and such breach or default is cured within 120 days after such notice; or

(i) If there has occurred any other breach of or default under any term, covenant, agreement, condition, provision, representation or warranty contained in any of the other Loan Documents which has not been cured within any applicable grace period.

Section 4.2. Acceleration upon Default; Additional Remedies. Upon or at any time after the occurrence of any event of default, the Mortgagee may declare the Note and all indebtedness secured by this Mortgage to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter the Mortgagee may:

(a) Either in person or by agent, with or without bringing any action or proceeding, if applicable law permits, enter upon and take possession of the Premises, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Premises, or any part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Premises, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same to the payment of taxes, insurance premiums and other charges against the Premises or in reduction of the indebtedness secured by this Mortgage; and the entering upon and taking possession of the Premises, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any event of default or notice of default hereunder or invalidate any act done in response to such event of default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Premises or the collection, receipt and application of rents, issues or profits, the Mortgagee shall be entitled to exercise every

right provided for in any of the other Loan Documents or by law upon occurrence of any event of default; or

(b) Commence an action to foreclose this Mortgage, appoint a receiver, or specifically enforce any of the covenants hereof; or

(c) Sell the Premises, or any part thereof, or cause the same to be sold, and convey the same to the purchaser thereof, pursuant to applicable law in such case made and provided, and out of the proceeds of such sale retain all of the indebtedness secured by this Mortgage including, without limitation, principal, accrued interest, costs and charges of such sale, the attorneys' fees provided by such applicable law (or in the event of a suit to foreclose by court action, a reasonable attorney's fee), rendering the surplus moneys, if any, to the Mortgagor; provided, that in the event of public sale, such property may, at the option of the Mortgagee, be sold in one parcel or in several parcels as the Mortgagee, in its sole discretion, may elect; or

(d) Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of Illinois and any notice of sale disposition or other intended action by the Mortgagee, sent to the Mortgagor at the address specified in Section 5.14 hereof, at least five days prior to such action, shall constitute reasonable notice to the Mortgagor.

Section 4.3. Foreclosure; Expense of Litigation. When the indebtedness secured by this Mortgage, or any part thereof, shall become due, whether by acceleration or otherwise, the Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof. In any suit to foreclose the lien hereof or enforce any other remedy of the Mortgagee under this Mortgage or the Note, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree, all reasonable expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee for reasonable attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' 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 assurances with respect to title as the Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had 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 Section mentioned, and such reasonable expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by the Mortgagee in any litigation or proceeding affecting this Mortgage, any of the other Loan Documents or the Premises, including probate

and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be so much additional indebtedness secured by this Mortgage, immediately due and payable, with interest thereon at a rate of two percent (2%) above the then prevailing interest rate on the Note. In the event of any foreclosure sale of the Premises, the same may be sold in one or more parcels. The Mortgagee may be the purchaser at any foreclosure sale of the Premises or any part thereof.

Section 4.4. Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the Premises or of the exercise of any other remedy hereunder or under any of the other Loan Documents shall be distributed and applied in the following order of priority: first, on account of all reasonable costs and expenses incident to the foreclosure proceedings or such other remedy, including all such items as are mentioned in Section 4.3 hereof; second, all other items which under the terms hereof constitute indebtedness secured by this Mortgage additional to that evidenced by the Note, with interest thereon as therein provided; third, all principal and interest remaining unpaid on the Note; and fourth, any surplus to the Mortgagor, its successors or assigns, as their rights may appear.

Section 4.5. Appointment of Receiver. Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises or any portion thereof. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of the Mortgagor at the time of application for such receiver and without regard to the then value of the Premises and the Mortgagee or any holder of the Note may be appointed as such receiver. Such receiver shall have power (i) to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit, as well as during any further times when the Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (ii) to extend or modify any then existing leases and to make new leases, which extension, modificiations 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 indebtedness secured by this Mortgage and beyond the date of 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 the Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding discharge of the indebtedness secured by this Mortgage, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; and (iii) 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 in part of the indebtedness secured by this Mortgage, or found due or secured by any judgment 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.

Section 4.6. Insurance after Foreclosure. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in repairing and restoring the Premises, shall be used to pay the amount due in accordance with any judgment of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct.

Section 4.7. Remedies Not Exclusive; No Waiver of Remedies.

(a) The Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage or under any of the other Loan Documents or other agreement or any laws now or hereafter in force, notwithstanding that some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or other powers herein contained, shall prejudice or in any manner affect the Mortgagee's right to realize upon or enforce any other security now or hereafter held by the Mortgagee, it being agreed that the Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to the Mortgagee or to which it may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as it may be deemed expedient by the Mortgagee and the Mortgagee may pursue inconsistent remedies. Failure by the Mortgagee to exercise any right which it may exercise hereunder, or the acceptance by the Mortgagee of partial payments, shall not be deemed a waiver by the Mortgagee of any default or of its right to exercise any such rights thereafter.

(b) In the event the Mortgagee at any time holds additional security for any of the indebtedness secured by this Mortgage, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently with exercising remedies under this Mortgage or after a sale is made hereunder.

Section 4.8. No Mortgagee in Possession. Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession.

Section 4.9. Waiver of Certain Rights. The Mortgagor shall not and will not apply for or avail itself of any appraisement, 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 or foreclosure of this Mortgage, but rather waives the benefit of such laws. The 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 and all persons beneficially interested therein and each and every person acquiring any interest in or title to the Premises subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by the provisions of the laws of the State in which the Premises are located.

Section 4.10 Mortgagee's Use of Deposits. With respect to any deposits made with or held by the Mortgagee or any depositary pursuant to any of the provisions of this Mortgage, in the event of a default in any of the provisions contained in this Mortgage or in the Note or any of the other Loan Documents, the Mortgagee may, at its option, without being required to do so, apply any moneys or securities which constitute such deposits on any of the obligations under this Mortgage, the Note or the other Loan Documents, 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 the Mortgagor. Such deposits are hereby pledged as additional security for the prompt payment of the Note and any other indebtedness hereunder and shall be held to be irrevocably applied by the depositary for the purposes for which made hereunder and shall not be subject to the direction or control of the Mortgagor.

ARTICLE V

MISCELLANEOUS

Section 5.1. Recitals. The recitals hereto are hereby incorporated into and made a part of this Mortgage.

Section 5.2. Time of Essence. Time is of the essence of this Mortgage and of each and every provision hereof.

Section 5.3. Usury. The Mortgagor hereby represents and covenants that the proceeds of the Note will be used for the purposes specified in subparagraph 1(c) contained in Paragraph 6404

of Chapter 17 of the Illinois Revised Statutes (1987), and that the indebtedness secured hereby constitutes a "business loan" within the meaning of that Paragraph.

Section 5.4. Lien for Service Charges and Expenses. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures (in addition to any loan proceeds disbursed from time to time) the payment of the origination fees payable under Section 2.2 of the Loan Agreement and any and all reasonable service charges, liquidated damages, expense and advances due to or incurred by the Mortgagee in connection with the loan to be secured hereby, all in accordance with the application and any loan commitment issued in connection with this transaction.

Section 5.5. Subrogation. To the extent that proceeds of the indebtedness secured by this Mortgage are used to pay any outstanding lien, charge or prior encumbrance against the Premises, the Mortgagee shall be subrogated to any and all rights and liens owned by any owner or holder of such outstanding liens, charges and prior encumbrances, and shall have the benefit of the priority thereof, irrespective of whether said liens, charges or encumbrances are released.

Section 5.6 Recording. The Mortgagor shall cause this Mortgage and all other documents securing the indebtedness secured by this Mortgage at all times to be properly filed and/or recorded at the Mortgagor's own expense and in such manner and in such places as may be required by law in order to fully preserve and protect the rights of the Mortgagee.

Section 5.7. Further Assurances. The Mortgagor will do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or advisable, in the judgment of the Mortgagee, for the better assuring, conveying, mortgaging, assigning and confirming unto the Mortgagee all property mortgaged hereby or property intended so to be, whether now owned by the Mortgagor or hereafter acquired.

Section 5.8. No Defenses. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Note.

Section 5.9. Invalidity of Certain Provisions. If the lien of this Mortgage is invalid or unenforceable as to any part of the indebtedness secured by this Mortgage, or if such lien is invalid or unenforceable as to any part of the Premises, the unsecured or partially secured portion of the indebtedness secured by this Mortgage shall be completely paid prior to the payment of the remaining and secured or partially secured portion thereof, and all payments made on the indebtedness secured by this Mortgage, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and

applied to the full payment of that portion thereof which is not secured or fully secured by the lien of this Mortgage.

Section 5.10. Illegality of Terms. Nothing herein or in the Note contained nor any transaction related thereto shall be construed or shall so operate either presently or prospectively, (i) to require the Mortgagor to pay interest at a rate greater than is now lawful in such case to contract for, but shall require payment of interest only to the extent of such lawful rate, or (ii) to require the Mortgagor to make any payment or do any act contrary to law; and if any provision herein contained shall otherwise so operate to invalidate this Mortgage, in whole or in part, then such provision only shall be held for naught as though not herein contained and the remainder of this Mortgage shall remain operative and in full force and effect, and the Mortgagee shall be given a reasonable time to correct any such error.

Section 5.11. Mortgagee's Right to Deal with Transferee. In the event of the voluntary sale, or transfer by operation of law, or otherwise, of all or any part of the Premises, the Mortgagee is hereby authorized and empowered to deal with such vendee or transferee with reference to the Premises, or the debt secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might with the Mortgagor, without in any way releasing or discharging the Mortgagor from the covenants and/or undertakings hereunder, specifically including Section 2.13(c) hereof, and without the Mortgagee waiving its rights to accelerate the Note as set forth in Section 2.13(c).

Section 5.12. Releases. The Mortgagee, without notice, and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens, may release any part of the Premises, or any person liable for any indebtedness secured hereby, without in any way affecting the liability of any party to the Note, this Mortgage, the Guaranty, or any other guaranty given as additional security for the indebtedness secured hereby and without in any way affecting the priority of the lien of this Mortgage, and may agree with any party obligated on said indebtedness to extend the time for payment of any part or all of the indebtedness secured hereby. Such agreement shall not, in any way, release or impair the lien created by this Mortgage, or reduce or modify the liability, if any, of any person or entity personally obligated for the indebtedness secured hereby, but shall extend the lien hereof as against the title of all parties having any interest in said security which interest is subject to the indebtedness secured by this Mortgage.

Section 5.13. Construction Mortgage. This Mortage secures an obligation incurred for the construction of an improvement on the land mortgaged herein, and constitutes a "construction mortgage" within the meaning of Section 9-313(1)(c) of the Illinois Uniform Commercial Code.

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Section 5.14. Giving of Notice. All communications provided for herein shall be in writing and shall be deemed to be given or made when served personally or two business days after deposit in the United States mail, registered or certified, return receipt requested, postage prepaid, addressed as follows:

If to the Mortgagor: Luther Village Limited Partnership
c/o The Charles H. Shaw Company
676 St. Clair
Chicago, Illinois 60611

Attention: Dennis J. Stine

with a copy to:

North American Taisei Corporation
211 West Wacker Drive
Suite 1250
Chicago, Illinois 60606

Attention: Hidenori Yamaguchi

and to:

Skadden, Arps, Slate, Meagher & Flom
333 West Wacker Drive
Suite 2100
Chicago, Illinois 60606

Attention: Marian P. Wexler, Esq.

If to the Mortgagee: The Northern Trust Company
50 South LaSalle Street
Chicago, Illinois 60675

Attention: Commercial Real Estate Division

or to such party at such other address as such party may designate by notice duly given in accordance with this Section to the other party.

Section 5.15. Binding Effect. This Mortgage and each and every convenant, agreement and other provision hereof shall be binding upon the Mortgagor and its successors and assigns (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein), and shall inure to the benefit of the Mortgagee and its successors and assigns. Wherever herein the Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note, whether so expressed or not; and each such holder of the Note shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and

hereunder, and may enforce all and every of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such from time to time holder were herein by name specifically granted such rights, privileges, powers, options and benefits and was herein by name designated the Mortgagee.

Section 5.16. Covenants to Run with the Land. All the covenants hereof shall run with the land.

Section 5.17. Governing Law; Severability; Modification. This Mortgage shall be governed by the laws of the State of Illinois. In the event that any provision or clause of this Mortgage conflicts with applicable laws, such conflicts shall not affect other provisions hereof which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

Section 5.18. Meanings. Wherever in this Mortgage 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.

Section 5.19. Captions. The captions or headings at the beginning of each Article and Section hereof are for the convenience of the parties and are not a part of this Mortgage.

Section 5.20. Approval or Consent of Mortgagee. Wherever in this Mortgage provision is made for the approval or consent of the Mortgagee, or that any matter is to be to the Mortgagee's satisfaction, or that any matter is to be as estimated or determined by the Mortgagee, or the like, unless specifically stated to the contrary, such approval, consent, satisfaction, estimate or determination or the like shall be made, given or determined by the Mortgagee pursuant to a reasonable application of judgment in accordance with institutional lending practice and commercial custom in connection with major real estate loans.

Section 5.21. Limited Recourse Obligation. Subject to the exceptions and qualifications described below, the Mortgagor shall not be personally liable for the payment of the indebtedness evidenced by or created or arising under this Mortgage and any judgment or decree in any action brought to enforce the obligation of the Mortgagor to pay such indebtedness shall be enforceable against the Mortgagor only to the extent of its interest in the property encumbered by this Mortgage and/or the other Loan Documents and any such judgment or decree shall not be subject to execution upon or be a lien upon the assets of the Mortgagor other than its interest in such property. The foregoing limitation of personal liability shall be subject to the following exceptions and qualifications:

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(a) the Mortgagor shall be fully and personally liable for the following:

(i) Fraud, misrepresentation or waste;

(ii) Retention by the Mortgagor of any rental income or other income arising with respect to any property encumbered by this Mortgage and/or the other Loan Documents which, under the terms thereof, should have been paid to the Mortgagee;

(iii) All insurance proceeds, condemnation awards or other similar funds or payments attributable to any property encumbered by this Mortgage and/or the other Loan Documents which, under the terms thereof, should have been paid to the Mortgagee; and

(iv) After an event of default under any of the Loan Documents has occurred and any applicable grace period has expired, the removal, demolition, damage or destruction of any property encumbered by this Mortgage and/or the other Loan Documents which is neither consented to in writing by the Mortgagee nor is fully compensated for by insurance proceeds or condemnation awards; and

(v) Any liability of the Mortgagor arising under Section 6.1(u) of the Loan Agreement or Section 2.15(b) hereof.

(b) Nothing contained in this Section 5.21 shall affect or limit the ability of the Mortgagee to enforce any of its rights or remedies with respect to any property encumbered by this Mortgage and/or the other Loan Documents.

(c) Nothing contained in this Section 5.21 shall affect or limit the rights of the Mortgagee to proceed against any person or entity, including the Mortgagor or any partner in the Mortgagor, with respect to the enforcement of any guarantees of payment or guarantees of performance and completion or other similar rights.

(d) The limitation contained in this Section 5.21 shall be void and completely ineffective as to the Mortgagor and any and all property and assets of the Mortgagor (but not as to its

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partners) in the event that the Mortgagor shall voluntarily file any petition or commence any case or proceeding under any provision or chapter of the Federal Bankruptcy Act, the Federal Bankruptcy Code, or any other federal or state law relating to insolvency, bankruptcy or reorganization, or the entry of any order of relief under the Federal Bankruptcy Code with respect to the Mortgagor.

IN WITNESS WHEREOF, the Mortgagor has caused this instrument to be executed as of the date first above written.

LUTHER VILLAGE LIMITED PARTNERSHIP

By CHS Arlington Associates Limited Partnership, General Partner

By CHS Arlington, Inc., General Partner

By ______________________
Title: ______

(SEAL)

Attest: ______________________
Title: ______

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STATE OF ILLINOIS)
)
COUNTY OF COOK)

8th The foregoing instrument was acknowledged before me this day of December, 1989, by Charles H. Shaw and Joel Weisman, President and Secretary, respectively, of CHS Arlington, Inc., a Delaware corporation, general partner of CHS Arlington Associates Limited Partnership, an Illinois limited partnership, general partner of Luther Village Limited Partnership, an Illinois limited partnership, on behalf of said corporation and said limited partnerships.

Glenda Boecher
Notary Public

" OFFICIAL SEAL "
GLENDA BOECHER
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 1/25/93

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EXHIBIT A

LEGAL DESCRIPTION OF THE PREMISES

Parcel 1:

That part of the West half of the Southeast quarter of Section 19, Township 42 North, Range 11 East of the Third Principal Meridian in Cook County, Illinois, described as follows: Commencing at the Southwest corner of the West 1/2 of the Southeast 1/4 of the said section; thence North 0°00'00" East along the West line of the West 1/2 of the Southeast 1/4 of said section, 503.24 feet; thence East along a line normal to the last described, course, 40.00 feet to the point of beginning on the East line of Kennicott Boulevard; thence North 0°00'00" East along said East line of Kennicott Boulevard, 2100.06 feet to the South line of Thomas Street; thence North 89°59'08" East along said South line of Thomas Street, 1247.28 feet to the West line of Ridge Avenue; thence South 0°00'06" West along said West line of Ridge Avenue, 2015.92 feet; thence North 89°58'50" West, 215.63 feet, thence Northerly along a curve having a chord bearing of North 5°31'21" West with a chord length of 27.57 feet, a radius of 721.76 feet, and an arc distance of 27.57 feet; thence South 85°34'18" West, 115.45 feet; thence Westerly along a curve having a chord bearing of North 80°38'25" West, with a chord length of 149.22 feet, a radius of 313.06 feet, and an arc distance of 150.67 feet; thence North 66°51'09" West, 72.69 feet; thence Westerly along a curve having a chord bearing of North 89°12'45" West with a chord length of 166.42 feet, a radius of 218.72 feet, and an arc distance of 170.72 feet; thence South 68°25'39" West, 86.17 feet; thence Westerly along a curve having a chord bearing of South 76°52'07" West with a chord length of 104.40 feet, a radius of 355.60 feet, and an arc distance of 104.78 feet; thence South 85°18'34" West, 41.44 feet; thence Westerly along a curve having a chord bearing of South 73°10'04" West with a chord length of 110.89 feet, a radius of 263.62 feet, and an arc distance of 111.73 feet; thence South 61°01'35" West, 81.25 feet; thence Westerly along a curve having a chord bearing of South 75°30'48" West with a chord length of 111.59 feet, a radius of 223.03 feet, and an arc distance of 112.78 feet; thence North 90°00'00" West, 25.00 feet to the point of beginning, containing 57.27 acres, more or less.

Excepting therefrom the following described property:

That part of the West Half of the Southeast quarter of Section 19, Township 42 North, Range 11 East of the Third Principal Meridian in Cook County, Illinois, described as follows: Commencing at the Southwest corner of said west 1/2 of the Southeast 1/4; thence North 0°00'00" East along the West line of said West 1/2 of the Southeast 1/4, 32.99 feet; thence East along a line normal to the last described course, 40.00 feet to the East line of Kennicott Boulevard; thence North 0°00'00" East along said East line of Kennicott Boulevard, 2570.30 feet to the South line of Thomas Street; thence North 89°59'08" East along said South line of Thomas Street, 1247.28 feet to the West line of Ridge Avenue; thence South

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0°00'06" West along said West line of Ridge Avenue, 1845.02 feet; thence North 89°59'54" West, 265.52 feet to the point of beginning; thence North 44°59'57" West, 131.76 feet; thence North 0°00'03" East, 22.50 feet; thence North 45°00'03" East 106.09 feet; thence North 44°59'57" West, 72.00 feet; thence South 45°00'03" West, 112.93 feet; thence North 89°59'57" West, 12.83 feet; thence North 44°59'57" West, 114.10 feet; thence South 45°00'03" West, 72.00 feet; thence South 44°59'57" East, 114.10 feet; thence South 0°00'03" West, 12.83 feet; thence South 45°00'03" West, 138.60 feet; thence South 44°59'57" East, 72.00 feet; thence North 45°00'03" East, 129.64 feet; thence South 89°59'57" East, 25.50 feet; thence South 44°59'57" East, 129.64 feet; thence Nortn 45°00'03" East, 72.00 feet to the point of beginning, containing 1.021 acres, more or less; and EXCEPT

That part of the West half of the Southeast quarter of Section 19, Township 42 North, Range 11 East of the Third Principal Meridian in Cook County, Illinois, described as follows: Commencing at the Southwest corner of said West 1/2 of the Southeast 1/4; thence North 0°00'00" East along the West line of said West 1/2 of the Southeast 1/4, 32.99 feet; thence East along a line normal to the last described course 40.00 feet to the East line of Kennicott Boulevard; thence North 0°00'00" East along said East line of Kennicott Boulevard, 225.62 feet; thence South 90°00'00" East, 265.52 feet to the point of beginning; thence North 45°00'03" East, 131.76 feet; thence North 0°00'03" East, 22.50 feet; thence North 44°59'57" West, 106.09 feet; thence North 45°00'03" East, 72.00 feet; thence South 44°59'57" East, 112.93 feet; thence South 89°59'57" East, 12.83 feet; thence North 45°00'03" East 114.10 feet; thence South 44°59'57" East, 72.00 feet; thence South 45°00'03" West, 114.10 feet; thence South 0°00'03" West, 12.83 feet; thence South 44°59'57" East, 138.60 feet; thence South 45°00'03" West, 72.00 feet; thence North 44°59'57" West, 129.64 feet, thence North 89°59'57" West, 25.50 feet; thence South 45°00'03" West, 129.64 feet; thence North 44°59'57" West, 72.00 feet to the point of beginning, containing 1.021 acres, more or less.

Parcel 2:

Easement created by Grant of Easements and Covenant Agreement dated November 8, 1989, between and among Lutheran Home for the Aged, Inc., Luther Village Limited Partnership and CHS Arlington Associates Limited Partnership over the following described property:

THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 19, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART THEREOF LYING SOUTH OF THE NORTH LINE OF A STRIP OF LAND 8 FEET WIDE, TAKEN BY JUDGMENT ORDER, CASE NUMBER 62CO 5215, FILED IN THE OFFICE OF THE REGISTRAR OF TITLES ON AUGUST 1, 1966, AS DOCUMENT LR2284261 AND EXCEPT THAT PART DEDICATED FOR KENNICOTT AVENUE, THOMAS STREET AND RIDGE AVENUE BY PLAT OF DEDICATION RECORDED OCTOBER 26, 1967 AS DOCUMENT 20303670), IN COOK COUNTY, ILLINOIS.

EXCEPT FOR:

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE SAID SECTION; THENCE NORTH 0°00'00" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION, 503.24 FEET; THENCE EAST ALONG A LINE NORMAL TO THE LAST DESCRIBED, COURSE, 40.00 FEET TO THE POINT OF BEGINNING ON THE EAST LINE OF KENNICOTT BOULEVARD; THENCE NORTH 0°00'00" EAST ALONG SAID EAST LINE OF KENNICOTT BOULEVARD, 2100.06 FEET TO THE SOUTH LINE OF THOMAS STREET; THENCE NORTH 89°59'08" EAST ALONG SAID SOUTH LINE OF THOMAS STREET, 1247.28 FEET TO THE WEST LINE OF RIDGE AVENUE; THENCE SOUTH 0°00'06" WEST ALONG SAID WEST LINE OF RIDGE AVENUE, 2015.92 FEET; THENCE NORTH 89°58'50" WEST, 215.63 FEET, THENCE NORTHERLY ALONG A CURVE HAVING A CHORD BEARING OF NORTH 5°31'21" WEST WITH A CHORD LENGTH OF 27.57 FEET, A RADIUS OF 721.76 FEET, AND AN ARC DISTANCE OF 27.57 FEET; THENCE SOUTH 85°34'18" WEST, 115.45 FEET; THENCE WESTERLY ALONG A CURVE HAVING A CHORD BEARING OF NORTH 80°38'25" WEST, WITH A CHORD LENGTH OF 149.22 FEET, A RADIUS OF 313.06 FEET, AND AN ARC DISTANCE OF 150.67 FEET; THENCE NORTH 66°51'09" WEST, 72.69 FEET; THENCE WESTERLY ALONG A CURVE HAVING A CHORD BEARING OF NORTH 89°12'45" WEST WITH A CHORD LENGTH OF 166.42 FEET, A RADIUS OF 218.72 FEET, AND AN ARC DISTANCE OF 170.72 FEET; THENCE SOUTH 68°25'39" WEST, 86.17 FEET; THENCE WESTERLY ALONG A CURVE HAVING A CHORD BEARING OF SOUTH 76°52'07" WEST WITH A CHORD LENGTH

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OF 104.40 FEET, A RADIUS OF 355.60 FEET, AND AN ARC DISTANCE OF 104.78 FEET; THENCE SOUTH 85°18'34" WEST, 41.44 FEET; THENCE WESTERLY ALONG A CURVE HAVING A CHORD BEARING OF SOUTH 73°10'04" WEST WITH A CHORD LENGTH OF 110.89 FEET, A RADIUS OF 263.62 FEET, AND AN ARC DISTANCE OF 111.73 FEET; THENCE SOUTH 61°01'35" WEST, 81.25 FEET; THENCE WESTERLY ALONG A CURVE HAVING A CHORD BEARING OF SOUTH 75°30'48" WEST WITH A CHORD LENGTH OF 111.59 FEET, A RADIUS OF 223.03 FEET, AND AN ARC DISTANCE OF 112.78 FEET; THENCE NORTH 90°00'00" WEST, 25.00 FEET TO THE POINT OF BEGINNING, CONTAINING 57.27 ACRES, MORE OR LESS.

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EXHIBIT B

SCHEDULE OF LEASES

Lessee	Lessor	Date of Lease	Premises

NONE

8 9 5 4 3 9 6 2

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