

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (the "Mortgage") is made and entered into as of the 27<sup>th</sup> day of July, 1990 by ONE SCHAUMBURG PLACE LIMITED PARTNERSHIP, a Delaware limited partnership (the "Beneficiary") and by LASALLE NATIONAL TRUST, N.A., a national banking association, not personally but as successor trustee to LaSalle National Bank, a national banking association, under Trust Agreement dated October 1, 1983 and known as Trust No. 107166 (the "Trust") (Beneficiary and Trust are herein individually and jointly referred to as "Mortgagor"), for the benefit of CONTINENTAL BANK N.A., a national banking association with its principal place of business at 231 South LaSalle Street, Chicago, Illinois 60697. (Mortgage No. 147777 TRAN 8633 07/31/90 16:37:00 \$57.7

WITNESSETH THAT:

COOK COUNTY RECORDS  
#2696 + F \*-90-369565

WHEREAS, Trust has executed and delivered a note bearing even date herewith in the original principal amount of Forty-Four Million, Five Hundred Thousand and No/100 Dollars (\$44,500,000.00) made payable to the order of Mortgagee, as guaranteed by a guaranty of payment ("Guaranty of Payment") of even date herewith executed by a certain payment guarantor (sometimes referred to herein as "Payment Guarantor"), in and by which Mortgagor promises to pay said principal sum (or so much thereof as may be outstanding at the maturity thereof) on or before the Maturity Date, as provided therein, together with interest on the balance of principal from time to time outstanding and unpaid at the rate and in the manner provided in such note (said note, as amended from time to time, and any and all extensions, renewals and increases thereof and any notes issued in replacement or substitution therefor being herein referred to as the "A-Note"); the final Maturity Date of the A-Note is January 30, 1994 (or earlier as set forth therein), as such date may be extended in accordance with the A-Note and the Loan Agreement (as hereinafter defined) or as otherwise may be extended as permitted by Mortgage; and

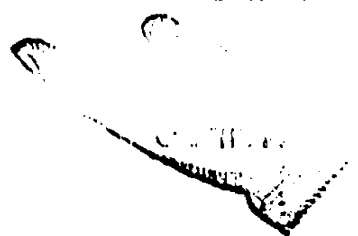
WHEREAS, Trust has executed and delivered a note bearing even date herewith in the original principal amount of Sixty Two Million and No/100 Dollars (\$62,000,000.00) made payable to the order of Mortgagee and by which Mortgagor promises to pay said principal sum (or so much thereof as may be outstanding at the maturity thereof) on or before the Maturity Date, as provided therein, together with interest on the balance of principal from time to time outstanding and unpaid at the rate and in the manner provided in such note (said note, as amended from time to time, and any and all extensions, renewals and increases thereof and any notes issued in replacement or substitution therefor being herein referred to as

This document prepared by and after recording should be returned to:  
Barack, Ferrazzano, Kirschbaum & Perlman  
333 West Wacker Drive, Suite 2700  
Chicago, Illinois 60606  
Attn: Jeffrey B. Katz, Esq.

Permanent Index  
No. 07-13-401-002  
Property Address:  
One Schaumburg Place  
Schaumburg, Illinois

CINB79d.je7  
3 - 7/25/90

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-90-369565

the "B-Note"); the final Maturity Date of the B-Note is January 30, 1994 (or earlier as set forth therein), as such date may be extended in accordance with the B-Note and the Loan Agreement or as otherwise may be extended as permitted by Mortgagee; (the A-Note and the B-Note are herein together referred to as the "Note"); and

WHEREAS, the repayment of a portion of interest and the repayment of other costs and expenses under the B-Note is guaranteed by a carry guaranty ("Carry Guaranty") of even date herewith executed by Payment Guarantor and the Note is also guaranteed by a guaranty of completion ("Completion Guaranty") of even date herewith executed by two completion guarantors (individually, jointly and severally referred to herein as "Completion Guarantor"); and

WHEREAS, Trust holds legal title to the Real Property, as hereinafter defined, Beneficiary owns and holds all of the beneficial interest and power of direction ("Beneficial Interest") in the Trust and Mortgagor holds legal title to certain of the other Mortgaged Premises, as hereinafter defined; and

WHEREAS, the Note evidences a construction loan (the "Loan") from Mortgagee to Mortgagor which is to be advanced under the terms of a Construction Loan Agreement bearing even date herewith between Mortgagor and Mortgagee (said Construction Loan Agreement, as amended from time to time, being herein referred to as the "Loan Agreement"); and

WHEREAS, Mortgagee is unwilling to make the Loan evidenced by the Note unless, among other things, Mortgagor shall execute and deliver this Mortgage to Mortgagee for the purpose of securing same; and

NOW, THEREFORE, Mortgagor, in order to induce Mortgagee to make the Loan evidenced by the Note and in consideration of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, does by these presents, grant a lien against and security interest in, and grant, bargain, sell, convey, mortgage, assign and pledge unto Mortgagee, its successors and assigns, all and singular the properties, rights, interests and privileges described in the Granting Clauses below and all proceeds thereof (it being mutually agreed that none of said Granting Clauses shall be deemed to limit or abridge the scope of any other Granting Clause), all of the same being collectively referred to herein as the "Mortgaged Premises" (it being mutually agreed, intended and declared that the Mortgaged Premises shall, so far as permitted by law, be deemed to form a part and parcel of the Real Property described in Granting Clause I and for the purpose of this instrument to be real estate and covered by this Mortgage; and as to the balance of the Mortgaged Premises and all proceeds thereof, this Mortgage is hereby deemed to be as well a security agreement for the purpose of creating hereby a security interest in said property and the proceeds thereof, which is hereby granted by Mortgagor as debtor to Mortgagee as secured party securing the "indebtedness hereby secured," as hereinafter defined);

## GRANTING CLAUSE I

That certain real estate lying in Cook County, Illinois, more particularly described in Exhibit A attached hereto and made a part hereof (the "Real Property").

## GRANTING CLAUSE II

All buildings and improvements of every kind and description now or hereafter erected or placed on the Real Property or any part thereof and now or hereafter owned, legally, equitably or beneficially, by Mortgagor and all materials intended for construction, reconstruction, alteration or repair of such buildings and improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Mortgaged Premises immediately upon the delivery thereof to the Real Property and all fixtures, machinery, apparatus, equipment, fittings, goods and articles of personal property of every kind and nature whatsoever now or hereafter owned, legally, equitably or beneficially, by Mortgagor, if any, and attached to or contained in or used in connection with the Real Property or any part thereof (including, but not limited to, all machinery, pumps, conduits, motors, fittings, radiators, awnings, shades and screens; all gas, coal, steam, electric, oil and other heating, cooking, power and lighting apparatus and fixtures; all cooling and ventilating apparatus and systems; all boilers, ranges, ovens, refrigerators, appliances and air cooling and air conditioning apparatus; all plumbing, refrigerating, extinguishing, incinerating and sprinkler equipment and fixtures; all elevators and escalators; all communication equipment; all other machinery and other equipment of every kind and nature and all fixtures and appurtenances thereto; and all items of furniture, furnishings, equipment and personal property used or useful in the operation of the Real Property); and all renewals or replacements thereof or articles in substitution therefor or accessions thereto, whether or not the same are or shall be attached in any manner to any building or buildings located on the Real Property.

## GRANTING CLAUSE III

All right, title and interest (legal, equitable or beneficial) of Mortgagor now owned or hereafter acquired in, to and under (a) that certain Lease dated January 9, 1989 by and between PharMor, Inc. and Trust, as amended; that certain Lease dated June 22, 1989 by and between Plitt Theatres, Inc. and Trust, as amended; that certain Lease dated December 5, 1989 by and between Children's Palace, Inc. and Trust; that certain Lease dated November 13, 1989 by and between Montgomery Ward & Co., Incorporated and Trust; and that certain Lease dated May 14, 1990, by and between Highland Superstores, Inc. and Trust (collectively, the "Existing Anchor Leases"), any other leases, subleases, undertakings to lease, and undertakings to sublease (including, without limitation, all lease and sublease renewals) and all other agreements for use or occupancy, in existence from time to time with respect to the Real Property, improvements thereon, or any part thereof (the "Additional Leases") (collectively, the Existing Anchor Leases and the Additional Leases, are referred to as the "Leases"), and (b) all and singular the estates, tenements, hereditaments, privileges, easements, franchises and appurtenances belonging or in any ways appertaining to the Real Property and every part thereof

(including, without limitation, water and riparian rights, if any), and the reversions, avails, rents, redemption proceeds, issues, revenues and profits thereof (including, without limitation, all interest of Mortgagor in all avails, rents, redemption-proceeds, issues, profits, revenues, royalties, bonuses, and other rights and benefits due, payable or accruing (including, without limitation, all escrows or other deposits of money as advanced for taxes, rent, insurance, security or reserves for fixtures, furniture and equipment and all such deposits of money advanced for rent or security in connection with any of the Leases), on account of or from the Real Property or any part thereof or under any and all of the Leases, (including, without limitation, during the period, if any, allowed by law and this Mortgage for the redemption of said property after any foreclosure or other sale), together with the right, but not the obligation, to collect, receive and receipt for all such rents and other rights and benefits and apply them to the indebtedness hereby secured and to demand, sue for and recover the same when due or payable.)

#### GRANTING CLAUSE IV

All right, title, and interest (legal, equitable or beneficial) of Mortgagor in, under, or pursuant to any and all contracts, agreements, or options for the purchase, lease or sale of the Mortgaged Premises or any part thereof or interest therein (including, without limitation, proceeds from the Hotel Parcel Sale Amount and the Office Parcel Sale Amount, each as defined in the Loan Agreement, if any), whether now existing or hereafter arising, and all proceeds thereof or of any other disposition of any or all of the Mortgaged Premises, or any interest thereon, including, without limitation, the right, but not the obligation, to collect, receive, receipt for, and give acquittance for all such proceeds and to apply the same to the reduction of the indebtedness hereby secured and to demand, sue for and recover the same when due or payable. Nothing herein contained shall be construed as imposing any obligation on Mortgagee in respect of any of the foregoing or as subordinating the lien hereof to any of the foregoing or as constituting a consent by Mortgagee to any lease, sale, conveyance, encumbrance or other disposition of any or all of the Mortgaged Premises in violation of the terms of this Mortgage.

#### GRANTING CLAUSE V

All judgments, awards of damages, settlements and other compensation hereafter made to or in favor of Mortgagor resulting from condemnation proceedings or the taking of the Real Property or any part thereof or any building or other improvement now or at any time hereafter located thereon or any easement or other appurtenance thereto or any other part or portion of the Mortgaged Premises under the power of eminent domain, or any similar power or right (including, without limitation, any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for the payment thereof) ("Condemnation"), whether permanent or temporary, or for any damage (whether caused by such taking or otherwise) to the Real Property or any part thereof or the buildings or improvements thereof or any part thereof, or to any rights appurtenant thereto or to any other part or portion of the Mortgaged Premises, including, without limitation, severance

and consequential damage, and any award for change of grade of streets (collectively, "Condemnation Awards").

#### GRANTING CLAUSE VI

All property and rights (legal, equitable and beneficial) of Mortgagor, if any, which are by the express provisions of this Mortgage required to be subjected to the lien hereof and any additional such property or rights of Mortgagor that may from time to time hereafter, by installation or a writing of any kind, be subjected to the lien hereof by Mortgagor or by anyone on Mortgagor's behalf.

#### GRANTING CLAUSE VII

All rights in and to all common areas and access roads on properties adjacent to the Real Property heretofore or hereafter owned, legally, beneficially or equitably, by Mortgagor and granted to Mortgagor and any after acquired title or reversion in and to the beds of any ways, roads, streets, avenues and alleys adjoining the Real Property or any part thereof.

#### GRANTING CLAUSE VIII

All business permits, business licenses and certificates of occupancy or operation now or hereafter owned, legally, beneficially or equitably, by Mortgagor and issued in connection with any of the Mortgaged Premises.

#### GRANTING CLAUSE IX

All of Beneficiary's beneficial interest and power of direction under and with respect to the Trust.

#### GRANTING CLAUSE X

All insurance policies (and loss proceeds payable thereunder) owned legally, beneficially or equitably, by Mortgagor and relating in any respect to the Mortgaged Premises or any part thereof or to any activities conducted on or in connection with the Mortgaged Premises or any part thereof, including, without limitation, any and all insurance policies which Mortgagor is required by the terms of this Mortgage to obtain and maintain.

#### GRANTING CLAUSE XI

All of the Mortgagor's existing and after acquired or created accounts, accounts receivable, contract rights, general intangibles, judgments, notes, drafts, acceptances, instruments, chattel paper, machinery, equipment, leases, trademarks and trade names, service marks, franchises, licenses, business permits, governmental authorizations and approvals, goodwill, books, records, insurance policies, return insurance premiums, furniture, fixtures, inventory, merchandise, goods, finished goods, returned merchandise and goods, work in progress, deposits, warranties, parts, supplies, raw materials and all other personal property of every kind, nature or description in connection with the Mortgaged Premises.

TO HAVE AND TO HOLD the Mortgaged Premises and the properties, rights and privileges hereby granted, bargained, sold, conveyed, mortgaged, pledged and assigned, and the properties in which a security interest is granted or intended so to be, unto Mortgagee, its successors and assigns, forever; provided, however, that this Mortgage is executed and delivered upon the express condition that, if the principal of and interest on the Note shall be paid in full and all other indebtedness hereby secured shall be fully paid and performed, then this Mortgage and the estate and rights hereby granted shall (except as otherwise provided herein) cease, terminate and be void and this Mortgage shall be released by Mortgagee upon the written request and at the expense of Mortgagor, otherwise to remain in full force and effect.

This Mortgage is made and given to secure and shall secure (a) the prompt payment when due and at all times thereafter of the principal of, Interest (as defined in the Note), Default Interest (as defined in the Note), and all other amounts due or indebtedness evidenced by both the A-Note and the B-Note; (b) the observance and performance of all covenants and agreements of Mortgagor contained herein and in the Note; (c) the observance and performance of all covenants and agreements of Mortgagor and any other person or entity, (other than Mortgagee) contained in the Loan Agreement or any of the other Security Instruments (as defined in the Note); and (d) prompt payment when due and at all times thereafter of all other indebtedness, obligations, liabilities, costs and expenses which this Mortgage by any of its terms secures (including, without limitation, any and all costs, reasonable attorneys' fees and other reasonable expenses of whatever kind incurred by Mortgagee in connection with (i) obtaining possession of the Mortgaged Premises, (ii) the protection and preservation of the Mortgaged Premises, (iii) the collection of all or any portion of the indebtedness hereby secured, (iv) litigation, after the occurrence of any default or Event of Default (as hereinafter defined in this Mortgage), or in which Mortgagee is involved in accordance with the terms and provisions hereof, in each case involving the Mortgaged Premises or any part thereof, any benefit accruing by virtue of the provisions hereof, or the exercise of any of Mortgagee's rights hereunder, (v) the presentation of any claim in any administrative or other proceeding in which proof of claim is required to be filed by law, (vi) any additional examination of the title to the Mortgaged Premises or any part thereof or continuation of any title insurance policy or escrow regarding or abstract of the Mortgaged Premises or any part thereof which may be required by Mortgagee, (vii) the appointment of a receiver with respect to the Mortgaged Premises, or (viii) taking any steps whatsoever in enforcing this Mortgage, claiming any benefit accruing by virtue of its provisions of exercising any of Mortgagee's rights hereunder). (The Note and the other indebtedness, obligations, liabilities, costs and expenses described in (a), (b), (c), and (d) above are herein collectively referred to as "the indebtedness hereby secured" or "the indebtedness secured hereby"; provided, however, that the indebtedness hereby secured shall in no event exceed Three Hundred Million and no/100 Dollars (\$300,000,000.00)). This Mortgage constitutes a first mortgage lien on the Mortgaged Premises, given to secure both the A-Note and the B-Note, provided that, notwithstanding anything to the contrary contained herein or in any other Security Instrument, in the event of a default (and the expiration of any cure period related thereto under the A-Note or B-Note or any Security Instrument) or an Event of Default, then any

payment or proceeds (the "Post-Default Proceeds") received by Mortgagee which are derived in any way, directly or indirectly, from the Mortgaged Premises or from any foreclosure or collateral sale or otherwise of the Mortgaged Premises or any other source whatsoever (except any payment or proceeds from Payment Guarantor's own funds and expressly designated by Payment Guarantor as a payment under the Guaranty of Payment, which are not in any way derived from the Mortgaged Premises) shall be applied first against the indebtedness evidenced by the B-Note until payment in full of all amounts due and owing under or evidenced by the B-Note and, if any only if, the B-Note and the indebtedness evidenced thereby is paid in full, then remaining Post Default Proceeds, if any, shall be applied to reduce the indebtedness evidenced by the A-Note.

**MORTGAGOR REPRESENTS:** that to the best of its knowledge, Mortgagor has good and marketable title to the Mortgaged Premises, that Mortgagor is lawfully seized and possessed of the Mortgaged Premises, that Mortgagor has the right to convey the Mortgaged Premises, that the Mortgaged Premises are unencumbered by any liens, claims, charges, easements, covenants, restrictions or security interests except for liens or security interests in favor of Mortgagee and easements and other exceptions specified on Exhibit B attached hereto and made a part hereof (the "Permitted Exceptions"). Mortgagor hereby agrees that it shall forever defend the title to the Mortgaged Premises unto Mortgagee against the claims of all persons and entities whomsoever.

**MORTGAGOR FURTHER COVENANTS AND AGREES:**

1. Payment of the Indebtedness. The indebtedness hereby secured will be promptly paid as and when the same becomes due.

2. Further Assurances. Mortgagor shall, at any time and from time to time, upon request by Mortgagee, make, execute and deliver, or cause to be made, executed and delivered, to Mortgagee (and shall pay the costs of preparation and recording thereof) any and all other and further instruments, documents, certificates, agreements, letters, financing statements, assignments, renewal and substitution notes, representations and other writings which may be necessary, in the reasonable opinion of Mortgagee, in order to reaffirm, effectuate, complete, correct, perfect or continue and preserve (subject to Paragraph 16 below) the obligations of Mortgagor under the indebtedness hereby secured and the liens and security interests of Mortgagee to all or any portion of the Mortgaged Premises intended hereby to be conveyed, whether now conveyed, later substituted for or acquired subsequent to the date hereof. Mortgagor shall, upon request by Mortgagee, certify in writing to Mortgagee, or to any proposed assignee of Mortgagee's rights under this Mortgage, the amount of principal and interest then owing on the indebtedness hereby secured and whether or not, to the best of its knowledge after due inquiry, any claims, charges, set-offs or defenses exist against all or any part of the indebtedness hereby secured, within fourteen (14) days after notice is given to Mortgagor.

3. Payment of Taxes. Mortgagor shall pay, before any penalty attaches, all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges, of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed, imposed or charged on or against the

Mortgaged Premises or any part thereof and which, if unpaid, might by law become a lien or charge upon the Mortgaged Premises or any part thereof, and shall, upon written request of Mortgagee, exhibit to Mortgagee official receipts evidencing such payments, except that, unless and until foreclosure, distraint, sale or other similar proceedings shall have been commenced, no such charge or claim need be paid if being contested (except to the extent any full or partial payment shall be required by law), after notice to Mortgagee, by appropriate proceedings which shall operate to prevent the collection thereof or the sale or forfeiture of the Mortgaged Premises or any part thereof to satisfy the same, in good faith and with due diligence and if Mortgagor shall have furnished such security, if any, as may be required in the proceedings and such security or other assurance that Mortgagor has and will continue to have readily available funds on hand, each in form, substance and amount as is acceptable to Mortgagee in its reasonable discretion.

4. Payment of Taxes on Note, Mortgage or Interest of Mortgagee. Mortgagor agrees that, if any tax, assessment or imposition upon this Mortgage or the indebtedness hereby secured or the Note or the interest of Mortgagee in the Mortgaged Premises or upon Mortgagee by reason of or as a holder of any of the foregoing (including, without limitation, corporate privilege, franchise and excise taxes, but excepting therefrom any income tax on interest payments on the principal portion of the indebtedness hereby secured imposed by the United States or any State) is levied, assessed or charged, then, unless all such taxes are paid by Mortgagor as they come due and payable, or Mortgagee is reimbursed for any such sum advanced by Mortgagee, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee, upon thirty (30) days' notice to Mortgagor, notwithstanding anything contained herein or in any law heretofore or hereafter enacted. Mortgagor agrees to exhibit to Mortgagee, upon request, official receipts showing payment of all taxes and charges which Mortgagor is required to pay hereunder.

5. Recordation and Payment of Taxes and Expenses Incident Thereto. Mortgagor will cause this Mortgage, all mortgages or deeds of trust supplemental hereto and any financing statements relating hereto (or any other notice of a lien or security interest reasonably required by Mortgagee) at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law for the recording and filing or for the rerecording and refiling of a mortgage, deed of trust, security interest, assignment or other lien or charge upon the Mortgaged Premises, or any part thereof, in order fully to preserve and protect the rights of Mortgagee hereunder and, without limiting the foregoing, Mortgagor shall pay or reimburse Mortgagee for the payment of any and all taxes, fees or other charges incurred in connection with any such recordation or rerecording, including, without limitation, any documentary stamp tax, intangible tax or tax imposed upon the privilege of having this Mortgage or any instrument issued pursuant hereto recorded.

6. Insurance. Mortgagor shall obtain and maintain the insurance policies required under the Loan Agreement, in accordance with the standards set forth in the Loan Agreement.



7. Tax and Insurance Escrow. After an Event of Default or in the event that the line item for taxes, assessments or insurance premiums is, in the reasonable judgment of Mortgagee, insufficient to pay for such items when they will next become due and payable, and within five (5) days after receipt of the written request of Mortgagee, Mortgagor shall create a fund or reserve for the payment of all insurance premiums, taxes and assessments against or affecting the Mortgaged Premises by paying to Mortgagee, on the first (1st) day of each month, a sum equal to the premiums that will next become due and payable on the hazard insurance policies covering the Mortgaged Premises, or any part thereof, plus taxes and assessments next due on the Mortgaged Premises, or any part thereof, as estimated by Mortgagee, less all sums paid previously to Mortgagee therefor, divided by the number of installment payments to be made before one (1) month prior to the date when such premiums, taxes and assessments will become delinquent, such sums to be held by Mortgagee, at such interest rate as may be mutually agreed to by Mortgagee and Mortgagor or be required by applicable law for the purpose of paying such premiums, taxes and assessments. Any excess reserve shall, at the discretion of Mortgagee, be credited by Mortgagee on subsequent reserve payments or subsequent payments to be made on the Note, and any deficiency shall be paid by Mortgagor to Mortgagee forthwith and in any event before one (1) month prior to the date when such premiums, taxes and assessments shall become delinquent. Transfer of legal title to the Mortgaged Premises shall automatically transfer the interest of Mortgagor in all sums deposited with Mortgagee under the provisions hereof or otherwise.

8. Damage to or Destruction of Mortgaged Premises.

(a) Notice. In case of any material damage to or destruction of the Mortgaged Premises or any part thereof, Mortgagor shall promptly give written notice to Mortgagee, generally describing the nature and extent of such damage or destruction.

(b) Restoration. In case of any damage to or destruction of the Mortgaged Premises, or any part thereof, where the cost to restore, replace or rebuild the Mortgaged Premises is equal to or in excess of Ten Million and No/100 Dollars (\$10,000,000.00) (determined in the reasonable judgment of Mortgagee), Mortgagor shall, at the election of Mortgagee (such election to be made in Mortgagee's sole and absolute discretion) (i) at Mortgagor's sole cost and expense, promptly commence and complete the restoration, replacement or rebuilding of the Mortgaged Premises as nearly as possible to its value, condition and character immediately prior to such damage or destruction, whether or not the insurance proceeds, if any, received on account of such damage or destruction shall be sufficient for the purpose, or (ii) apply the proceeds of insurance to the indebtedness hereby secured in such order or manner as Mortgagee may elect; provided, however, that, if (x) the cost to so restore, replace or rebuild the Mortgaged Premises, in Mortgagee's reasonable judgment, is less than Ten Million and No/100 Dollars (\$10,000,000.00) and (y) all Leases for space equal to or in excess of thirty thousand (30,000) net rentable square feet and fifty percent (50%) of all other Leases are in full force and effect and have not been terminated by reason of such

damage or destruction, or otherwise, Mortgagor shall, at Mortgagor's election, proceed under either (i) or (ii) above.

(c) Adjustment of Loss. In case of loss covered by any insurance policy obtained pursuant to Paragraph 6 hereof, Mortgagor is authorized to proceed with the settlement and adjustment of any claim under such insurance policy, provided that no such settlement or adjustment involving insurance proceeds in excess of, or involving loss or damage to the Mortgaged Premises in excess of, Five Hundred Thousand and No/100 Dollars (\$500,000.00) shall be finally approved by Mortgagor without the prior written consent of Mortgagee. Upon the occurrence of an Event of Default hereunder, however, Mortgagee is hereby authorized either (i) to settle and adjust any claim under each such insurance policy without the consent of Mortgagor, or (ii) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In any case involving loss or damage in excess of Five Hundred Thousand and No/100 Dollars (\$500,000.00), Mortgagee alone is authorized to collect and receipt for any insurance proceeds.

(d) Application of Insurance Proceeds. In the event Mortgagee elects to proceed under Paragraph 8(b)(i) above, net insurance proceeds received by Mortgagee under the provisions of this Mortgage or any instruments supplemental hereto or thereto or under any policy or policies of insurance covering the Mortgaged Premises or any part thereof shall be released by Mortgagee for use in rebuilding, replacing and restoring, for or on behalf of Mortgagor, the Mortgaged Premises to their condition prior to the casualty and any proceeds thereafter remaining shall be applied toward the payment of the amounts owing on account of the indebtedness hereby secured in such order as Mortgagee may elect, whether or not the same may then be due and payable or otherwise adequately secured. In releasing funds for rebuilding, replacing and restoring the Mortgaged Premises, Mortgagee may do all acts necessary to complete such replacement, restoration and rebuilding, including, without limitation, advancing additional funds for that purpose and all such additional funds shall constitute part of the indebtedness hereby secured and shall be payable on demand with interest at the Default Interest Rate, as defined in the Note.

Without limiting the preceding provisions of this subparagraph (d), if insurance proceeds are applied on account of replacement, restoration or rebuilding, such proceeds shall be made available, from time to time, only upon Mortgagee being furnished with satisfactory evidence of the estimated cost of completion of such replacement, rebuilding or restoration thereof and with such architects' certificates, waivers of lien, contractors' sworn statements and other evidence of cost and of payments as Mortgagee may reasonably require and approve, and only if the estimated cost of the work exceeds Five Hundred Thousand and No/100 Dollars (\$500,000.00), with all plans and specifications for such replacement, rebuilding or restoration as Mortgagee may reasonably require and approve.

No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed, from time to time, and, at all times and as a condition to each payment, the undisbursed balance of said proceeds remaining in the hands of Mortgagee, together with any other amounts deposited by Mortgagor with Mortgagee for application against the costs of rebuilding, replacing and restoration, shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens.

9. Litigation; Eminent Domain. Mortgagor hereby represents that it has no knowledge or notice, whether actual or constructive, of any litigation affecting the Mortgaged Premises or any part thereof or interest therein or of any proposal or proposals by any person or persons, including, without limitation, governmental officials, that all or any part of the Mortgaged Premises be taken or damaged under the power of eminent domain or by condemnation. Mortgagor acknowledges that Condemnation Awards have been assigned to Mortgagee, which awards Mortgagee is hereby irrevocably authorized to collect and receive, and to give appropriate receipts and acquittances therefor, and Mortgagee may (i) release such awards for use in rebuilding and restoring, for or on behalf of Mortgagor, the Mortgaged Premises to their condition prior to the taking and any proceeds thereafter remaining shall be applied toward the payment of the amounts owing on account of the indebtedness hereby secured in such order as Mortgagee may elect, or (ii) (x) if the Condemnation occurs prior to the completion of the Construction and Mortgagee reasonably believes that Mortgagor cannot commence and complete the restoration and rebuilding of the Mortgaged Premises and fully complete the Construction, in accordance with the Loan Agreement and before the Final Completion Date, or (y) if the Condemnation occurs after completion of the Construction, and Mortgagee reasonably believes that the cost to complete the restoration and rebuilding of the Mortgaged Premises will exceed Five Hundred Thousand and No/100 Dollars (\$500,000.00), or that such restoration and rebuilding cannot, for any reason, be completed on or prior to the Maturity Date, or if there then exists a default or an Event of Default hereunder or under the Loan Agreement, then in the case of (ii)(x) or (ii)(y), Mortgagee may apply such awards to the indebtedness hereby secured, in such order or manner as Mortgagee may elect, whether or not the same may then be due and payable or otherwise adequately secured. In releasing funds for replacing, rebuilding and restoring the Mortgaged Premises, Mortgagee may (but shall have no obligation to) do all acts necessary to complete such replacement, restoration and rebuilding, including, without limitation, advancing additional funds for that purpose and all such additional funds shall constitute part of the indebtedness hereby secured and shall be payable on demand with interest at the Default Interest Rate, as defined in the Note. Mortgagor covenants and agrees that Mortgagor will give Mortgagee immediate notice of the actual or threatened commencement of any proceedings under condemnation or eminent domain affecting all or any part of the Mortgaged Premises (including, without limitation, any easement therein or appurtenance thereof or severance and consequential damage and change in grade of streets), and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further covenants and agrees to make, execute and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all

further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all Condemnation Awards and other compensation heretofore made or hereafter to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

10. Construction, Repair, Waste, Etc. Mortgagor agrees: (a) that no building or other improvement on the Mortgaged Premises and constituting a part thereof having a value in excess of Five Hundred Thousand and No/100 Dollars (\$500,000.00) shall be removed, demolished or materially altered, and no fixtures or appliances on, in or about said buildings or improvements having a value in excess of Five Hundred Thousand and No/100 Dollars (\$500,000.00) shall be severed, removed, sold or mortgaged, without the consent of Mortgagee (which consent may not be unreasonably withheld if the value of all buildings, improvements, fixtures and appliances in the past severed, removed, sold, or mortgaged, together with those in question, aggregates less than One Million and No/100 Dollars (\$1,000,000.00)) and, in the event of the demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby, the same shall be replaced promptly by similar fixtures, chattels and articles of personal property at least equal in quality, condition and value to those replaced, free from any security interest in or encumbrance thereon or reservation of title thereto; (b) to permit, commit or suffer no waste, impairment or deterioration of the Mortgaged Premises or any part thereof; (c) to keep and maintain the Mortgaged Premises and every part thereof in good repair and condition and from time to time to make all needful and proper replacements and additions so that all buildings, fixtures, machinery and appurtenances which are a part of the Mortgaged Premises will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed; (d) to operate the Mortgaged Premises in a lawful manner and in accordance with reasonable and prudent business standards; (e) to observe and comply with all covenants, conditions and restrictions applicable to the Mortgaged Premises and with all statutes, orders, requirements or decrees relating to the Mortgaged Premises of any Federal, State or Municipal governmental unit or authority or court; (f) to observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, without limitation, zoning variances, special exceptions and non conforming uses), privileges, franchises and concessions which are applicable to the Mortgaged Premises or which have been granted to or contracted for by Mortgagor (or any predecessor in interest of Mortgagor) in connection with any existing or presently contemplated use of the Mortgaged Premises or any part thereof and not to initiate or acquiesce in any changes to or terminations of any of the foregoing or of zoning classifications affecting the use to which the Mortgaged Premises or any part thereof may be put; (g) except for Construction, as defined in the Loan Agreement, to make no material alterations in or improvements or additions to the Mortgaged Premises except as required by governmental authority or required by the terms and conditions of a Lease; (h) except as allowed in the Loan Agreement or any other Loan Document (as defined in the Loan Agreement), not to enter into any contract with any person or entity (other than employees of Mortgagor) pursuant to which such person will manage the Mortgaged Premises, or any part thereof (Mortgagee hereby agrees that its consent will not be unreasonably withheld to a

change in the manager of the Mortgaged Premises provided that the management agreement complies with Section 48 of this Mortgage, such manager shall execute a subordination agreement regarding the subordination of management fees to the lien of this Mortgage in form and substance acceptable to Mortgagee in its sole and absolute discretion, and Mortgagor executes a collateral assignment of the management agreement in form and substance acceptable to Mortgagee in its sole and absolute discretion); (i) not to enter into any franchise or similar agreement with respect to the Mortgaged Premises, or any part thereof, except as allowed in the Loan Agreement; (j) not to grant or acquire in any easements (except for those easements constituting Permitted Exceptions) affecting the Mortgaged Premises; and (k) to pay when due and payable, and before any penalty attaches, any and all expenses and costs which are necessary for the preservation of the Mortgaged Premises; and to reimburse Mortgagee for any and all expenses and costs incurred by or on behalf of Mortgagee in connection with the Mortgaged Premises, including, without limitation, all court costs and other reasonable costs and expenses in foreclosure or other judicial or non judicial proceedings involving the Mortgaged Premises, and all other reasonable costs and expenses (including survey costs and reasonable attorney's fees) incurred by Mortgagee in connection with collecting the indebtedness secured hereby or repossessing the Mortgaged Premises.

11. Warranty Concerning Hazardous Waste and Substances; Environmental Requirements and Asbestos.

(a) Trust represents and Beneficiary represents and warrants to Mortgagee, and Mortgagor covenants with Mortgagee, which representations, warranties and covenants shall survive any release of this Mortgage funding of the Loan, and repayment of the indebtedness hereby secured, and any transfer of the Mortgaged Premises (or any part thereof) by foreclosure or deed in lieu of foreclosure, and are material and are being relied upon by Mortgagee, notwithstanding any investigations, inspections, inquiries or actual knowledge of Mortgagee or its representatives, that to the best of their knowledge based upon that certain Environmental Evaluation for Higgins Road and Illinois State Route 53, One Schaumburg Place, Schaumburg, Illinois, dated October 23, 1989, prepared by O'Brien & Associates, there does not exist (and, to Mortgagor's actual knowledge, has never existed), on, under or about the Mortgaged Premises, now or in the past, any flammables, contaminants, explosive or radioactive materials, asbestos, crude oil, air pollution, soil or water pollution, hazardous wastes, toxic, hazardous or dangerous substances or similar substances or materials including, without limitation, any substances or materials defined as hazardous, toxic or environmentally unsafe under any federal, state or local governmental law, regulation or ordinance including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. Sec. 9601, at seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, at seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 at seq.; the Clean Air Act of 1966, as amended, 42 U.S.C. Sec. 7401 at seq.; the National Environmental Policy Act of 1975, 42 U.S.C. §4321; the Rivers and Harbours Act of 1899, 33 U.S.C. §401 at seq.; the

Endangered Species Act of 1973, as amended, 16 U.S.C. §1531 at seq.; the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §651 at seq.; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §300(f) at seq.; or any law, regulation or ordinance concerning environmental matters adopted in the State of Illinois; and the rules, regulations, guidance, documents, or publications adopted or promulgated pursuant to said laws ("Hazardous Materials"), and Mortgagor is not aware of the transportation to or from the Mortgaged Premises of any Hazardous Materials.

(b) Trust represents and covenants, and Beneficiary represents, warrants and covenants, which representations, warranties, and covenants shall survive any release of this Mortgage, funding of the Loan, and repayment of the indebtedness hereby secured, and any transfer of the Mortgaged Premises (or any part thereof) by foreclosure or deed in lieu of foreclosure, and are material and are being relied upon by Mortgagee notwithstanding any investigations, inspections, inquiries or actual knowledge of Mortgagee or of its representatives, that (i) Mortgagor is currently in compliance with all federal, state and local laws, regulations, ordinances, rules and orders concerning or relating to the use, generation, storage, handling or disposal of Hazardous Materials (collectively, the "Applicable Environmental Laws"); and (ii) Mortgagor shall, at its sole cost and expense, comply with all Applicable Environmental Laws; and (iii) Mortgagor shall immediately notify Mortgagee of its receipt of any report, citation, notice or other writing by, to, or from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities or in any way related to or connected with Hazardous Materials or Applicable Environmental Laws; and (iv) with respect to any Hazardous Material on, under or about the Mortgaged Premises (not including those Hazardous Materials permitted in subclause (v) below), Mortgagor shall remediate, rectify, rehabilitate, correct, remove, and dispose of any such Hazardous Materials in compliance with all Applicable Environmental Laws; and (v) Mortgagor shall not install, use or store or permit to be installed, used or stored any Hazardous Material on, under or about the Mortgaged Premises except that any tenants of the Mortgaged Premises may in compliance with all Applicable Environmental Laws use, sell or store such Hazardous Materials as are used, sold or stored by any tenants (a) in the ordinary course of businesses ordinarily and customarily found in first class shopping centers of the size and type of the Center, as defined in the Loan Agreement and (b) in the ordinary course of their businesses and Mortgagor and the manager of the Mortgaged Premises may, in compliance with all Applicable Environmental Laws, use or store such Hazardous Materials as are used or stored in the ordinary course of their businesses; and (vi) all required governmental permits and licenses regarding environmental matters connected with the Mortgaged Premises are and shall remain in effect, and Mortgagor shall comply therewith; and (vii) (without limitation of the warranties, representations, and covenants contained in (a) above) all Hazardous Materials generated or handled on the Mortgaged Premises, if any, have been disposed of in compliance with all Applicable Environmental Laws; and (viii) no underground

storage tanks (including petroleum storage tanks) are present on the Mortgaged Premises or any part thereof; and (ix) Mortgagor agrees at all times to comply fully and in a timely manner with, and to cause all employees, agents, contractors and subcontractors of Mortgagor and any other persons occupying or present on the Mortgaged Premises to so comply with, all Applicable Environmental Laws; and (x) there have been no past, and there are no pending or threatened: (i) actions or proceedings by any governmental agency or any other entity regarding public health risks or the environmental condition of the Mortgaged Premises, or the disposal or presence of Hazardous Material, or regarding any Applicable Environmental Laws; or (ii) liens or governmental actions, notices of violations, notices of noncompliance or other proceedings of any kind that could impair the value of the Mortgaged Premises, or the priority of the lien of this Mortgage or of any of the other Security Instruments, as defined in the Note. If Mortgagor shall fail to fully meet its obligations under this Paragraph 11, the same shall, upon thirty (30) days' written notice from Mortgagee to Mortgagor, constitute an Event of Default hereunder and Mortgagee may (without limitation of its rights and remedies), but shall not be required to, do whatever is necessary to eliminate said Hazardous Materials from the Mortgaged Premises and to comply with the Applicable Environmental Laws, and the cost thereof incurred by Mortgagee shall be additional indebtedness hereby secured and shall bear interest at the Default Interest Rate and such interest and additional indebtedness shall become immediately due and payable without notice. Mortgagor shall give to Mortgagee and its agents and employees access to the Mortgaged Premises and hereby specifically grants to Mortgagee a license to remove said Hazardous Materials. In addition, Mortgagor acknowledges that in the event any Hazardous Material is caused to be removed from the Mortgaged Premises by Mortgagor or by Mortgagee, that the Environmental Protection Agency or other governmental number assigned to the Hazardous Material so removed shall not be in the name of Mortgagee, and Mortgagor hereby assumes all of Mortgagee's potential and actual liability for such removed Hazardous Material.

(c) Notwithstanding any non-recourse provisions of the Note or the Security Instruments, including, without limitation, the provisions of Paragraph 49 of this Mortgage and Paragraph H.14 of each of the A-Note and the B-Note, Mortgagor shall, at Mortgagor's expense, protect, defend, indemnify, save and hold Mortgagee, and any and all of Mortgagee's parent and subsidiary corporations, and their affiliates, shareholders, directors, officers, employees and agents, harmless from and against any and all claims, demands, losses, expenses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including but not limited to attorneys' fees and expenses of counsel acceptable to Mortgagee), arising directly or indirectly, in whole or in part, out of (i) the presence on, under or about the Mortgaged Premises of any Hazardous Materials, or any releases or discharges of any Hazardous Materials on, under or from the Mortgaged Premises (including,

without limitation, any ground water related thereto and any surrounding areas); (ii) any activity carried on or undertaken on or off the Mortgaged Premises, whether prior to or during the term of this Loan, and whether by Mortgagor or any predecessor in title or any employees, agents, contractors or subcontractors of Mortgagor or any predecessor in title, or any third persons at any time occupying or present on the Mortgaged Premises, in connection with the handling, treatment, removal, storage, decontamination, clean-up, transport or disposal of any Hazardous Materials at any time located or present on or under the Mortgaged Premises; (iii) the imposition of any lien for damages caused by or the recovery of any costs for the cleanup, release or threatened release of Hazardous Material; (iv) the violation of any Applicable Environmental Law; and (v) any breach of any provision of this Paragraph 11. The foregoing indemnity shall further apply to any residual contamination on or under the Mortgaged Premises, or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Applicable Environmental Laws. The indemnity and other provisions of this Paragraph 11 shall survive any release of this Mortgage, funding of the Loan, and repayment of the indebtedness hereby secured, or any transfer of the Mortgaged Premises (or any part thereof) by foreclosure or deed in lieu of foreclosure.

(d) Mortgagor shall provide such information and certifications which Mortgagee may reasonably request from time to time to insure Mortgagee of Mortgagor's compliance with this Paragraph 11. To investigate Mortgagor's compliance with Applicable Environmental Laws and with this Paragraph 11, Mortgagor hereby grants (and Mortgagor shall cause any tenants of the Mortgaged Premises to grant to the extent permitted by the Leases) to Mortgagee the irrevocable right, authorization and license, but not the obligation, at any time to enter upon the Mortgaged Premises, inspect the same, and perform such tests and take samples, review Mortgagor's books and records, interview Mortgagor's employees and officers, and conduct similar activities. Mortgagee hereby agrees to indemnify and hold harmless Mortgagor from and against all claims, demands, expenses, damages and liabilities with respect to physical damage to property or personal injury arising out of Mortgagee's entry on the Mortgaged Premises pursuant to the immediately preceding sentence. Mortgagor shall cooperate in the conduct of such an audit.

(e) Mortgagor, its successors and assigns, hereby waives, releases and agrees not to make any claim or bring any cost recovery action against Mortgagee under CERCLA or any state equivalent, or any similar law now existing or hereafter enacted, or any other Applicable Environmental Laws unless such claim or action arises solely from the gross negligence or willful misconduct of Mortgagee after Mortgagee has taken possession of the Mortgaged Premises. It is expressly understood and agreed that to the extent that Mortgagee is strictly liable under any Applicable Environ-



mental Laws, Mortgagor's obligation to Mortgagee under this indemnity shall likewise be without regard to fault on the part of Mortgagor with respect to the violation or condition which results in liability to Mortgagee.

(f) Trust hereby represents and Beneficiary hereby represents and warrants to Mortgagee that the Mortgaged Premises is exempt from the disclosure requirements of the Responsible Property Transfer Act of 1988 (Ill. Rev. Stat. Ch. 30, Section 901 et seq., as amended) and no disclosure document is required to be filed thereunder because the Mortgaged Premises: (i) does not contain one or more facilities which are subject to reporting under Section 312 of the Federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Section 11022, as amended) and federal regulations promulgated thereunder; and (ii) does not contain underground storage tanks which require registration with the State of Illinois Fire Marshall.

(g) Nothing contained in this Paragraph 11 shall be deemed to be a representation, warranty or covenant by Mortgagor regarding, or an indemnification or holding harmless of Mortgagee for, any occurrences or conditions which are directly caused by Mortgagee's affirmative acts relating to Hazardous Materials in violation of Applicable Environmental Laws after Mortgagee has taken possession of the Mortgaged Premises, unless such Hazardous Materials were first introduced on, in existence or affecting the Mortgaged Premises prior to the date the Mortgagee takes possession of the Mortgaged Premises, in which case the provisions of Paragraph 11 shall apply.

12. Assignment of Leases and Rents

(a) In accordance with Granting Clause III, Mortgagor hereby absolutely and unconditionally assigns to Mortgagee, (i) all right, title and interest of Mortgagor now owned or hereafter acquired in, to and under the Leases, (ii) all avails, rents, issues, profits, revenues, royalties, bonuses, income and other rights and benefits due, payable or accruing (including, without limitation, all deposits of money as advanced rent or for security and all such rights and benefits due, payable or accruing under subleases of space) under any and all of the Leases (the "Rents") (including, without limitation, during the period, if any, allowed by law and this Mortgage for the redemption of the Mortgaged Premises after any foreclosure or other sale), and (iii) the right, but not the obligation, to collect, receive and receipt for the Rents to apply them to the indebtedness hereby secured and to demand, sue for and recover the Rents when due or payable. Prior to the occurrence of an Event of Default hereunder, Mortgagor shall have a license to collect and receive in accordance with the terms hereof all Rents and shall have the right, without joinder of Mortgagee, to enforce the Leases.

(b) Upon the occurrence of an Event of Default, as herein defined, and whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder or during any period of redemption, and without regard to waste, adequacy of the security or

solvency of Mortgagor, in addition to all other remedies available to Mortgagee, at law or in equity, Mortgagee, in its sole and absolute discretion, may revoke the privilege granted Mortgagor to collect said Rents, and may, after notice, either (i) in person or by agent, with or without taking possession of or entering the Mortgaged Premises, with or without bringing any action or proceeding, (A) give, or require Mortgagor to give, notice to any or all tenants under any of the Leases authorizing and directing the tenant to pay said Rents to Mortgagee, (B) collect all of the said Rents, (C) enter upon and take and maintain possession of all or any part of the Mortgaged Premises, together with all the documents, books, records, papers and accounts of Mortgagor or the then owner of the Mortgaged Premises relating thereto, (D) exclude Mortgagor, its agents, or servants, wholly therefrom, (E) as authorized agent of Mortgagor, or in its own name as Mortgagee and under the authorization herein granted, hold, operate, manage and control the Mortgaged Premises and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment of the Rents and the observance and performance of all of the other terms of the Leases including, but not limited to, recovery of rent, actions in forcible detainer and actions in distress of rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, (F) cancel or terminate any Lease for any cause or on any ground which would entitle Mortgagor to cancel the same, (G) elect to disaffirm any Lease or sublease made subsequent to this Mortgage or subordinate to the lien thereof (H) make any and all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Mortgaged Premises that may seem judicious, in its discretion, (I) insure and reinsure the same for all risks incidental to Mortgagee's possession, operation and management thereof and to receive all Rents, or (J) any or all of the foregoing.

(c) Mortgagor represents and covenants that:

(i) Mortgagor has good title to the Leases and Rents hereby assigned and authority to assign them, and no person or entity other than Mortgagee has any right, title or interest therein;

(ii) the Leases are valid and in full force and effect and no default by the lessor exists thereunder;

(iii) none of the Leases or Rents (including, without limitation, any future Leases or Rents) have been assigned, mortgaged or pledged except hereunder and none of such Leases or Rents will in the future be assigned, mortgaged or pledged;

(iv) none of the Leases or Rents have been anticipated, waived, released, discounted, set off or compromised and none of the Leases or Rents will in the future be anticipated, waived, released, discounted, setoff or compromised;

(v) except as indicated in the Leases, Mortgagor has not received any funds or deposits from any tenant for which credit has not already been made on account of accrued Rents;

(vi) Mortgagor, at Mortgagor's sole cost and expense, shall: (a) maintain or cause to be performed all of the covenants, agreements, terms and conditions and provisions on its part to be kept, observed and performed under any ground lease, lease, or sublease which may constitute a portion of or an interest in the Mortgaged Premises; and (b) use its best efforts to require its tenants or subtenants to keep, observe and perform all of the covenants, agreements, terms, conditions and provisions on their part to be kept, observed or performed under any and all ground leases, leases or subleases. Mortgagor shall use its best efforts to not suffer or permit any breach or default to occur with respect to the foregoing, and in default thereof the Mortgagee shall have the right after an Event of Default to perform or to require performance of any such covenants, agreements, terms, conditions or provisions of any such ground lease, lease or sublease, and to add any expense incurred in connection therewith to the indebtedness hereby secured, which such expense shall bear interest at the Default Interest Rate from the date of payment to the date of recovery by the Mortgagee. Any such payment by the Mortgagee with interest thereon shall be immediately due and payable.

(vii) Mortgagor shall defend, at Mortgagor's expense, any proceeding pertaining to the Leases, including, if Mortgagee so requests, any such proceeding to which Mortgagee is a party;

(viii) Mortgagor shall neither create nor permit any encumbrance upon its interest as lessor of the Leases, except for the encumbrances of this Mortgage and that certain Indemnity Mortgage ("Indemnity Mortgage") from Mortgagor to Westinghouse Credit Corporation, a Delaware corporation ("WCC"), which Indemnity Mortgage shall be subject, junior and subordinate to this Mortgage as provided in that certain Westinghouse Subordination Agreement by and between Mortgagor, Mortgagee and WCC;

(ix) Mortgagor shall not receive or collect rents more than one month in advance and shall not without Mortgagee's prior written consent (x) enter into or make any Lease with any tenant except as otherwise permitted under the Loan Agreement, (y) cancel, terminate or modify any of the Leases except as otherwise permitted under the Loan Agreement, or cause or permit any cancellation, termination or surrender of any of the Leases, except as otherwise permitted under the Loan Agreement, so as to adversely affect the value of the Mortgaged Premises, or (z) commence any proceedings for dispossession of any tenant under the Leases, except upon default by the tenant thereunder;

(x) Mortgagor shall furnish Mortgagee from time to time, upon reasonable notice, with a tenant estoppel certificate as to any Lease affecting the Mortgaged Premises, in form and substance reasonably satisfactory to Mortgagee which shall be executed by the lessee of any such Lease;

(xi) Except the Leases identified on the certified rent roll which shall be delivered to Mortgagee in form and substance reasonably satisfactory to Mortgagee, there are no leases or tenancies affecting the Mortgaged Premises;

(xii) None of the Leases contain any options or rights to purchase all or any part of the Mortgaged Premises or any options or rights to extend the term of any Lease beyond its original expiration date, except as set forth on the certified rent roll;

(xiii) Mortgagor shall not enter into any lease or tenancy respecting the Mortgaged Premises that is inconsistent with the terms of the Loan Agreement; and

(xiv) Mortgagor shall furnish to Mortgagee, within five (5) days after receipt thereof, or the mailing or service thereof by Mortgagor, as the case may be, a copy of each notice of default which Mortgagor shall give to or receive from any tenant of the Mortgaged Premises or any part thereof, based upon the occurrence, or alleged occurrence, of any default or defaults in the performance of any covenant, condition, promise or obligation under any Lease at the Mortgaged Premises.

(d) Mortgagor agrees that no settlement(s) for damages for termination of any of the Leases under the Federal Bankruptcy Code, or under any other federal, state or local statute, shall be made without the prior written consent of Mortgagee. After a Default (as defined in the Loan Agreement), any check in payment of such damages shall be made payable to Mortgagor and Mortgagee. Mortgagor hereby assigns any such payment to Mortgagee to be applied after an Event of Default to the indebtedness hereby secured to Mortgagee may elect, and Mortgagor agrees to endorse any check for such payment to the order of Mortgagee.

(e) Mortgagee's acceptance of this assignment shall not, prior to entry upon and taking possession of the Mortgaged Premises by Mortgagee, be deemed to constitute Mortgagee a "mortgagee in possession," nor obligate Mortgagee to appear in or defend any proceeding relating to any of the Leases or to the Mortgaged Premises, to take any action hereunder, to expend any money, to incur any expenses, or to perform any obligation or liability under the Leases, or to assume any obligation for any deposits delivered to Mortgagor by any lessee and not delivered to Mortgagee. Mortgagee shall not be liable for any injury or damage to persons or property in or about the Mortgaged Premises.

(f) Mortgagor hereby irrevocably authorizes Mortgagee, which authorization is coupled with an interest, empowering

Mortgagee, following the occurrence of an Event of Default or at any other time that Mortgagee is entitled to act on Mortgagor's behalf pursuant to Paragraph 17 below, to take any action with regard to the Leases, the Rents and the Mortgaged Premises authorized by the terms of this Mortgage, and without limitation of the foregoing, Mortgagee shall be empowered at such time to subordinate the Leases to this Mortgage.

(g) Mortgagor hereby agrees to indemnify and hold Mortgagee harmless from all liability, damage or expense incurred by Mortgagee from or on account of any claims under the Leases, including, without limitation, claims by tenants for security deposits or for rental payments more than one (1) month in advance and not delivered to Mortgagee, except for claims under the Leases resulting from the gross negligence or willful misconduct of Mortgagee after Mortgagee has taken possession of the Mortgaged Premises. All amounts indemnified against hereunder, including, without limitation, reasonable attorneys' fees, if paid by Mortgagee shall bear interest at the Default Interest Rate and shall be payable by Mortgagor to Mortgagee immediately without demand and shall be secured hereby.

(h) Upon request by Mortgagee, Mortgagor shall deliver to Mortgagee executed originals of all Leases and copies of all records relating thereto.

(i) There shall be no merger of the leasehold estates created by the Leases with the fee estate in the Real Property without the prior written consent of Mortgagee.

(j) Mortgagor hereby authorizes and directs the tenants under the Leases to pay Rents to Mortgagee upon written demand by Mortgagee made after the occurrence of an Event of Default, without further consent of Mortgagor, and the tenants may rely upon any written statement delivered by Mortgagee to the tenants. Any such payment to Mortgagee shall constitute payment to Mortgagor under the Leases and, any such payment shall be applied on account of the indebtedness hereby secured as provided in Paragraph 22(f) below.

13. Future Advances. This Mortgage is given to secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or are to be made at the option of Mortgagee, or otherwise, and whether such advances are made before, during or after the pendency of any proceedings to foreclose the lien of this Mortgage or otherwise enforce the rights of Mortgagee hereunder, as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid principal balance so secured at one time shall not exceed Three Hundred Million and No/100 Dollars (\$300,000,000.00), plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the property encumbered by this Mortgage, with interest on such disbursements at the rate provided in the Note. The provisions of this paragraph shall not be construed to imply any obligation on Mortgagee to make any future advances, it being the intention of the parties that any future advances shall be solely at the discretion and option of the

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Mortgagee, except as otherwise expressly provided in the Loan Agreement. Any reference to the "Note" in this Mortgage shall be construed to include any future advances made pursuant to this Paragraph 13.

14. Liens and Encumbrances; Compliance with Operating Agreement.

(a) Mortgagor will not, without the prior written consent of Mortgagee (which consent may be granted or withheld by Mortgagee in its sole and absolute discretion with or without cause), except as otherwise provided in the Loan Agreement, and it shall constitute an Event of Default hereunder if Mortgagor shall, directly or indirectly, create or permit to exist any mortgage, deed of trust, lien, encumbrance, lease, security interest, charge, or claim (whether or not junior and inferior in terms of priority to this Mortgage) on, against or with respect to the Mortgaged Premises or any part thereof, except for this Mortgage, the Leases permitted under the Loan Agreement and the Indemnity Mortgage, provided that, with respect to the filing of any notice of mechanic's or material supplier's lien claim, it shall not be an Event of Default if Mortgagor complies with Section 12.1(f) of the Loan Agreement; and

(b) In the event the Operating Agreement, as defined in the Loan Agreement, becomes effective, Mortgagor shall at all times observe and perform its obligations, covenants and agreements contained in, and in accordance with, the Operating Agreement and Mortgagor will not amend the terms and provisions of the Operating Agreement without Mortgagee's prior written consent, which consent shall not be unreasonably withheld or delayed.

15. Restriction on Transfer; Partial Releases. It shall be an immediate Event of Default if, without the prior written consent of Mortgagee (which consent may be granted or withheld by Mortgagee, in its sole and absolute discretion, with or without cause), any sale, transfer or assignment of the Mortgaged Premises, or any part thereof, or any interest therein, whether legal or beneficial, direct or indirect, including, without limitation, any of the following shall occur:

(a) If Mortgagor shall create, effect, or consent to or shall suffer or permit any conveyance, sale, lease assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Mortgaged Premises or any part thereof, or interest therein provided that with respect to the filing of any notice of mechanic's or material supplier's lien claim, it shall not be an Event of Default if Mortgagor complies with Section 12.1(f) of the Loan Agreement;

(b) If Mortgagor is a trustee, or if any partner of Mortgagor is a trustee, then if any beneficiary of such trustee shall create, effect or consent to, or shall suffer or permit, any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of such beneficiary's beneficial interest in such trustee;

(c) If Mortgagor is a corporation or if any partner of Mortgagor is a corporation, then if any shareholder of such corporation shall create, effect or consent to, or shall suffer or permit, any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of shareholder's shares in such corporation or if such corporation issues new stock, or warrants or rights to acquire new stock, or takes any action the effect of which is to dilute the interest of the current shareholders of such corporation;

(d) If Mortgagor is a partnership or joint venture, or if any partner of Mortgagor is a partnership or joint venture, then if any general partner or joint venturer in any such partnership or joint venture, shall create, effect or consent to, or shall suffer or permit, any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any part of the partnership interest or joint venture interest, as the case may be, of such partner or joint venturer;

(e) If Mortgagor is a nominee, then if Mortgagor's principal under the nominee agreement governing Mortgagor's rights in the Mortgaged Premises shall create, effect or consent to, or shall suffer or permit, any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any part of such principal's rights under such nominee agreement other than to Mortgagee;

in each case whether any such conveyance, sale, lease, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance, or alienation is effected, directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided, that the foregoing provisions of this Paragraph 15 shall not apply (i) to any lien of this Mortgage and to the Assignment of Beneficial Interest, as defined in the Loan Agreement, (ii) to the lien of current taxes not yet due and payable, (iii) to any such transfer of beneficial interests, shares of stock, partnership or joint venture interests or rights as principal under a nominee agreement, as the case may be, by or on behalf of an owner thereof who is deceased, permanently disabled or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives, (iv) to any Lease of any part of the improvements on the Real Property which is approved in advance by Mortgagee (to the extent such approval is required) and which is entered into and meets all the requirements of Paragraph 12(c), (v) to the sale of either the Office Parcel or the Hotel Parcel upon the payment of the Office Parcel Sale Amount or the Hotel Parcel Sale Amount, as applicable, and which sale is made in compliance with the other terms and conditions of the Loan Agreement, (vi) to the Indemnity Mortgage, (vii) to transfers of limited partnership interests permitted under the Loan Agreement, (viii) with respect to First Hotel Investment Corporation, a Delaware corporation, and the sole Class A limited partner of Beneficiary, to transfers of corporate stock permitted under the Loan Agreement, or (ix) with respect to Tucker'd Out, Inc., an Illinois corporation, and sole general partner of Beneficiary ("General Partner"), to transfers of corporate stock provided that Kenneth L. Tucker shall own at least fifty-one percent (51%) of the

issued and outstanding corporate stock of the General Partner. The provisions of this Paragraph 15 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon (x) the Mortgaged Premises, or (y) such beneficial interest in, share of stock of, general partnership or joint venture interest in Mortgagor or any beneficiary of a trustee mortgagor or (z) such interest as principal in any nominee agreement affecting all or any part of the Mortgaged Premises.

It is further understood and agreed that the indebtedness hereby secured was created solely due to the financial sophistication, creditworthiness, background and business sophistication of Mortgagor and Mortgagee continues to rely upon same as the means of maintaining the value of the Mortgaged Premises. It is further understood and agreed that any secondary or junior financing, other than the Indemnity Mortgage, placed upon the Mortgaged Premises or the improvements located thereon or any beneficial or other interest in the Mortgaged Premises or incurred by Mortgagor may divert funds which would otherwise be used to pay the indebtedness hereby secured, and could result in acceleration and/or foreclosure by any such junior lienor. Any such action would force the Mortgagee to take measures, and incur expenses, to protect its security, and would detract from the value of the Mortgaged Premises, and impair the rights of Mortgagee granted hereunder. Therefore, the further encumbering of the Mortgaged Premises or any interest therein or portion thereof, or any other breach of the provisions of this Paragraph 15, shall be an Event of Default hereunder.

#### 16. Releases.

(a) Mortgagor may sell the Hotel Parcel and the Office Parcel only in accordance with the terms and conditions of the Loan Agreement;

(b) Upon the payment in full of all principal of and interest on, or other amounts due under, the Note and the payment and performance in full of all other indebtedness hereby secured (but not before such time), Mortgagee shall execute and deliver to Mortgagor releases of its liens and security interests hereunder, but no such release shall affect any obligations of Mortgagor that expressly survive such repayment. Mortgagor agrees to pay any and all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by Mortgagee in connection with such releases and to pay all costs and expenses (including, without limitation, any taxes) of recordation or filing applicable thereto; and

(c) Except with respect to the sale of the Hotel Parcel or the Office Parcel, in accordance with the terms and conditions of the Loan Agreement or except upon payment in full of the indebtedness hereby secured as set forth in (a) above, Mortgagor shall not request, and Mortgagee shall not permit, any release of any material part of the Real Property from the lien of this Mortgage, without first obtaining the prior written consent of the Payment Guarantor.



17. Right of Mortgagee to Perform Mortgagor's Covenants, Etc.

(a) Upon the occurrence of an Event of Default or (b) in the event Mortgagor shall either fail or refuse to pay or cause to be paid, as the same shall become due and payable after the expiration of any applicable cure period, any item which Mortgagor is required to pay hereunder, under the Note, under the Loan Agreement, if any, or under any other Security Instrument, or to observe and comply with any covenant, agreement, obligation or liability binding upon Mortgagor hereunder, under the Note, under the Loan Agreement, if any, or under any other Security Instrument, or to do or perform any other act which Mortgagor is obligated to do or perform hereunder and such failure or refusal to pay or to observe and comply or to do or perform hereunder, under the Note, under the Loan Agreement, if any, or under any other Security Instrument in Mortgagee's reasonable judgment, significantly jeopardizes the value of the Mortgaged Premises, or (c) if there is commenced any action or proceeding affecting the Mortgaged Premises or title thereto, then Mortgagee, at Mortgagee's option, may (but shall not be required to) (i) take such action as Mortgagor could or should have taken to avoid an Event of Default, (ii) make such payment or do or perform such act as Mortgagor failed or refused to make, do or perform on behalf of Mortgagor with right of subrogation thereunder, and (iii) appear in any such action or proceeding and retain counsel and take such actions therein as Mortgagee deems advisable. So long as Mortgagee is acting in good faith, Mortgagee shall be the judge of the legality, validity and priority of any tax, lien, assessment, charge, premium, or claim and of the amount necessary to be paid in satisfaction thereof. All such payments made by Mortgagee and all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by Mortgagee in doing or performing all such acts shall be and shall become part of the indebtedness secured hereby and shall bear interest at the Default Interest Rate and such interest shall be payable to Mortgagee upon demand and be part of the indebtedness hereby secured. Mortgagor hereby agrees that Mortgagee shall be subrogated to the claims, liens, rights, powers, privileges and benefits of all parties whose claims, liens, rights, powers, privileges and benefits are discharged or paid by Mortgagee. No payment made by Mortgagee under the provisions of this Paragraph 17 shall be or be deemed to be a cure or waiver of any default or Event of Default hereunder or under the Note, the Loan Agreement, or any other Security Instrument, and the right to add any amounts so paid to the indebtedness hereby secured shall be in addition to and not in lieu of any remedies of Mortgagee upon default by Mortgagor hereunder or under the Note, the Loan Agreement or any other Security Instrument.

18. After Acquired Property. Any and all property hereafter acquired which is of the kind or nature herein provided to be, or intended to be and become, subject to the lien hereof shall, in fact, and without any further conveyance, assignment or act on the part of Mortgagor, become and be subject to the lien of this Mortgage as fully and completely as though specifically described herein; but nevertheless Mortgagor shall from time to time, if requested by Mortgagee, execute and deliver any and all such further assurances, conveyances and assignments as Mortgagee may require for the purpose of expressly and specifically subjecting to the lien of this Mortgage all such property.

19. Inspection. Mortgagor shall, upon reasonable notice and at reasonable times, permit any person designated by Mortgagee to visit and inspect the Mortgaged Premises, to examine and copy the books of account and other records of Mortgagor with respect to the Mortgaged Premises, and to discuss the affairs, finances and accounts of Mortgagor with and to be advised as to the same by Mortgagor or a knowledgeable and duly authorized representative of Mortgagor, all at such reasonable times and intervals as Mortgagee may desire.

20. Financial Statements; Information. Mortgagor will submit to Mortgagee such financial and other information, in addition to any financial information required to be delivered to Mortgagee pursuant to the Loan Agreement, relating to Mortgagor and the Mortgaged Premises as Mortgagee may request within a reasonable time after any such request.

21. Events of Default. Any one or more of the following shall constitute an Event of Default ("Event of Default") hereunder:

(a) Default in the payment of any principal of, or Interest, Default Interest, or other amounts payable under, the Note or of any other indebtedness hereby secured which is due on or prior to the Maturity Date (as defined in the Note) after the expiration of the applicable grace period as provided in the Note; or

(b) Default in payment or performance under any of Paragraphs 6, 14 or 15 hereof to which no grace period is applicable, or default in payment or performance under any other provision hereof which expressly contains a cure period, including, without limitation, Paragraph 11 hereof which is not cured within such period contained therein; or

(c) Default in the observance or compliance with any of the terms or provisions of this Mortgage or the Note (and not constituting an Event of Default under any other subparagraph of this Paragraph 21) and such default shall continue for more than thirty (30) days after notice thereof to Mortgagor except that, with respect to a default pursuant to this subparagraph (c) which cannot be cured by the payment of money and which cannot be cured with due diligence within said thirty (30) day period, Mortgagor shall have an additional period of time (not exceeding ninety (90) days from the expiration of said thirty (30) day period) in which to cure the default before the same shall become an Event of Default if and only if (i) from and after receipt of the notice which begins said thirty (30) day period, Mortgagor uses all reasonable efforts to cure said default as promptly as possible and diligently pursues such efforts and (ii) Mortgagee cannot become subject to civil or criminal penalties or liability as a result of such default; or

(d) Any representation made by Mortgagor herein or in connection with the transactions contemplated hereby is now false or untrue, in any material respect, or shall become false or untrue, in any material respect, at any time hereafter and such default shall not be cured within thirty (30) days after notice thereof to Mortgagor;

(e) (i) Mortgagor or the Payment Guarantor becomes insolvent or bankrupt or admits in writing its inability to pay its debts as they mature; or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of a trustee or receiver for all or any significant portion of its assets; or (ii) such a trustee or receiver is appointed for Mortgagor or the Payment Guarantor for all or any significant portion of the assets of any of them and is not discharged within ninety (90) days after such appointment; or (iii) bankruptcy, reorganization, arrangement, insolvency, readjustment, liquidation, dissolution or other proceedings for relief under any present or future bankruptcy law or laws or other statute, law or regulation for the relief of debtors are instituted by or against Mortgagor or the Payment Guarantor and if instituted against any such party are consented to or acquiesced in or are not dismissed within ninety (90) days after such institution; or (iv) Mortgagor or the Payment Guarantor takes any action to authorize or in furtherance of (except actions to authorize or in furtherance of the discharge or dismissal of) any of the foregoing;

(f) The conviction, under any federal or state law, including, without limitation, the Racketeer Influenced and Corrupt Organizations Act of 1970, for which forfeiture of assets is a potential penalty (a "RICO Related Law") against Borrower, any of its partners, shareholders or affiliates or any of the Payment Guarantor or the Completion Guarantor; or

(g) The occurrence of any breach of or default or "Event of Default", under the Note, the Loan Agreement, or any of the other Security Instruments, as defined in the Note, and the expiration of any applicable cure period.

22. Acceleration and Other Remedies. Upon the occurrence of any Event of Default (regardless of the pendency of any proceeding which has or might have the effect of preventing Mortgagor from complying with the terms of this instrument and of the adequacy of the security for the Note), and in addition to such other rights as Mortgagee may have under applicable law, Mortgagee may, at its option, exercise any one or more of the following remedies:

(a) Acceleration. Mortgagee, at its option, may declare all or any portion of the indebtedness hereby secured to be immediately due and payable without further notice, whereupon the same shall be and shall become due and payable forthwith without any presentment, demand, protest, or notice of any kind, all of which are expressly waived by Mortgagor;

(b) Uniform Commercial Code. Except with respect to Beneficiary's beneficial interest and power of direction under and with respect to the Trust, Mortgagee shall, with respect to any part of the Mortgaged Premises constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the Uniform Commercial Code, have all the rights, options and remedies of a secured party under the Uniform Commercial Code as adopted in the State where the Mortgaged Premises are situated (the "Code"), including, without limitation, the right to the possession of any such property, or any part thereof, and the

right to enter without legal process any premises where any such property may be found. Any requirements of the Code for reasonable notification shall be met by mailing written notice sent by overnight service such as Federal Express or Purolator Courier or the like to Mortgagor at least ten (10) days prior to the sale or other event for which such notice is required. The expenses of retaking, selling, and otherwise disposing of said property, including, without limitation, reasonable attorneys' fees and legal expenses incurred in connection therewith, shall constitute so much additional indebtedness hereby secured and shall be payable to Mortgagee upon demand with interest thereon at the Default Interest Rate;

(c) Foreclosure. Mortgagee shall have the right, in one or several concurrent or consecutive proceedings, to foreclose the lien hereof upon the Mortgaged Premises or any part thereof, for the indebtedness hereby secured, or any part thereof, by any proceedings appropriate under applicable law. Mortgagee or its nominee may bid and become the purchaser of all or any part of the Mortgaged Premises at any foreclosure or other sale hereunder, and the amount of Mortgagee's successful bid shall be credited on the indebtedness hereby secured;

(d) Lawsuits. Without limitation of subparagraph (c) above, Mortgagee may proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, in any court or courts of competent jurisdiction;

(e) Appointment of Receiver. Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by under or through it, and without regard to the solvency or insolvency of Mortgagor or the then value of the Mortgaged Premises, to the extent permitted by applicable law, be entitled to have a receiver appointed for all or any part of the Mortgaged Premises, the Rents, and the proceeds, issues and profits thereof, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Any such receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Mortgaged Premises or any part thereof by summary proceedings, ejectment or otherwise, and may remove Mortgagor or other persons and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect to the Mortgaged Premises or any part thereof, whether during the pendency of any foreclosure or until any right of redemption shall expire or otherwise, and, without limitation of the foregoing, any such receiver shall have any and all rights and powers as Mortgagee would have, upon entering and taking possession of the Mortgaged Premises, under subparagraph (f) below;

(f) Taking Possession, Collecting Rents, Etc. Mortgagee shall have the right, at its option, to enter the Mortgaged Premises and take possession thereof in its name or in the

name of its nominee (and Mortgagor agrees to surrender the Mortgaged Premises to Mortgagee promptly upon demand therefor); Mortgagee may manage and operate the Mortgaged Premises or any part thereof itself or through agents appointed by Mortgagee; Mortgagee may enter leases and subleases of the Mortgaged Premises upon such terms and with such tenants and subtenants as Mortgagee deems advisable; Mortgagee may modify or amend existing Leases upon such terms as Mortgagee deems advisable; Mortgagee may make repairs and alterations and do any acts which Mortgagee deems proper to protect or enhance the value of the Mortgaged Premises; and Mortgagee may sue for or otherwise collect or enforce all Rents, rights of contract and other proceeds of and from the Mortgaged Premises, including, without limitation, those past due and unpaid, may deduct from such income from the Mortgaged Premises all costs of entry, of collection, of administration and reasonable management, consultant and attorneys' fees, and apply the remainder, if any, first, to the payment of all reasonable attorneys' fees, costs, charges and other sums paid, expended or incurred by Mortgagee pursuant to covenants, agreements, terms and conditions contained herein or in the Note; then to any late charges due and payable under the Note; then to the payment of all accrued interest on the Note; and the balance, if any, in any order or amount as the Mortgagee shall determine, in its sole and absolute discretion. Mortgagee shall not exercise the rights and remedies provided in this Section 22(f) until the occurrence of an Event of Default hereunder. Such exercise by Mortgagee of the remedy provided for hereunder shall not affect the right of Mortgagee to maintain and continue any action theretofore instituted, or to bring any action thereafter, to enforce the payment of the Note or the terms and conditions of the Note, this Mortgage or any other document, instrument or agreement. All costs incurred in the exercise of the remedies provided in this subparagraph (f) or any other remedies provided pursuant to this Mortgage shall be secured by this Mortgage and shall be paid, together with interest at the Default Interest Rate, by Mortgagor to Mortgagee upon demand. Mortgagor acknowledges that it has been advised that there is a significant body of case law in Illinois which purportedly provides that in the absence of a showing of waste of a character sufficient to endanger the value of the Mortgaged Premises, or other special factors, a Mortgagor is entitled to remain in possession of mortgaged premises, and to enjoy the income, rents, and profits therefrom, during the pendency of foreclosure proceedings and until the expiration of the redemption period, even if the mortgage documents expressly provide to the contrary. Mortgagor further acknowledges that it has been advised that Mortgagee recognizes that the value of the security covered hereby is inextricably intertwined with the effectiveness of the management, maintenance and general operation of the Mortgaged Premises, and that Mortgagee would not make the loan secured hereby unless it could be assured that it would have the right to take possession of the Mortgaged Premises in order to manage or to control management thereof, and to enjoy the income, rents and profits therefrom, immediately upon the occurrence of an Event of Default hereunder, notwithstanding that foreclosure proceedings may not have been instituted, or are pending, or the redemption period may not have expired. Accordingly, Mortgagor hereby

knowingly, intelligently and voluntarily waives all right to possession of the Mortgaged Premises from and after the date of the occurrence of an Event of Default hereunder, upon demand for possession by Mortgagee, and Mortgagor agrees not to assert any objection or defense to Mortgagee's request or petition to a court for possession. The rights hereby conferred upon Mortgagee have been agreed upon prior to any default by Mortgagor hereunder and prior to Mortgagee becoming mortgagee hereunder or a "mortgagee in possession." Mortgagor acknowledges that this provision is material to this transaction and the Mortgagee would not make the Loan but for this subparagraph;

(g) Other Remedies. Mortgagee may, but shall not be obligated to, perform any one or more of the covenants, agreements, terms and conditions hereunder and under the Note which Mortgagee deems proper to protect the security hereof. Mortgagee may exercise all rights and remedies contained in any other instrument, document, agreement or other writing heretofore, concurrently herewith or in the future executed by Mortgagor or any other person or entity in favor of Mortgagee in connection with the transactions resulting in the indebtedness secured hereby or any part thereof, including, without limitation, the right from time to time to sue for any sums, whether interest, principal or any installment of either or both, taxes, penalties, or any other sums required to be paid under the terms of the Note or this Mortgage, as the same become due, without regard to whether all of the indebtedness hereby secured shall be due on demand, and without prejudice to the right of Mortgagee thereafter to enforce any appropriate remedy against Mortgagor, including, without limitation, an action of foreclosure, or any other action, for a default or Event of Default by Mortgagor existing at the time such earlier action was commenced;

(h) Rights at Law. Mortgagee may, at its option, exercise any and all other rights and remedies against Mortgagor and the Mortgaged Premises as are permitted under applicable law;

provided, however, that, subject to Paragraph 28 below, Mortgagee, in its sole and absolute discretion, whether before or after exercise of any of the foregoing remedies, may by a written instrument waive any Event of Default, in which event, subject to the contrary terms of any such waiver instrument, the rights of the Mortgagor and Mortgagee hereunder shall be reinstated as if no Event of Default had occurred hereunder.

23. Adverse Notices. If Mortgagor shall receive any notice or instrument which might materially adversely affect the Mortgaged Premises or the lien of this Mortgage thereon, Mortgagor shall forthwith furnish a copy of such notice or other instrument to Mortgagee. The notices referred to shall include, but not be limited to, notices from any tenant or lessee (including, without limitation, Lessee) claiming a default by Mortgagor under any of the Leases; any notice by any public authority concerning any special tax or assessment; any notice of any alleged violation of any building, zoning, fire or other law or regulation affecting the Mortgaged Premises or any part thereof; or notice of any actual or

threatened condemnation or other taking of the Mortgaged Premises, or any part thereof, by any public authority.

24. Waiver of Right to Redeem From Sale; Waiver of Appraisalment, Reinstatement, Valuation, Etc. Mortgagor shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement of any rights or remedies of Mortgagee under this Mortgage, but hereby waives the benefit of such laws and the benefit of any homestead or other exemptions which it may now or hereafter from time to time have with respect to the Mortgaged Premises or the indebtedness hereby secured. Mortgagor for itself and all creditors, mortgagees, trustees, lienholders and other persons or entities who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Premises, or any part thereof, marshalled upon any foreclosure or other disposition (whether or not the entire Mortgaged Premises be sold as a unit, and whether or not any parcels thereof be sold as a unit or separately) of any kind or nature of the Mortgaged Premises, or any part thereof, or interest therein, and agrees that any court having jurisdiction to foreclose or otherwise enforce the liens granted and security interests created by this Mortgage may order the Mortgaged Premises sold as an entirety. On behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Mortgaged Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the maximum extent permitted by applicable law, Mortgagor hereby waives any and all rights (x) of redemption from any foreclosure, or other disposition of any kind or nature of the Mortgaged Premises, or any part thereof, or interest therein, under or pursuant to rights herein granted to Mortgagee and (y) to reinstatement of the indebtedness hereby secured, including, without limitation, any right to reverse any acceleration of such indebtedness pursuant to Illinois Revised Statute, Chapter 110, Section 15-1602. Mortgagor further waives and releases (a) all errors, defects, and imperfections in any proceedings instituted by Mortgagee under the Note, this Mortgage or any of the other Security Instruments, (b) all benefits that might accrue to the Mortgagor by virtue of any present or future laws exempting the Mortgaged Premises, or any part of the proceeds arising from any sale thereof, from attachment, levy, or sale under execution, or providing for any stay of execution, exemption from civil process, or extension of time for payment, and (c) all notices not specifically required by the Note, this Mortgage or any of the other Security Instruments, of default, or of Mortgagee's exercise, or election to exercise, any option under this Mortgage. All waivers by Mortgagor in this Mortgage have been made voluntarily, intelligently and knowingly by Mortgagor, after Mortgagor has been afforded an opportunity to be informed by counsel of Mortgagor's choice as to possible alternative rights. Mortgagor's execution of this Mortgage shall be conclusive evidence of the making of such waivers and that such waivers have been voluntarily, intelligently and knowingly made.

25. Costs and Expenses of Foreclosure. Without limitation of any other right of Mortgagee hereunder relating to reimbursement of costs and expenses incurred by Mortgagee, in any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures

and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorney's fees, (including, without limitation, attorneys' fees in litigation and administrative and bankruptcy proceedings and any appeals thereof) appraiser's fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as to items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, environmental assessments and studies, guarantee policies, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Mortgaged Premises, all of which expenditures shall become so much additional indebtedness hereby secured and be immediately due and payable with interest thereon at the Default Interest Rate from the date of expenditure until paid.

26. Application of Proceeds. The proceeds of any foreclosure sale of the Mortgaged Premises or of any sale of property pursuant to Paragraph 22 hereof shall be distributed in the following order of priority:

First, on account of all costs and expenses incident to the foreclosure or other proceedings or other sale of property including, without limitation, all such items as are mentioned in Paragraphs 22 and 25 hereof;

Second, to all other items which under the terms hereof constitute indebtedness hereby secured in addition to that evidenced by the Note, Loan Agreement or any other Security Instrument, with interest on such items as herein provided;

Third, to all principal of and interest on the Note and to all other obligations evidenced by the Note, Loan Agreement or any other Security Instrument;

Fourth, to the payment of the surplus, if any, to whosoever may be lawfully entitled to receive the same.

No application to the indebtedness evidenced by the Note shall entitle Mortgagor to any right, title or interest in the Note or the security therefor, whether by subrogation or otherwise, unless and until the Note and all other indebtedness hereby secured has been fully paid and satisfied.

27. Deficiency Decree. Without limitation of any other rights of Mortgagee, if in any foreclosure proceeding the Mortgaged Premises shall be sold for a sum less than the total amount of indebtedness for which judgment is therein given, the judgment creditor shall be entitled to the entry of a deficiency decree against Mortgagor and against the property of Mortgagor for the amount of such deficiency; and, to the maximum extent permitted by law, Mortgagor does hereby irrevocably consent to the appointment of a receiver for the Mortgaged Premises and the property of Mortgagor and of the rents, issues, avails, and profits thereof after such sale and until such deficiency decree is satisfied in full.



28. Mortgagee's Remedies Cumulative No Waiver. No remedy or right of Mortgagee hereunder shall be exclusive of but shall be cumulative and in addition to every other remedy or right now or hereafter existing at law or in equity or by statute or otherwise, and, without limitation of the foregoing, nothing contained in this Mortgage shall be deemed to limit, restrict or abridge the scope of any lien or security interest granted Mortgagee pursuant to any other document or instrument or the scope of any right or remedy granted Mortgagee in connection with any such lien or security interest. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee, and none of them shall be to the exclusion of others. Mortgagee shall not be deemed to waive any of Mortgagee's rights or remedies hereunder unless such waiver be in writing and signed by or on behalf of Mortgagee. No delay, omission or forbearance by Mortgagee in exercising any of Mortgagee's rights or remedies shall operate as a waiver of such rights or remedies, and a waiver in writing on one occasion shall not be construed as a consent to or a waiver of any right or any remedy on any future occasion.

29. Lien Unconditional. Mortgagor acknowledges and agrees that the lien hereof shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Mortgagee of any security for or guarantees upon any of the indebtedness hereby secured or by any failure, neglect or omission on the part of Mortgagee to realize upon or protect any of the indebtedness hereby secured or any collateral security therefor. The lien hereof shall not in any manner be impaired or affected by any sale, pledge, surrender, compromise, settlement, release, renewal, extension, indulgence, alteration, substitution, exchange, change in, modification or disposition of any of the indebtedness hereby secured or of any of the collateral security therefor or of any guarantee thereof, and Mortgagee may, in its discretion, grant additional credit to Mortgagor without in any manner impairing the lien hereof. In order to foreclose the lien hereof and exercise the other rights granted Mortgagee hereunder and under applicable law, there shall be no obligation on the part of Mortgagee at any time to first resort for payment to any guaranty of the indebtedness hereby secured or any part thereof or to resort to any collateral security, property, liens or other rights or remedies whatsoever and Mortgagee shall have the right to enforce the lien hereof irrespective of whether or not other proceedings or steps are pending seeking resort to or realization upon or from any of the foregoing.

30. Mortgagee Party to Suits. If Mortgagee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Premises or the title thereto or the interest of Mortgagee under this Mortgage, or if Mortgagee employs an attorney to collect any or all of the indebtedness hereby secured or to enforce any of the terms hereof or realize hereupon or to protect the lien hereof, Mortgagor agrees to pay immediately to Mortgagee all reasonable costs, charges, expenses and attorneys' fees incurred by Mortgagee in any such case, and the same shall constitute so much additional indebtedness hereby secured payable upon demand with interest at the Default Interest Rate.

31. Notices. Any notice required or permitted to be given hereunder shall be in writing, and shall be (i) personally delivered to the party to whom it is to be sent, (ii) sent by U.S. certified or registered mail, return receipt requested, postage prepaid, or (iii) sent by next business day courier (such as Federal Express or the like), to the respective addresses of the parties set forth below, or to such other place as any party hereto may by notice given as provided herein designate for receipt of notices hereunder. Any such notice shall be deemed given and effective upon receipt or refusal to accept thereof by the primary party to whom it is to be sent.

If to Mortgagor: LaSalle National Trust, N.A., a national banking association, not personally but as successor trustee to LaSalle National Bank, a national banking association  
135 South LaSalle Street  
Chicago, Illinois 60690  
Attention: Land Trust Department

and One Schaumburg Place Limited Partnership  
c/o The Tucker Companies  
40 Skokie Boulevard  
Northbrook, Illinois 60062  
Attn: Mr. Kenneth L. Tucker

with copies to: Westinghouse Credit Corporation  
One Oxford Centre  
Pittsburgh, Pennsylvania 15219  
Attn: Charles LeClaire, Esq.

and Arvey, Hodes, Costello & Burman  
180 North LaSalle Street  
38th Floor  
Chicago, Illinois 60601  
Attn: Thomas P. Duffy, Esq.

and Freeman & Kohn  
Two North LaSalle Street  
Suite 1400  
Chicago, Illinois 60602  
Attn: Michael I. Freeman, Esq.

If to Mortgagee: Continental Bank N.A.  
231 South LaSalle Street  
Real Estate Department  
Chicago, Illinois 60697  
Attn: Mr. Robert Mattson

with a copy to: Continental Bank N.A.  
231 South LaSalle Street  
Real Estate Loan Sales - 4th Floor  
Chicago, Illinois 60697  
Attn: Senior Director

with a copy to: Barack, Ferrazzano, Kirschbaum & Perlman  
333 West Wacker Drive  
Suite 2700  
Chicago, Illinois 60606  
Attn: Jeffrey B. Katz, Esq.

32. Security Agreement.

(a) It is the intent of the parties hereto that this instrument shall constitute a security agreement within the meaning of the Code with respect to all fixtures, chattels and personal property, accounts, contract rights and general intangible and other collateral described in the Granting Clauses hereof and in which a security interest may be granted under the Code, and all replacements thereof, substitutions therefor, additions thereto and proceeds thereof (said property being sometimes hereinafter referred to as the "Personal Property"), and that a security interest shall attach thereto for the benefit of Mortgagee to secure the indebtedness evidenced by the Note and all other obligations secured by this Mortgage, and all other sums and charges which may become due hereunder or thereunder. Trust represents and covenants and Beneficiary represents, warrants and covenants that:

(i) Except for the security interest granted hereby and by the Indemnity Mortgage, Mortgagor is, or upon acquiring rights in any of the Personal Property will be, the owner of the Personal Property free from any other lien, security interest or encumbrance; and Mortgagor will defend the security interest of Mortgagee in the Personal Property against claims and demands of all persons at any time claiming the same or any interest therein.

(ii) No financing statement covering any Personal Property or any proceeds thereof is on file in any public office, and at the request of Mortgagee, Mortgagor will join with Mortgagee in executing one or more financing statements pursuant to the Code in form satisfactory to Mortgagee and will pay the costs of filing or recording the same in all public offices wherever filing or recording is deemed by Mortgagee to be necessary or desirable.

(iii) Mortgagor hereby authorizes Mortgagee to file financing and continuation statements with respect to the Personal Property without the signature of Mortgagor whenever lawful.

(b) The Personal Property will be kept at the Real Property, and until installed will be suitably and safely stored thereon.

(c) Mortgagor will not remove or permit to be removed from the Real Property any of the Personal Property without the prior written consent of Mortgagee.

(d) Mortgagor shall, from time to time, on request of Mortgagee, deliver to Mortgagee an inventory of the Personal Property in reasonable detail.

33. Indemnification of Mortgagee. Except for willful misconduct and except as otherwise provided in this Mortgage, Mortgagee shall not be liable for any act or omission or error of

judgment. Mortgagee may rely on any document believed by it in good faith to be genuine. All money received hereunder by Mortgagee need not be segregated (except to the extent required by applicable law), and Mortgagee shall not be liable for interest thereon, except as otherwise provided in Paragraph 7 and Paragraph 8 hereof. Mortgagor shall indemnify Mortgagee against all liability and expenses that it may incur in the performance of its duties hereunder.

34. Severability. The parties intend that this Mortgage, the Note, any Loan Agreement and all other Security Instruments shall be in compliance with all applicable laws and shall be enforceable in accordance with their respective terms. If any provision of this Mortgage, the Note, any Loan Agreement or any other Security Instrument, or the application thereof, shall contravene or be held invalid under the governing laws, such term or provision shall be modified to the extent necessary to make it valid and enforceable, or shall be stricken, as circumstances may require, and this Mortgage shall be construed as if such term or provision to such extent had originally been included herein as so modified or had never been included herein, as the case may be. Without limitation of the foregoing, if at any time or times the interest and any sum considered for such purpose to be interest, payable under or by reason of the Note or any other documents or instruments referred to in the Note (including, without limitation, this Mortgage) should exceed the maximum which, by the laws of the State having jurisdiction, may be charged with respect to the loan evidenced by the Note, given the nature and all of the pertinent circumstances of the loan, then all such sums in excess of such maximum shall be deemed not to be interest, but rather to be payments on account of principal, and without further agreement of the parties shall be so applied without regard to any other provision of the Note or such other document or instrument, provided that Mortgagee may elect instead that no sums shall be payable in excess of such maximum, whereupon the Note and such other documents and instruments shall be deemed amended accordingly without further action by any party.

35. Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Mortgage contained by or on behalf of Mortgagor, or by or on behalf of Mortgagee, shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not.

36. Headings. The headings in this instrument are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

37. Notice of Identity Changes. Without limitation of Paragraph 15 or any other provision hereof, Mortgagor shall give advance notice in writing to Mortgagee of any proposed change in Mortgagor's name or identity and shall execute and deliver to Mortgagee, prior to or concurrently with the occurrence of any such change, all additional financing statements that Mortgagee may require to establish and maintain the validity and priority of Mortgagee's security interest with respect to any of the Mortgaged Premises described or referred to herein.

38. Intentionally Omitted.

39. No Partnership. Nothing contained herein or in the Note or any other Security Instrument is intended to or shall create any partnership, joint venture or association between Mortgagor and Mortgagee, or in any way make Mortgagee a co principal with Mortgagor with reference to the Mortgaged Premises and any inferences to the contrary are hereby expressly negated.

40. Changes, Etc. This Mortgage and the provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

41. Time. Time is and shall be of the essence of this Mortgage and the covenants and agreements of Mortgagor contained herein.

42. Governing Law. This Mortgage shall be governed by the internal laws of the State of Illinois (including, without limitation, its usury laws and the Uniform Commercial Code as adopted in Illinois), and the laws of the State of Illinois shall govern the rights and remedies granted hereunder, including, without limitation, the rights and remedies granted pursuant to Paragraph 22 above with respect to the creation and the enforcement of (a) the lien created hereby against the Real Property and such of the other Mortgaged Premises (including, without limitation, fixtures) as are, under the laws of the State of Illinois and in accordance with this Mortgage, deemed to be real property, and (b) the assignment of the Leases and Rents contained herein, and (c) the lien created hereby against the property, rights and interests described in Paragraph 32 hereof.

43. No Reinstatement. If an Event of Default hereunder shall have occurred and Mortgagee shall have proceeded to have enforced any right, power or remedy permitted hereunder, then a tender of payment by Mortgagor or by anyone on behalf of Mortgagor of the amount necessary to satisfy the amount due hereunder made at any time prior to foreclosure or sale, or the acceptance by Mortgagee of any such payment so tendered, shall not constitute a reinstatement of the Note or this Mortgage.

44. Conflict. In the event of any conflict between the terms and provisions of the Note and the terms and provisions of this Mortgage, the terms and provisions of the Note shall govern and control.

45. First Lien on Fixtures, Equipment and Personality. This is a "Construction Loan Mortgage" within the purview and operation of the Uniform Commercial Code of the State of Illinois, as amended; and this Mortgage secures a loan, the proceeds of which will be disbursed to Mortgagor solely for the purpose of paying the cost of acquiring the Real Property and constructing, developing and furnishing the improvements upon the Real Property (including, without limitation, all of the costs and expenses of the Loan set forth in Article 5 of the Loan Agreement), pursuant to and in accordance with the Loan Agreement, and Mortgagor covenants and agrees that all of said loan proceeds will be used solely for said purposes.

Accordingly, the lien created by this Mortgage shall be a first lien against all fixtures, equipment and other personal property of every kind incorporated and to be incorporated in the building to be constructed as aforesaid, and such lien shall take precedence and be paramount and superior to any other lien, charge or security interest which any person may claim against such fixtures, equipment or personal property.

46. Performance of Obligations under Loan Agreement. The proceeds of the loan secured hereby are to be disbursed by Mortgagee to Mortgagor in accordance with the provisions contained in the Loan Agreement. All advances and indebtedness arising and accruing under the Loan Agreement from time to time shall be secured hereby to the same extent as though said Loan Agreement were fully incorporated in this Mortgage and the occurrence of an Event of Default under said Loan Agreement shall constitute an Event of Default under this Mortgage entitling Mortgagee to all of the rights and remedies conferred upon the Mortgagee by the terms of this Mortgage or by law, as in the case of any other Event of Default.

In addition to and not in limitation of any other terms and provisions of this Mortgage, in connection with the Loan Agreement and the disbursements secured by the lien created by this Mortgage, Mortgagor hereby covenants and agrees as follows:

- (a) That each will comply (or will cause compliance) with each and all of the covenants of said Loan Agreement.
- (b) That the provisions set forth in the Loan Agreement are incorporated herein by express reference; with the further proviso that an Event of Default, as defined in the Loan Agreement, shall be and constitute an Event of Default under this Mortgage; and in consequence thereof Mortgagee may declare the entire debt to be immediately due and payable, or pursue any right, remedy or recourse reserved herein (or in the Loan Agreement) for Event of Default;
- (c) That Mortgagor will cause the construction of the buildings and other improvements in accordance with the aforesaid Loan Agreement;
- (d) That all sums advanced under the Loan Agreement, from time to time, shall be secured hereby as if said advances were made pursuant to the terms and conditions of this Mortgage;
- (e) That in case of a conflict or contradiction between any of the terms and conditions of this Mortgage and those contained in the Loan Agreement, those contained in the Mortgage shall govern the issue in question.

47. Counterparts. This Mortgage may be executed in any number of identical counterparts, any or all of which may contain the signatures of less than all of the parties, and all of which shall be construed together as but a single instrument.

48. Leasing and Management Agreements. Mortgagor covenants and agrees that all agreements to pay leasing commissions (i) shall provide that the obligation to pay such commissions will not be enforceable against any party other than the party who entered into such agreement, (ii) shall be subordinate to the lien of this Mortgage, and (iii) shall not be enforceable against Mortgagee. Mortgagor shall furnish Mortgagee with evidence of the foregoing which is in all respects satisfactory to Mortgagee. Mortgagor further covenants and agrees that all agreements to manage the Mortgaged Premises (i) shall provide that the obligation to pay any amount thereunder will not be enforceable against any party other than the party who entered into such agreement (ii) shall provide that such agreement, together with any and all liens and claims for lien that any manager or other person or entity performing the duties of a manager thereunder has or may thereafter have thereunder or for managing the Mortgaged Premises or any part thereof, shall be in all respects subordinate to the lien of this Mortgage, and (iii) shall not be enforceable against Mortgagee. Mortgagor shall furnish Mortgagee with evidence of the foregoing which is in all respects satisfactory to Mortgagee. Nothing contained in this Paragraph 48 shall limit Mortgagee's rights under Section 12(u) of the Loan Agreement.

49. Nonrecourse. Notwithstanding anything to the contrary contained herein or in any of the Loan Documents, absent fraud or intentional misrepresentation, conversion or other intentional tortious conduct, any violation of Paragraph 11 of this Mortgage, (it being agreed that the personal liability of Mortgagor under this Mortgage on account of any such matters or actions shall be limited to damages incurred by Mortgagee on account of such matters or actions), except for (and without in any way limiting) the personal liability of Payment Guarantor under the Guaranty of Payment and the Carry Guaranty and Completion Guarantors under the Completion Guaranty or the liability of any guarantor under any other guaranty relating in any way to the Loan, neither Mortgagor, nor any partner of Mortgagor shall have any personal liability for the payment of the indebtedness secured hereby or the performance or observance of the covenants, representations and warranties of Mortgagor contained herein or in any of the Loan Documents and Mortgagee agrees not to seek to receive any damages from Mortgagor or any partner thereof, and in the event Mortgagee obtains a personal money judgment against Mortgagor or any partner thereof, Mortgagee will look solely to (a) the assets of Mortgagor, including, without limitation, the Mortgaged Premises (as defined in the Mortgage), and any issues, profits and proceeds thereof, and (b) the assets of Payment Guarantor or Completion Guarantors, as the case may be, pursuant to the Guaranty of Payment, Carry Guaranty and Completion Guaranty, as the case may be, and (c) the other Loan Documents, and the liens, encumbrances and collateral secured or evidenced thereby, and any issues, profits and proceeds thereof, for the payment of the indebtedness evidenced by the Notes. Except as expressly set forth in this Section 49, nothing contained herein shall be construed to prevent Mortgagee from exercising and enforcing any other remedy allowed hereunder, at law or equity, or by any of the Loan Documents.

50. Optional Subordination to Leases. Mortgagee may, at its option and without further notice to, or action by, the parties hereto or the parties to the Leases, subordinate the lien of this Mortgage to any or all of the Leases, and Mortgagor hereby agrees



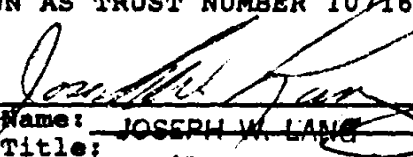



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be executed and delivered, all as of the date and year first above written.

## MORTGAGOR:

LASALLE NATIONAL TRUST, N.A., A NATIONAL BANKING ASSOCIATION, NOT PERSONALLY BUT AS SUCCESSOR TRUSTEE TO LASALLE NATIONAL BANK, A NATIONAL BANKING ASSOCIATION, UNDER TRUST AGREEMENT DATED OCTOBER 1, 1983 AND KNOWN AS TRUST NUMBER 107166

By:   
Name: JOSEPH W. LANG  
Title: VICE PRESIDENT

Attest:   
Name: Rosemary Collins  
Title: ASSISTANT SECRETARY

The undersigned as Beneficiary is executing this Mortgage, Assignment of Leases and Rents and Security Agreement (subject to Section 49) for the sole purpose of joining in (i) the representations of Mortgagor, (ii) the representations and warranties of Beneficiary; (iii) the Granting Clauses; and (iv) the covenants, agreements and indemnities contained in Paragraphs 2, 8, 9, 11, 12, 32 and 49.

ONE SCRAUMBURG PLACE LIMITED PARTNERSHIP, a Delaware limited partnership

By: TUCKER D'OUT INC., an Illinois corporation, its sole General Partner

By:   
Name: Kenneth A. Uebel  
Title: PRES

## MORTGAGEE:

CONTINENTAL BANK N.A., a national banking association

By:   
Its: V.P.

Attest:   
Its: V.P.

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

I, VERA FILIC, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JOSEPH W. LANE, President of LASALLE NATIONAL TRUST, N.A., a national banking association, not personally but as successor trustee to LaSalle National Bank, a national banking association, known to me to be acting not personally but as such successor trustee under Trust Agreement dated October 1, 1983 and known as Trust Number 107166 and ROSEMARY COLLINS, Assistant Secretary of said Trust, are subscribed to the foregoing instrument as such VICE President and ASSISTANT Secretary, respectively, appeared before me this 27<sup>th</sup> day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27<sup>th</sup> day of July, 1990.

Vera Filic  
Notary Public

My commission expires: 11/10/90



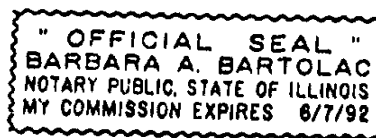
STATE OF Illinois )  
COUNTY OF Cook ) SS

I, BARBARA A. BARTOLAC, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Kenneth S. Zucker, President of ZUCKER'D OUT, INC., an Illinois corporation, the sole general partner of ONE SCHAUMBURG PLACE LIMITED PARTNERSHIP, a Delaware limited partnership, subscribed to the foregoing instrument as such President, appeared before me this 27<sup>th</sup> day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27<sup>th</sup> day of July, 1990.

Barbara A. Bartolac  
Notary Public

My commission expires: \_\_\_\_\_



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STATE OF Illinois )  
COUNTY OF Cook ) SS

I, Christine Franczyk, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Galvan L. Mattson, Vice President of Continental Bank N.A., and Jerry J. Kalinos, Vice President Secretary of said corporation, who are subscribed to the foregoing instrument as such Vice President and Vice President Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth; and the said Vice President Secretary then and there acknowledged that he, as custodian of the corporate seal of said corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation.

GIVEN under my hand and notarial seal this 30<sup>th</sup> day of July, 1970.

Christine Franczyk  
Notary Public

My Commission Expires: \_\_\_\_\_



EXHIBIT ALEGAL DESCRIPTION

## PARCEL 1:

THAT PART OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THAT PART OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING 3.14 CHAINS NORTH OF THE SOUTH EAST CORNER OF SAID SECTION 13; THENCE NORTH 7 DEGREES EAST 33.10 CHAINS TO THE SOUTH BOUNDARY OF A CONVERSE LANDS; THENCE NORTH 84 DEGREES WEST 24.20 CHAINS TO WEST SIDE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 13; THENCE SOUTH ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 13 AFORESAID, 30.80 CHAINS TO CENTER OF HIGGINS ROAD; THENCE SOUTH 77 DEGREES 10 MINUTES EAST 20.55 CHAINS TO THE PLACE OF BEGINNING, (EXCEPT THAT PART THEREOF TAKEN FOR HIGHWAYS AND EXCEPT THAT PORTION CONVEYED TO FOREST PRESERVE DISTRICT OF COOK COUNTY, ILLINOIS BY DOCUMENT NUMBER 17128832 RECORDED FEBRUARY 7, 1958 AND DOCUMENT NUMBER 17227068, RECORDED JUNE 6, 1958 AND EXCEPTING THAT PART LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE NORTHERLY LINE OF HIGGINS ROAD (ROUTE 72) DISTANT 550.0 FEET WESTERLY OF THE EAST LINE OF THE SOUTH EAST 1/4 OF AFORESAID SECTION 13; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE, EXTENDED TO INTERSECT THE NORTH LINE OF THE SOUTH EAST 1/4 OF SAID SECTION 13 AT A POINT 265.0 FEET WEST OF THE NORTH EAST CORNER OF SAID SECTION) IN COOK COUNTY, ILLINOIS.

## PARCEL 2:

EASEMENTS FOR THE BENEFIT OF PARCEL 1 ARE SET FORTH AND DEFINED IN THE GRANT OF EASEMENT RECORDED AS DOCUMENT NUMBER 26081425, OVER, UPON AND UNDER THE FOLLOWING DESCRIBED REAL ESTATE: THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID; THENCE SOUTH ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID A DISTANCE OF 62.7 FEET TO THE POINT OF BEGINNING; THENCE SOUTHEASTERLY ALONG A LINE PARALLEL WITH THE SOUTHERLY LINE OF WOODFIELD ROAD PER DOCUMENT NUMBER 20944554 TO ITS INTERSECTION WITH THE WESTERLY LINE OF LAND DESCRIBED IN DOCUMENT NUMBER 20797704; THENCE NORTHEASTERLY ALONG SAID WESTERLY LINE TO THE SOUTHERLY LINE OF WOODFIELD ROAD AFORESAID; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE TO THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID; THENCE SOUTH ALONG SAID WEST LINE TO THE POINT OF BEGINNING (EXCEPT THEREFROM THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID; THENCE SOUTH ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID A DISTANCE OF 62.7 FEET; THENCE SOUTHEASTERLY ALONG A LINE PARALLEL WITH THE SOUTHERLY LINE OF WOODFIELD ROAD PER DOCUMENT NUMBER 20944554 FOR A DISTANCE OF 357.50 FEET TO THE POINT OF BEGINNING OF THIS EXCEPTION; THENCE CONTINUING ALONG SAID PARALLEL LINE 35.0 FEET; THENCE NORTHEASTERLY TO A POINT ON THE SOUTHERLY LINE OF WOODFIELD ROAD AFORESAID 417.50 FEET (AS MEASURED ON SAID SOUTHERLY LINE) SOUTHEASTERLY OF THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST

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QUARTER OF SECTION 13 AFORESAID; THENCE NORTHWESTERLY ALONG THE SOUTHERLY LINE OF WOODFIELD ROAD AFORESAID 85.0 FEET; THENCE SOUTHEASTERLY TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

90369565

EXHIBIT B

Permitted Exceptions

1. General Real Estate Taxes for the Second Installment 1989 and subsequent years not yet due and payable;
2. Leasehold Interest of Montgomery Ward & Co., Incorporated under and by virtue of Lease recorded as Document Number 89609474;
3. Leasehold Interest of the following tenants pursuant to the following unrecorded leases:
  - (a) Lease dated June 22, 1989 by and between LaSalle National Trust, N.A., a national banking association, not personally but as successor trustee to LaSalle National Bank, a national banking association, under Trust Agreement dated October 23, 1986 and known as Trust Number 107166 ("Trust") and Plitt Theatres, Inc., as amended;
  - (b) Lease dated December 5, 1989 by and between Trust and Children's Palace, Inc.;
  - (c) Lease dated January 9, 1989 by and between Trust and PharMor, Inc., and
  - (d) Lease dated May 14, 1990 by and between Trust and Highland Superstore, Inc.
4. Grant of Easement dated August 19, 1981 by and between Chicago Title and Trust Company, not personally or individually, but as Trustee under certain Trust Agreement dated April 9, 1964 and known as Trust No. 46746 and Chicago Title and Trust Company, not personally or individually, but as Trustee under a certain Trust Agreement dated February 6, 1961 and known as Trust No. 43028 (Parcel 2).
5. Rights of the adjoining owners to the concurrent use of the Easements described as Parcel 2.