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Project: Wood Oaks Court Subdivision  
Highland Park, Illinois

91579056

SEPT-01 RECORDING 151.00  
7:44:44 TRAN 4319 11/05/91 11:43:00  
48527 \* 0 \* 71-579056  
COOK COUNTY RECORDER

LAND DEVELOPMENT MORTGAGE,  
SECURITY AGREEMENT, FINANCING STATEMENT  
AND ASSIGNMENT OF LEASES, RENTS AND PROFITS

FROM

WOOD OAKS DEVELOPERS LIMITED PARTNERSHIP  
(BENEFICIARY)

-AND-

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO (TRUSTEE)

TO

CONTINENTAL BANK N.A.,  
A NATIONAL BANKING ASSOCIATION

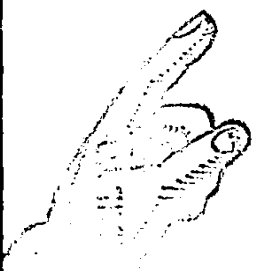
(MORTGAGEE)

N-911236 JK

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After recording  
return to:

Mayer, Brown & Platt  
190 South LaSalle Street  
Chicago, Illinois 60603  
Attention: Jack Edelbrock, Jr.



35W/JFE/Kogen/Mortgage/10-29-91

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Land Development Mortgage,  
Security Agreement, Financing Statement  
and Assignment of Leases, Rents and Profits

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## LAND DEVELOPMENT MORTGAGE, SECURITY AGREEMENT, FINANCING STATEMENT AND ASSIGNMENT OF LEASES, RENTS AND PROFITS

THIS LAND DEVELOPMENT MORTGAGE, SECURITY AGREEMENT, FINANCING STATEMENT AND ASSIGNMENT OF LEASES, RENTS AND PROFITS ("Mortgage") made as of November 4, 1991, by WOOD OAKS DEVELOPERS LIMITED PARTNERSHIP ("Beneficiary") an Illinois limited partnership and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("Trustee") not individually but solely as trustee under the provisions of a Trust Agreement dated July 10, 1991 and known as Trust No. 11419603 (the "Trust") (herein the Beneficiary and the Trustee, individually and collectively, jointly and severally, together with the successors and assigns of each of them are referred to herein as (the "Mortgagor"), to CONTINENTAL BANK N.A., a national banking association (the "Mortgagee").

### R E C I T A L S

WHEREAS, Beneficiary and Trustee have executed and delivered to Mortgagee a certain Promissory Note of even date herewith payable to the order of Mortgagee, whose address is 231 South LaSalle Street, Chicago, Illinois 60697, in the principal sum of ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$1,600,000) (the "Note") and all modifications, increases, replacements, renewals and extensions thereof, in whole or in part, being hereinafter referred to as the "Note", bearing interest and being payable, as set forth therein, and due October 3, 1993.

### G R A N T I N G C L A U S E S

NOW, THEREFORE, to secure (i) the payment of the principal indebtedness under the Note and interest and premiums, if any, on the principal indebtedness under the Note according to its tenor and effect; (ii) the payment of all other sums which may be at any time due and owing or required to be paid under the Note or this Mortgage; (iii) the payment of all other indebtedness of whatever kind or character, now owing or which may hereafter become owing by Mortgagor to Mortgagee, whether such indebtedness is evidenced by a note, open account, overdraft, endorsement, surety agreement, guaranty, any Reimbursement Agreement or other document executed in connection with the issuance of any letter of credit by Mortgagee or otherwise, including but not limited to any Letter of Credit as defined in Rider A to the Loan Agreement (as defined hereinafter); (iv) the performance and observance of all the covenants, agreements and provisions contained in this Mortgage, the Note, or that certain Land Acquisition and Development Loan Agreement (the "Loan Agreement") of even date herewith made by Mortgagor and Mortgagee; and (v) performance by Mortgagor under the "Loan Instruments", as that term is defined in the Loan Agreement, (the obligations described in (i) through (v), inclusive, are sometimes collectively referred to herein as "Indebtedness"); and to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for other valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, Mortgagor DOES HEREBY GRANT, REMISE, RELEASE, ALIEN, MORTGAGE, WARRANT AND CONVEY unto Mortgagee, its successors and assigns forever, the Land (as defined below) together with the following described property, rights and interests all of which are hereby pledged primarily and on a parity with the Land and not secondarily (and are, together with the Land, referred to herein as the "Premises"):

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

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TOGETHER WITH all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, appliances, equipment, furniture, and personal property of every nature whatsoever now or hereafter owned by Mortgagor and located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Land, buildings, structures or other improvements, or in connection with any construction being conducted or which may be conducted thereon, and owned by Mortgagor, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf (collectively, the "Improvements");

TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to the Land, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor in and to the same;

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

TOGETHER WITH all right, title and interest of Mortgagor in and to each and every Lease (as hereinafter defined) now or hereafter affecting the Premises whether written or oral and all agreements for use of the premises, together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rents under any such Lease;

TOGETHER WITH all fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Land or the Improvements or the operation thereof, including, without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution

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therefor, whether or not the same are or shall be attached to the Land or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Land or the Improvements shall, so far as permitted by law, be deemed to be fixtures, a part of the realty, and security for the Indebtedness; notwithstanding the agreement and declaration hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and are appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Uniform Commercial Code), this instrument shall constitute a security agreement creating a security interest in such goods, as collateral, in Mortgagee as a secured party and Mortgagor as debtor, all in accordance with said Uniform Commercial Code as more particularly set forth in Section 11 hereof;

**TOGETHER WITH** all goodwill, trademarks, trade names, option rights, purchase contracts, contract rights, books and records and general intangibles of the Mortgagor relating to the Premises, and all accounts, amounts taken as deposits for taxes and insurance premiums pursuant to Section 7 hereof, the Collateral (as that term is defined in Section 11 hereof), contract rights, instruments, chattel paper and other rights of the Mortgagor for payment of money for property sold or lent, for services rendered, for money lent, or for advances or deposits made, purchase agreements and all earnest money and other deposits taken in connection therewith, all building permits, governmental permits, licenses and authorizations related to the Land and Improvements, any other agreements now or in the future existing respecting the construction, management and operations of the Land and Improvements (including, without limitation, the Architect's Contract (as that term is defined in the Loan Agreement) along with any management agreements, leasing agreements and any maintenance and service contracts) and any other intangible property of the Mortgagor related to the Land and Improvements;

**TOGETHER WITH** all rights of the Mortgagor to plans and specifications, designs, drawings and other matters prepared for any construction or improvements in or on the Premises, including, without limitation, the House Plans and the Engineering Plans (as those terms are defined in the Loan Agreement);

**TOGETHER WITH** all rights of the Mortgagor under any contracts executed by the Mortgagor as owner with any provider of goods or services for or in connection with any construction undertaken on, or services performed or to be performed in connection with, the Land and Improvements, including the architect's contracts, the construction contracts, and any other agreements now or in the future existing respecting the construction and equipping of the Improvements (including any agreements with soils, mechanical and structural engineers, landscape architects, and other contractors or consultants, and any subcontracts to the construction contracts); and

**TOGETHER WITH** all other property or rights of the Mortgagor of any kind or character related to the Land and Improvements and all proceeds of the foregoing, including without limitation all judgments, awards of damages and settlements hereafter made resulting from condemnation or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of

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insurance maintained with respect to the Premises, or proceeds of any sale, option or contract to sell the Premises or any portion thereof; and Mortgagor hereby authorizes, directs and empowers Mortgagee, at its option, on behalf of Mortgagor, or its successors or assigns, to adjust, compromise, claim, collect and receive such proceeds, to give proper receipts and acquittances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by Mortgagee, of the Indebtedness, notwithstanding the fact that the same may not then be due and payable or that the Indebtedness is otherwise adequately secured.

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

The Mortgagor hereby covenants with and warrants to the Mortgagee and with the purchaser at any foreclosure sale: that at the execution and delivery hereof it is well seized of the Premises, and of a good, indefeasible estate therein, in fee simple; that the Premises and the Collateral (as hereinafter defined) are free from all encumbrances whatsoever (and any claim of any other person thereto) other than the Permitted Encumbrances (as used herein the term "Permitted Encumbrances" means the encumbrances and exceptions set forth in Exhibit L to the Loan Agreement); that it has good and lawful right to sell, mortgage and convey the Premises and the Collateral; and that it and its successors and assigns will forever warrant and defend the Premises and the Collateral against all claims and demands whatsoever.

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

## **MORTGAGOR FURTHER COVENANTS AND AGREES AS FOLLOWS:**

### **ARTICLE I COVENANTS**

**1. Payment of Indebtedness and Performance of Covenants.**  
Mortgagor shall (a) make all payments on the Indebtedness when due; and (b) properly and punctually perform and observe all of the terms, provisions, conditions, covenants and agreements on Mortgagor's part to be performed or observed as provided in the Note, this Mortgage, the Loan Agreement, and the other Loan Instruments. Mortgagor shall have the privilege of making prepayments on the principal of the Note (in addition to the required payments thereunder) in accordance with the terms and conditions set forth in the Note, but not otherwise.

**2. Maintenance, Repair, Compliance with Law, Use, Etc.**  
Mortgagor shall (a) promptly repair, restore, replace or rebuild any portion of the Improvements which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for that purpose; (b) keep the Premises in good condition and repair, free from waste; (c) pay all operating

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costs of the Premises; (d) complete within a reasonable time any building or buildings or other Improvements now or at any time in the process of erection upon the Premises as required by the Loan Agreement; (e) comply with all requirements of statutes, ordinances, rules, regulations, orders, decrees and other requirements of law relating to the Premises or any part thereof by any federal, state or local authority; (f) refrain from any action and correct any condition which would increase the risk of fire or other hazard to the Improvements or any portion thereof; (g) comply with any restrictions and covenants of record with respect to the Premises and the use thereof; (h) observe and comply with any conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions that are applicable to the Premises or its use and occupancy; and (i) cause the Premises to be managed in a competent and professional manner. Without the prior written consent of Mortgagee, Mortgagor shall not cause, suffer or permit any (i) material alterations of the Premises except as required by law or ordinance; (ii) change in the intended use or occupancy of the Premises for which the Improvements were constructed as provided in the Loan Agreement, including without limitation any change which would increase any fire or other hazard; (iii) change in the identity of the person or firm responsible for developing, marketing and managing the Premises; (iv) zoning reclassification with respect to the Premises; (v) unlawful use of, or nuisance to exist upon, the Premises; or (vi) granting of any easements, licenses, covenants, conditions or declarations of use against the Premises. Except as may otherwise be provided herein, Mortgagor shall promptly pay when due all obligations regarding the ownership and operation of the Premises.

### 3. Liens.

3.1 Prohibition of Liens. Subject to the provisions of Sections 4 and 12 hereof, Mortgagor shall not create, suffer or permit any mortgage, lien, charge or encumbrance to attach to or be filed against the Premises, whether such lien or encumbrance is inferior or superior to the lien of this Mortgage, including mechanics' liens, materialmen's liens, or other claims for lien made by parties claiming to have provided labor or materials with respect to the Premises (which liens are herein collectively defined as "Mechanic's Liens") and excepting only the lien of real estate taxes and assessments not yet due or delinquent, any liens and encumbrances of Mortgagee, and any other liens or encumbrances permitted by the Loan Agreement.

3.2 Contest of Mechanic's Liens Claims. Notwithstanding the foregoing prohibition against Mechanic's Liens against the Premises, Mortgagor, or any party obligated to Mortgagor to do so, may in good faith and with reasonable diligence contest the validity or amount of any Mechanic's Lien and defer the payment and discharge thereof during the pendency of such contest, provided that: (a) such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such Mechanic's Lien; (b) within ten (10) days after Mortgagor has been notified of the filing of such Mechanic's Lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such Mechanic's Lien or to cause such other party to contest such Mechanic's Lien; and (c) Mortgagor shall have obtained a title insurance endorsement over such Mechanic's Lien insuring Mortgagee against loss or damage by reason of the existence of such Mechanic's Lien or Mortgagor shall have deposited or caused to be deposited with Mortgagee a



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sum of money which shall be sufficient in the judgment of Mortgagee to pay in full such Mechanic's Lien plus all interest which might become due thereon, and related costs and expenses. Mortgagor shall increase the amount on deposit to cover additional interest whenever Mortgagee deems advisable. Such deposits are to be held without any allowance of interest. In case Mortgagor shall fail (i) to maintain or cause to be maintained sufficient funds on deposit; (ii) to prosecute such contest or cause such contest to be prosecuted with reasonable diligence; or (iii) to pay or cause to be paid the amount of the Mechanic's Lien plus any interest finally determined to be due upon the conclusion of such contest in excess of the amount on deposit; then Mortgagee may, at its option, apply the deposited money in payment of or on account of such Mechanic's Lien, or that part thereof then unpaid, together with all interest thereon and related costs and expenses. If the deposited money shall be insufficient for the payment in full of such Mechanic's Lien, together with all interest thereon, Mortgagor shall upon demand deposit with Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full. If the contest of the Mechanic's Lien claim is ultimately resolved in favor of the claimant, Mortgagee shall apply the money so deposited in full payment of such Mechanic's Lien or that part thereof then unpaid, together with all interest thereon (provided that there is no Event of Default) when furnished with evidence satisfactory to Mortgagee of the amount of payment to be made. Any surplus remaining in the control of Mortgagee shall be paid to Mortgagor, provided no Event of Default exists.

#### 4. Taxes and Liens.

4.1 Payment. Mortgagor shall (a) pay or cause to be paid when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever levied or assessed against the Premises or any part thereof or any interest therein or any obligation or instrument secured hereby, and all installments thereof (all herein generally called "Taxes"), whether or not assessed against Mortgagor; (b) furnish to Mortgagee receipts therefor on or before thirty (30) days after the date the same shall become delinquent; and (c) discharge any claim or lien relating to taxes upon the Premises, other than matters expressly permitted by the terms of the Loan Agreement.

4.2 Contest. Mortgagor may, in good faith and with reasonable diligence, contest or cause to be contested the validity or amount of any such Taxes, provided that: (a) such contest shall have the effect of staying the collection of the Taxes so contested and the sale or forfeiture of the Premises or any part thereof or interest therein to satisfy the same; (b) Mortgagor has notified Mortgagee in writing of its intention to contest such Taxes before any such Taxes have been increased by any interest, penalties, or costs; and (c) Mortgagor has deposited or caused to be deposited with Mortgagee a sum of money or other security acceptable to Mortgagee that, when added to the monies or other security, if any, deposited with Mortgagee pursuant to Section 6.3 hereof, is sufficient, in Mortgagee's judgment, to pay in full such contested Taxes and all penalties and interest that might become due thereon, and shall keep on deposit an amount sufficient, in Mortgagee's judgment, to pay in full such contested Taxes, increasing such amount to cover additional penalties and interest whenever, in

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Mortgagee's judgment, such increase is advisable. If Mortgagor fails to prosecute such contest with reasonable diligence or fails to maintain sufficient funds on deposit as required, Mortgagee may, at its option, apply the monies and liquidate any securities deposited with Mortgagee in payment of, or on account of, such Taxes, or any portion thereof then unpaid, including all related penalties and interest. If the amount of the money and any such security so deposited is insufficient for the payment in full of such Taxes, together with all penalties and interest thereon, Mortgagor shall forthwith, upon demand, either deposit with Mortgagee a sum that, when added to such funds then on deposit, is sufficient to make such payment in full, or, if Mortgagee has applied funds on deposit on account of such Taxes, restore such deposit to an amount satisfactory to Mortgagee. Provided no Event of Default exists, Mortgagee shall, if so requested in writing by Mortgagor, after final disposition of such contest and upon Mortgagor's delivery to Mortgagee of an official bill for such Taxes, apply the money so deposited in full payment of such Taxes or that part thereof then unpaid, together with all penalties and interest thereon.

5. Change in Tax Laws. If, by the laws of the United States of America, or of any state or municipality having jurisdiction over Mortgagee, Mortgagor or the Premises, any tax is imposed or becomes due in respect of the issuance of the Note or the recording of this Mortgage, Mortgagor shall pay such tax in the manner required by such law. If any law, statute, rule, regulation, order or court decree has the effect of deducting from the value of the Premises for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the interest of Mortgagee in the Premises, or the manner of collection of taxes so as to affect this Mortgage, the indebtedness or Mortgagee, then Mortgagor, upon demand by Mortgagee, shall pay such taxes, or reimburse Mortgagee therefor, unless Mortgagee determines, in Mortgagee's sole and exclusive judgment, that such payment or reimbursement by Mortgagor is unlawful; in which event the indebtedness shall be due and payable within thirty (30) days after written demand by Mortgagee to Mortgagor. Nothing in this Section 5 shall require Mortgagor to pay any income, franchise or excise tax imposed upon Mortgagee, excepting only such tax which may be levied against the income of Mortgagee as a complete or partial substitute for taxes required to be paid by Mortgagor pursuant hereto.

## 6. Insurance.

6.1 Insurance Coverage. Mortgagor, at its sole cost and expense, shall insure and keep insured the Premises against such perils and hazards, and in such amounts and with such limits, as Mortgagee may from time to time require, and, in any event, including:

A. All Risk. Insurance against loss to the Premises which during construction shall be on an "All Risk" perils "Builders' Risk", non-reporting "Completed Value" form and after completion of construction shall be on an "All Risk" policy form, in each case, covering insurance risks no less broad than those covered under a Standard Multi Peril (SMP) policy form, which contains a 1987 Commercial ISO "Causes of Loss - Special Form", including theft, and insurance against such other risks as Mortgagee may reasonably require, including, but not limited to, insurance covering the cost of demolition of undamaged portions of any portion of the Premises when required by code or ordinance, the

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increased cost of reconstruction to conform with current code or ordinance requirements and the cost of debris removal. In addition, during construction such policies shall cover real estate property taxes; architect, engineering, and consulting fees; legal and accounting fees, including, but not limited to, the cost of in-house attorneys and paralegals; advertising and promotions expenses; interest on money borrowed; additional commissions incurred upon renegotiating leases and any and all other expenses which may be incurred as a result of any property loss or destruction by an insured. Such policies shall be in amounts equal to the full replacement cost of the Premises (other than the Real Estate), including all fixtures, equipment, construction materials and personal property on and off site, and Mortgagor's interest in any leasehold improvements. Such policies shall also contain a 100% co-insurance clause with an agreed amount endorsement (with such amount to include the replacement cost of the foundation and any underground pipes), a permission to occupy endorsement and deductibles which are in amounts acceptable to Mortgagee.

**B. Rent Continuation.** Upon completion, rent and rental value/extra expense insurance (if the Premises are tenant occupied) in amounts sufficient to pay during any period in which the Premises may be damaged or destroyed, on a gross rents basis for a period of twelve (12) months or such greater time as Mortgagee may deem appropriate: (i) all rents derived from the Premises; (ii) all amounts (including, but not limited to, all Impositions, utility charges and insurance premiums) required to be paid by Mortgagor or by tenants of the Premises; and (iii) all contingent rents.

**C. Business Interruption.** Upon completion, business interruption/extra expense insurance (if the Premises are owner-occupied) in amounts sufficient to pay during any period in which the Premises may be damaged or destroyed, on a gross income basis for a period of twelve (12) months or such greater time as Mortgagee may deem appropriate: (i) all business income derived from the Premises and (ii) all amounts, including, but not limited to, all Impositions, utility charges and insurance premiums) required to be paid by Mortgagor.

**D. Delayed Opening.** During the entire period of construction, "Delayed Opening" insurance in an amount equal to not less than the estimated annual gross income rents. Such policy shall include the standard "Soft Costs" endorsement if not already included within the property section of the Builder's Risk form.

**E. Boiler and Machinery.** Upon completion, broad form boiler and machinery insurance including business interruption/extra expense and rent and rental value insurance, on all equipment and objects customarily covered by such insurance and/or involved in the heating, cooling, electrical and mechanical systems of the Premises (if any are located at the Premises), providing for full repair and replacement cost coverage, and other insurance of the types and in amounts as Mortgagee may reasonably require, but in no event less than that customarily carried by persons owning or operating like properties.

**F. Workers' Compensation.** During the construction of (or making of any alterations or improvements to) the Premises (i) insurance covering claims based on the owner's or employer's contingent liability not covered by the insurance provided in subsection (i) below and (ii) workers' compensation insurance covering all persons engaged in such alterations or improvements.

**G. Flood.** Insurance against loss or damage by flood or mud slide in compliance with the Flood Disaster Protection Act of

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1973, as amended from time to time, if the Premises are now, or at any time while the Secured Indebtedness remains outstanding shall be, situated in any area which an appropriate governmental authority designates as a special flood hazard area, Zone A or Zone V, in amounts equal to the full replacement value of all above grade structures on the Premises.

H. Earthquake. Insurance against loss or damage by earthquake, if the Premises are now, or at any time while the Secured Indebtedness remains outstanding shall be, situated in any area which is classified as a Major Damage Zone, Zones 3 and 4, by the International Conference of building Officials in an amount equal to the probable maximum loss for the Premises, fixtures and equipment, plus the cost of debris removal.

I. Public Liability. Commercial general public liability insurance against death, bodily injury and property damage arising in connection with the Premises. Such policy shall be written on a 1986 Standard ISO occurrence basis form or equivalent form, shall list Mortgagor as the named insured, shall designate thereon the location of the Premises and have such limits as Mortgagee may reasonably require, but in no event less than \$1,000,000. Mortgagor shall also obtain excess umbrella liability insurance with such limits as the Mortgagee may reasonably require but in no event less than \$10,000,000.

J. Contractor's Insurance. During the entire period of construction, Mortgagor shall cause to be furnished to Mortgagee certificates from the insurance carrier for each general contractor evidencing workers' compensation, employers' liability, commercial auto liability, excess umbrella liability coverage and commercial general liability insurance (including contractual liability and completed operations coverage) written on a 1986 standard "ISO" occurrence basis form or its equivalent, with general liability insurance limits as Mortgagee may reasonably require, but in no event less than \$10,000,000. Mortgagee shall be named as an additional insured under such liability policies. Mortgagor shall cause each subcontractor to maintain commercial general liability, commercial automobile liability, workers' compensation, employers' liability, and excess umbrella liability coverage in form and amount satisfactory to Mortgagee.

K. Other Insurance. Such other insurance relating to the Premises and the use and operation thereof, as Mortgagee may, from time to time, reasonably require, including, but not limited to, dramshop, products liability and non-owned aircraft.

I. Policy Requirements. All insurance shall: (i) be carried in companies with a Best's rating of A/X or better, or otherwise acceptable to Mortgagee; (ii) in form and content acceptable to Mortgagee; (iii) provide thirty (30) days' advance written notice to Mortgagee before any cancellation, adverse material modification or notice of non-renewal; and (iv) to the extent limits are not otherwise specified herein, contain deductibles which are in amounts acceptable to Mortgagee.

All physical damage policies and renewals shall contain a standard mortgage clause naming the Mortgagee as mortgagee, which clause shall expressly state that any breach of any condition or warranty by Mortgagor shall not prejudice the rights of Mortgagee under such insurance; and a loss payable clause in favor of the Mortgagee for personal property, contents, inventory, equipment, loss of rents and business interruption. All liability policies and renewals shall name the Mortgagee as an additional insured. No additional parties shall appear in the mortgage or loss payable clause without Mortgagee's prior written consent. All deductibles shall be in amounts acceptable to Mortgagee. In the

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event of the foreclosure of this Mortgage or any other transfer of title to the Premises in full or partial satisfaction of the Secured Indebtedness, all right, title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force shall pass to the purchaser or grantee.

6.2 Delivery of Policies. Any notice pertaining to insurance and required pursuant to this Section 6.2 shall be given in the manner provided in Section 40 below at Mortgagee's address stated above ( Attention: Victor P. Stasica. The insurance shall be evidenced by the original policy or a true and certified copy of the original policy, or in the case of liability insurance, by certificates of insurance. Mortgagor shall use its best efforts to deliver originals of all policies and renewals (or certificates evidencing the same), marked "paid", (or evidence satisfactory to Mortgagee of the continuing coverage), to Mortgagee at least fifteen (15) days before the expiration of existing policies and, in any event, Mortgagor shall deliver originals of such policies or certificates to Mortgagee at least five (5) days before the expiration of existing policies. If Mortgagee has not received satisfactory evidence of such renewal or substitute insurance in the time frame herein specified, Mortgagee shall have the right, but not the obligation, to purchase such insurance for Mortgagee's interest only. Any amounts so disbursed by Mortgagee pursuant to this Section shall be a part of the Secured Indebtedness and shall bear interest at the default interest rate provided in the Note. Nothing contained in this Section shall require Mortgagee to incur any expense or take any action hereunder, and inaction by Mortgagee shall never be considered a waiver of any right accruing to Mortgagee on account of this Section.

6.3. Separate Insurance. Mortgagor shall not carry any separate insurance on the Premises concurrent in kind or form with any insurance required hereunder or contributing in the event of loss without Mortgagee's prior written consent, and any such policy shall have attached standard non-contributing mortgagee clause, with loss payable to Mortgagee, and shall otherwise meet all other requirements set forth herein.

6.4 Insurance Review. At Mortgagee's option, but not more often than annually, Mortgagor shall provide Mortgagee with a report from an independent insurance consultant of regional or national prominence, acceptable to Mortgagee, certifying that Mortgagor's insurance is in compliance with this Section 6.

6.5 Notice of Casualty. Mortgagor shall give immediate notice of any loss to Mortgagee. In case of loss covered by any of such policies, Mortgagee is authorized to adjust, collect and compromise in its discretion, all claims thereunder and in such case, Mortgagor covenants to sign upon demand, or Mortgagee may sign or endorse on Mortgagor's behalf, all necessary proofs of loss, receipts, releases and other papers required by the insurance companies, to be signed by Mortgagor. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact for the purposes set forth in the preceding sentence. Mortgagee may deduct from such insurance proceeds any expenses incurred by Mortgagee in the collection and settlement thereof, including, but not limited to, attorneys' and adjusters' fees and charges.

6.6 Application of Proceeds. If all or any part of the Premises shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Section 8, Mortgagor shall promptly and with all due diligence restore and repair the Premises whether or not the net insurance proceeds, award or other compensation (collectively, the "Proceeds") are sufficient

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to pay the cost of such restoration or repair. Mortgagee may require that all plans and specifications for such restoration or repair be submitted to and approved by Mortgagee in writing prior to commencement of the work. At Mortgagee's election, to be exercised by written notice to Mortgagor within thirty (30) days following Mortgagee's unrestricted receipt in cash or the equivalent thereof of the Proceeds, the entire amount of the Proceeds, shall either: (i) be applied to the Secured Indebtedness in such order and manner as Mortgagee may elect or (ii) be made available to Mortgagor on the terms and conditions set forth in this Section 6.6 to finance the cost of restoration or repair with any excess to be applied to the Secured Indebtedness in the inverse order of maturity. Any application of the Proceeds to reduce the Secured Indebtedness shall constitute a voluntary prepayment subject to any prepayment premiums or fees provided in the Note or other Loan Documents. Mortgagee may apply the Proceeds to such prepayment premiums or fees. If the amount of the Proceeds to be made available to Mortgagor pursuant to this Section 6.6 is less than the cost of the restoration or repair as estimated by Mortgagee at any time prior to completion thereof, Mortgagor shall cause to be deposited with Mortgagee the amount of such deficiency within thirty (30) days of Mortgagee's written request therefor (but in no event later than the commencement of the work) and Mortgagor's deposited funds shall be disbursed prior to the Proceeds. If Mortgagor is required to deposit funds under this Section 6.6, the deposit of such funds shall be a condition precedent to Mortgagee's obligation to disburse the Proceeds held by Mortgagee hereunder. The amount of the Proceeds which is to be made available to Mortgagor, together with any deposits made by Mortgagor hereunder, shall be held by Mortgagee to be disbursed from time to time to pay the cost of repair or restoration either, at Mortgagee's option, to Mortgagor or directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to such conditions to disbursement as Mortgagee may impose to assure that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof. Mortgagee may require (i) evidence of the estimated cost of completion of such restoration or repair satisfactory to Mortgagee and (ii) such architect's certificates, waivers of lien, contractors's sworn statements, title insurance endorsements, plats of survey and other evidence of cost, payment and performance acceptable to Mortgagee. If Mortgagee requires mechanics' and materialmen's lien waivers in advance of making disbursements, such waivers shall be deposited with an escrow trustee acceptable to Mortgagee pursuant to a construction loan escrow agreement satisfactory to Mortgagee. No payment made prior to final completion of the repair or restoration shall exceed ninety percent (90%) of the value of the work performed from time to time. Mortgagee may commingle any such funds held by it with its other general funds. Mortgagee shall not be obligated to pay interest in respect of any such funds held by it nor shall Mortgagor be entitled to a credit against any of the Secured Indebtedness except and to the extent the funds are applied thereto pursuant to this Section 6.6. Without limitation of the foregoing, Mortgagee shall have the right at all times to apply such funds to the cure of any Event of Default or the performance of any obligations of Mortgagor under the Loan Documents.

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

(a) Mortgagor shall, if required by Mortgagee, deposit with Mortgagee on the first business day of each and every

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month, an amount equal to one-twelfth (1/12) of the Taxes and Premiums thereof to become due upon the Premises between one (1) and thirteen (13) months after the date of such deposit; provided that in the case of the first such deposit, there shall be deposited in addition an amount which, when added to the aggregate amount of monthly deposits to be made hereunder with respect to Taxes and Premiums to become due and payable within thirteen months after such first deposit, will provide (without interest) a sufficient fund to pay such Taxes and Premiums one (1) month prior to the date when they are due and payable. The amounts of such deposits (herein generally called "Tax and Insurance Deposits") shall be based upon Mortgagee's estimate as to the amount of Taxes and Premiums. Mortgagor shall promptly upon the demand of Mortgagee make additional Tax and Insurance Deposits as Mortgagee may from time to time require due to (i) failure of Mortgagee to require, or failure of Mortgagor to make, Tax and Insurance Deposits in previous months, (ii) underestimation of the amounts of Taxes and/or Premiums, (iii) the particular due dates and amounts of Taxes and/or Premiums, or (iv) application of the Tax and Insurance Deposits pursuant to Subsection 6.6 hereof. Additionally upon the execution hereof, Mortgagor shall deposit with Mortgagee, as a Tax and Insurance Deposit, the amount of all Taxes and Premiums to become due and payable prior to the first monthly Tax and Insurance Deposit or within one (1) month thereafter. All Tax and Insurance Deposits shall be held by Mortgagee without any allowance of interest thereon.

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

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

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

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

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Premiums. Mortgagee shall have no obligation or duty to any third party to collect Tax and Insurance Deposits.

**8. Condemnation and Eminent Domain.** Any and all awards (the "Awards") heretofore or hereafter made or to be made to the present, or any subsequent, owner of the Premises, by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Premises (including any award from the United States government at any time after the allowance of a claim therefor, the ascertainment of the amount thereof, and the issuance of a warrant for payment thereof), are hereby assigned by Mortgagor to Mortgagee. Mortgagee is hereby authorized to collect and receive such awards from the condemnation authorities and to give appropriate receipts and acquittances therefor. Mortgagor shall give Mortgagee immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings affecting all or any part of the Premises and shall deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further agrees to make, execute, and deliver to Mortgagee, at any time upon request, free, clear, and discharged of any encumbrance of any kind whatsoever, any and all further assignments and other instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all Awards and other compensation heretofore and hereafter made to Mortgagor for any taking, either permanent or temporary, under any such proceeding. If any portion of or interest in the Premises is taken by condemnation or eminent domain, either temporarily or permanently, and the remaining portion of the Premises is not, in the judgment of Mortgagee, a complete economic unit having equivalent value to the Premises as it existed prior to the taking, then, at the option of Mortgagee, the entire Indebtedness shall immediately become due and payable. After deducting from the Award for such taking all of its expenses incurred in the collection and administration of the Award, including attorney's fees, Mortgagee shall be entitled to apply the net proceeds thereof toward repayment of such portion of the Indebtedness as it deems appropriate without affecting the lien of this Mortgage. In the event of any partial taking of the Premises or any interest in the Premises, which, in the judgment of Mortgagee leaves the Premises as a complete economic unit having equivalent value to the Premises as it existed prior to the taking, and provided no Event of Default has occurred and is then continuing, the Award shall be applied to reimburse Mortgagor for the cost of restoration and rebuilding the Premises in accordance with plans, specifications and procedures which must be submitted to and approved by Mortgagee, and such Award shall be disbursed in the same manner as is hereinabove provided above for the application of insurance proceeds, provided that any surplus after payment of such costs shall be applied on account of the Indebtedness. If the Award is not applied for reimbursement of such restoration costs, the Award shall be applied against the Indebtedness, in such order or manner as Mortgagee shall elect, provided, however, that any Awards remaining after the payment in full of the Indebtedness shall be paid by Mortgagee to Mortgagor without any allowance of interest thereon.

**9. Assignment of Leases, Rents, and Profits.**

(a) **Assignment.** To further secure the Indebtedness, Mortgagor does hereby sell, assign and transfer unto Mortgagee its interest in (i) all Leases or tenancies (including concessions) of the Premises or any part thereof, or any letting of or agreement for the use or occupancy of the Premises or any part thereof, whether written or oral, heretofore or hereafter made or agreed to by any party, including, without limitation, Mortgagee in the exercise of

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the powers herein conferred or otherwise and (ii) any and all extensions, renewals and replacements of any of the foregoing (all of the leases, tenancies and rights described above are herein referred to as the "Leases"), together with all the rents, income, issues and profits now due and which may hereafter become due under or by virtue of the Leases, together with all guarantees of any of the foregoing, it being the intention hereby to establish an absolute transfer and assignment of all of the foregoing to Mortgagee.

(b) Power of Attorney. Mortgagor does hereby irrevocably appoint Mortgagee its true and lawful attorney in its name and stead and Mortgagor hereby authorizes Mortgagee, with or without taking possession of the Premises (as provided in Section 17), to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms, as it may determine in its discretion, and to collect all of said rents, income, issues and profits now or hereafter arising from or accruing or due under the Leases with the same rights and powers and subject to the same immunities, exonerations of liability and rights of recourse and indemnity as Mortgagee would have upon taking possession of the premises pursuant to the provisions of Section 17. Powers of attorney conferred upon Mortgagee pursuant to this Assignment are powers coupled with an interest and cannot be revoked, modified or altered without the written consent of Mortgagee and shall empower Mortgagee to, among other things, subordinate any or all of the Leases to this Mortgage.

(c) Occurrence of Default. Notwithstanding any provision of this Mortgage or any other of the Loan Instruments which might be construed to the contrary, this Mortgage constitutes an absolute assignment of the Leases and not merely a security interest therein, and that Mortgagee shall not exercise any of the rights and powers conferred upon it herein until and unless there shall occur an Event of Default, or a default in the performance and observance by any party other than Mortgagee of its obligations and agreements under the Note, this Mortgage or the Loan Agreement (subject to any applicable grace periods). Nothing herein shall be deemed to alter, affect or impair any rights which Mortgagee may have under the Note, this Mortgage or the Loan Agreement or to affect the impression of a trust upon funds received by a trustee in the manner provided for in subsection (d) below. Nothing herein contained shall be construed as constituting Mortgagee a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Mortgagee pursuant to Section 17. No liability shall be asserted or enforced against Mortgagee in the exercise of the powers granted by this Mortgage, all such liability being expressly waived and released by the Mortgagor.

(d) Agreements Regarding Leases. Mortgagor agrees, represents and warrants unto Mortgagee as follows:

(1) Mortgagor is the sole owner of the entire interest of the lessor in the Leases. Without Mortgagee's prior written consent, Mortgagor will not: (i) renew or extend (except pursuant to terms in existing Leases), transfer, sell, assign, pledge, encumber or grant a security interest in any of the Leases; or (ii) consent to, suffer or permit the assignment or subletting of any leasehold estate created thereunder. Any attempted assignment or subletting without Mortgagee's prior written consent, whether by Mortgagor or by a lessee, shall be null and void;

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(2) the Leases are and will be valid and enforceable in accordance with their terms and shall remain in full force and effect, neither the lessees thereunder nor Mortgagor as lessor are in default under any of the terms, covenants or conditions thereof and, furthermore, there shall not be a merger of the leasehold estates created by the Leases with the fee estate of the Land without the prior written consent of Mortgagor;

(3) Mortgagor will promptly notify Mortgagee of any default or claimed default by lessor or lessee under the Leases of which it becomes aware;

(4) if any Lease provides for the abatement of rent during repair of the premises demised thereunder by reason of fire or other casualty, Mortgagor shall furnish rental insurance to Mortgagee in amount and form and written by insurance companies as shall be satisfactory to Mortgagee;

(5) Mortgagor shall not hereafter permit any Lease to become subordinate to any lien other than the lien of this Mortgage and any liens to which this Mortgage is now, or may pursuant to its terms become, subordinate, nor terminate, modify or amend any of the Leases or any of the terms thereof without the prior written consent of Mortgagee, and any attempted termination, modification or amendment of any of the Leases without such written consent shall be null and void;

(6) no payment of rent has been or will be made by any lessee or by any person in possession of any portion of the Premises for more than one (1) month's installment in advance or has been or will be waived, released, reduced, or discounted, or otherwise discharged or compromised by Mortgagor;

(7) Mortgagor waives any right of set-off against any lessee or any person in possession of any portion of the premises;

(8) Mortgagor has not made and will not make any other or further assignment of the rents, issues, income or profits of the Premises or of the Leases except subsequent to or in connection with the release of this Mortgage with respect to such portion of the Premises so released;

(9) Mortgagor shall perform all of its covenants and agreements under the Leases and shall not suffer or permit any release of liability of, or right to withhold payment of rent by, the lessees therein;

(10) Mortgagor shall not commence or continue proceedings to evict, remove or dispossess any lessee under any Lease or to terminate any Lease without the prior written consent of Mortgagee;

(11) Mortgagor shall not waive, cancel, release, modify, excuse, condone, discount, set-off, compromise or in any manner release or discharge any lessee under any of the Leases from any obligation, covenant, condition or requirement of said Leases, without the prior written consent of Mortgagee.

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Any amounts received by Mortgagor or its agents for performance of any actions prohibited by the terms of this Mortgage, including any amounts received in connection with any cancellation, modification or amendment of any of the Leases prohibited by the terms of this Mortgage, and any amounts received by Mortgagor as rents, income, issues or profits from the Premises from and after the date of any Event of Default under the Loan Instruments, which default shall not have been cured within the time periods, if any, expressly established therefor, shall be held by Mortgagor as trustee for Mortgagee and all such amounts shall be accounted for to Mortgagee and shall not be commingled with other funds of Mortgagor. Any person acquiring or receiving all or any portion of such trust funds shall acquire or receive the same in trust for Mortgagee as if such person had actual or constructive notice that such funds were impressed with a trust in accordance herewith; by way of example and not of limitation, such notice may be given by an instrument recorded with the Recorder of Deeds of the county in which the Premises are located stating that Mortgagor has received or will receive such amounts in trust for Mortgagee. Mortgagor further agrees to execute and deliver immediately upon the request of Mortgagee, all such further assurances and assignments concerning the Leases or the Premises as Mortgagee shall from time to time require.

(e) Indemnity. Mortgagee shall not at any time (regardless of any exercise by Mortgagee, or right of Mortgagee to exercise, any powers herein conferred) be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any Lease or rental agreement relating to the Premises. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee and its affiliates harmless of and from any and all liability, loss or damage which Mortgagee may or might incur under or by reason of (i) any Lease, (ii) the assignment thereof, (iii) any action taken by Mortgagee or its agents hereunder, unless constituting wilful misconduct or gross negligence, or (iv) claims and demands which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to (or to cause Mortgagor to) perform or discharge any of the terms, covenants or agreements contained in the Leases.

(f) Instruction to Lessees. Mortgagor further specifically and irrevocably authorizes and instructs each and every present and future lessee or tenant under any Lease of the whole or any part of the Premises to pay all unpaid rental agreed upon in any Lease or other agreement for occupancy of any part of the Premises to Mortgagee upon receipt of demand so to pay the same, without any inquiry as to whether or not said demand is made in compliance with the terms hereof.

(g) Election of Remedies. It is understood and agreed that the provisions set forth in this Section 9 shall be deemed a special remedy given to Mortgagee, and shall not be deemed exclusive of any of the remedies granted in the Note or the remainder of this Mortgage but shall be deemed an additional remedy and shall be cumulative with the remedies elsewhere granted Mortgagee, all of which remedies shall be enforceable concurrently or successively. No exercise by Mortgagee of any of its rights hereunder shall cure, waive or affect any Event of Default hereunder or under the Note. No inaction or partial exercise of rights by Mortgagee shall be construed as a waiver of any of its rights and remedies,

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and no waiver by Mortgagee of any rights and remedies shall be construed as a waiver by Mortgagee of any of its other rights and remedies.

(h) **Bankruptcy.** If any lessee under a Lease should be the subject of any proceeding under the Federal Bankruptcy Code or any similar federal, state or local statute and the Lease is terminated or rejected, then Mortgagor shall not settle the damages without Mortgagee's prior written consent. Any check in payment of damages for termination or rejection of any such Lease will be made payable both to Mortgagor and Mortgagee. Mortgagor hereby assigns any such payment to Mortgagee. Upon the request of Mortgagee, Mortgagor will duly endorse to the order of Mortgagee any such check, the proceeds of which will be applied to whatever portion of the Indebtedness Mortgagee may elect.

## 10. Mortgagee's Performance of Mortgagor's Obligations.

Upon an Event of Default, Mortgagee, either before or after acceleration of the Indebtedness or the foreclosure of the lien hereof and during the period of redemption, if applicable and not otherwise waived, may, but shall not be required to, make any payment or perform any act herein required of Mortgagor (whether or not Mortgagor is personally liable therefor) in any form and manner deemed expedient to Mortgagee. Mortgagee may, but shall not be required to, complete construction, furnishing and equipping of the Improvements and rent, operate and manage the Premises and such Improvements, pay operating costs and expenses, including management fees of every kind and nature in connection therewith, so that the Premises shall be operational and useable for their intended purposes. All monies paid, and all expenses paid or incurred in connection therewith, including attorney's fees and other monies advanced by Mortgagee to protect the Premises and the lien hereof, to complete construction, furnishing and equipping the Premises, to rent, operate and manage the Premises, to pay any such operating costs and expenses thereof or to keep the Premises operational and useable for their intended purpose, shall be so much additional Indebtedness, whether or not the Indebtedness, as a result thereof, shall exceed the face amount of the Note, and shall become immediately due and payable on demand, and with interest thereon at the Default Rate. Mortgagee's inaction shall never be considered as a waiver of any right accruing to it on account of any Event of Default nor shall the provisions of this Section 10 or any exercise by Mortgagee of its rights hereunder prevent any default from constituting an Event of Default. Mortgagee, in making any payment hereby authorized (i) relating to Taxes, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (ii) for the purchase, discharge, compromise or settlement of any lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (iii) in connection with the completion of construction, furnishing or equipping of the Premises or the rental, operation or management of the Premises or the payment of operating costs and expenses thereof, may do so in such amounts and to such persons as Mortgagee may deem appropriate. Nothing contained herein shall be construed to require Mortgagee to advance or expend monies for any purpose mentioned herein, or for any other purpose.

11. Security Agreement. Mortgagor and Mortgagee agree that this Mortgage shall constitute a security agreement within the meaning of the Illinois Uniform Commercial Code (the "Code") with respect to (i) any and all sums at any time on deposit for the benefit of Mortgagee or held by Mortgagee (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or the other Loan Instruments and



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(ii) with respect to any personal property included in the granting clauses of this Mortgage, which personal property shall not be deemed to be affixed to the Premises or shall not constitute a "fixture" within the meaning of Section 9-313 of the Code (which property is referred to as "Personal Property") and all replacements of such Personal Property, substitutions for such Personal Property, additions to such Personal Property, and the proceeds thereof. (All of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof are sometimes hereinafter collectively referred to as the "Collateral"). A security interest in and to the Collateral is hereby granted to Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all to secure payment of the Indebtedness. All of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises. The following provisions of this Section 11 shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

(a) Mortgagor (being the debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral subject only to the lien hereof, other liens and encumbrances benefiting Mortgagee and liens and encumbrances, if any, expressly permitted by the Loan Agreement wherein it provides that the Construction Line Mortgage is a permitted encumbrance.

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

(c) The Collateral will be kept at the Land, and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of Mortgagee (being the secured party as that term is used in the Code). The Collateral may be affixed to the Land but will not be affixed to any other real estate. Mortgagor shall promptly furnish to Mortgagee such information concerning the Collateral as Mortgagee may from time to time request. Mortgagor shall permit and hereby authorizes Mortgagee to examine and inspect the Collateral and any portion thereof wherever the same may be located.

(d) The only persons having any interest in the Premises are Mortgagor, Mortgagee and holders of interests, if any, expressly permitted by the Loan Agreement.

(e) Other than Financing Statements showing Mortgagee as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted by the Loan Agreement, no financing statement covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto.

(f) Mortgagor will at its own cost and expense, upon demand, furnish to Mortgagee such further information and will execute and deliver to Mortgagee such financing statements and other documents in form and substance satisfactory to Mortgagee and will do all such acts and things as Mortgagee may at any time or from time to time request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject only to liens or encumbrances benefiting Mortgagee and liens and encumbrances (if any) expressly permitted by the Loan Agreement. Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this Mortgage,

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in all public offices wherever filing or recording is deemed by Mortgagee to be necessary or desirable.

(g) Upon an Event of Default, Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, with or without judicial process, enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code). Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. Mortgagee will give Mortgagor at least ten (10) days notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor hereinafter set forth at least ten (10) days before the time of the sale or disposition. Mortgagee may buy at any public sale and, if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee may buy at private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale of the Premises. The Premises, including the Collateral, may be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorney's fees and legal expenses incurred by Mortgagee, shall be applied against the indebtedness in such order or manner as Mortgagee shall select.

(h) Mortgagor hereby agrees to indemnify, defend, protect and hold harmless Mortgagee and its employees, officers, affiliates and agents from and against any and all liabilities, claims and obligations which may be incurred, asserted or imposed upon them or any of them as a result of or in connection with any use, operation, lease or consumption of any of the Collateral or as a result of Mortgagee's seeking to obtain performance of any of the obligations due with respect to the Collateral, except from such liabilities, claims or obligations resulting directly from gross negligence or intentional misconduct of Mortgagee, its employees, officers or agents.

(i) The terms and provisions contained in this Section 11 shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

(j) This Mortgage is intended to be a financing statement within the purview of Section 9-402(6) of the Code with respect to the Collateral and the goods described herein which are or may become fixtures relating to the Premises. The addresses of Mortgagor and Mortgagee are hereinafter set forth in Section 40. This Mortgage is to be

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filed for record with the Recorder of Deeds of the county or counties where the Premises are located. Mortgagor is the record owner of the Premises.

(k) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover and include all Leases between Mortgagor, as lessor, and various tenants named therein, as lessee, together with all of the right, title and interest of Mortgagor, as lessor thereunder, including the present and continuing right to make claim for, collect, receive and receipt for any and all of the rents, income, revenues, issues, profits, moneys payable as damages or in lieu of the rent and moneys payable as the purchase price of the Premises or of awards or claims for money and other sums of money payable or receivable thereunder howsoever payable, and to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Mortgagor or any lessor is or may become entitled to do under the Leases.

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

(a) the Premises or any part thereof or interest therein, excepting only sales or other dispositions of Collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral;

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

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

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

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or

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involuntarily, by operation of law or otherwise; provided, however, that the foregoing provisions of this Section 12 shall not apply (i) to liens securing the Indebtedness; (ii) to the lien of current taxes and assessments not yet delinquent; or (iii) to any transfers of the Premises, any part thereof, any interest therein, any beneficial interest, any shares of stock or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives.

**ARTICLE II  
DEFAULTS & REMEDIES**

12. **Defaults.** The occurrence of any one of the following shall be a default hereunder ("Event of Default"):

(a) Any of the Indebtedness is not paid when due, whether by acceleration or otherwise;

(b) Any covenant in this Mortgage or any of the other Loan Instruments is not fully and timely performed;

(c) Any statement, representation or warranty in the Loan Instruments, any financial statement or any other writing delivered to Mortgagee in connection with the Indebtedness or by any guarantor thereof is false, misleading or erroneous in any material respect;

(d) The occurrence of any default under any of the Loan Instruments;

(e) The cessation of the construction of the Improvements for more than fifteen (15) days without the written consent of Mortgagee, except as otherwise permitted in Section 4.3 of the Loan Agreement;

(f) Failure of the construction of the Improvements or any materials for which an Advance has been requested to comply with the Plans, any governmental requirements, or the requirement of any lessee, if applicable;

(g) Failure of Mortgagor to satisfy any condition specified in the Loan Instruments as precedent to the obligation of Mortgagee to make an Advance after an Application for Advance has been submitted by Mortgagor to Mortgagee;

(h) A determination by Mortgagee that construction of the Improvements will not be completed on or before the Completion Date as specified in the Loan Agreement;

(i) The owner of the Premises, any general partner of Mortgagor or any person obligated to pay any part of the Indebtedness:

(1) does not pay its debts as they become due or admits in writing its inability to pay its debts or makes a general assignment for the benefit of creditors;

(2) commences any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization, or similar laws affecting

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the rights or remedies of creditors generally, as in effect from time to time (collectively, "Debtor Relief Laws");

(3) in any involuntary case, proceeding or other action commenced against it which seeks to have an order for relief entered against it, as debtor, or seeks reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any Debtor Relief Laws, (i) fails to obtain a dismissal of such case, proceeding or other action within sixty (60) days of its commencement, or (ii) converts the case from one chapter of the Federal Bankruptcy Code to another chapter, or (iii) is the subject of an order for relief;

(4) conceals, removes, or permits to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or makes or suffers a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or makes any transfer of its property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid, or suffers or permits, while insolvent, any creditor to obtain a lien upon any of its property through legal proceedings which are not vacated within sixty (60) days from the date thereof;

(5) has a trustee, receiver, custodian or other similar official appointed for or to take possession of all or any part of the Property or any of its other property or has any court take jurisdiction of any of its other property which continues for a period of sixty (60) days (except where a shorter period is specified in the immediately following Subsection (13(i)(6)));

(j) Mortgagor, the owner of the Property (if other than Mortgagor) or any Guarantor or any person obligated to pay any part of the Indebtedness:

(1) fails to have discharged within a period of ten (10) days any attachment, sequestration, or similar writ levied upon any property of such person; or

(2) fails to pay immediately any final money judgment against such person;

(k) Title to all or any part of the Premises (other than Obsolete Collateral replaced by adequate substitutes of equal or greater value than the replaced items when new) shall become vested in any party other than Mortgagor, whether by operation of law or otherwise or the occurrence of any other Prohibited Transfer under Section 12. Mortgagee may, in its sole discretion, waive this Event of Default, but it shall have no obligation to do so, and any waiver may be conditioned upon such one or more of the following as Mortgagee may require: the grantee's integrity, reputation, character, creditworthiness and management ability being satisfactory to Mortgagee in its sole judgment, the grantee executing, prior to such sale or transfer, a written assumption agreement containing such terms as Mortgagee may require, a principal pay-down on the Note, an increase in the rate of interest payable under the Note, a transfer fee, and any other modification of the Loan Instruments which Mortgagee may require;

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(l) Mortgagor abandons any of the Premises;

(m) The owner of the Premises grants any easement or dedication, files any plat, condominium declaration, or restriction or enters into any lease affecting the Premises, unless such action is contemplated by the Loan Instruments or Mortgagee otherwise consents in writing;

(n) Mortgagee determines that the condition of the Premises has deteriorated;

(o) The holder of any lien, security interest or assignment on the Premises or any other property securing the payment or performance of Indebtedness institutes foreclosure or other proceedings for the enforcement of its remedies thereunder;

(p) The occurrence of any event or condition which results in, or with notice or lapse of time could result in, a default in the payment of any indebtedness or performance of any obligation of Mortgagor or guarantor of the Indebtedness to Mortgagee;

(q) The liquidation, termination, merger, dissolution, death or legal incapacity of Mortgagor, the maker of the Note if other than Mortgagor, or any guarantor of the Indebtedness;

(r) If Mortgagor is a partnership or joint venture, a default by any general partner or joint venturer under Mortgagor's partnership agreement or joint venture agreement;

(s) The termination of any Construction Contract (as defined in the Loan Agreement) without Mortgagee's prior written consent;

(t) Without prior written consent of Mortgagee (which may be withheld in Mortgagee's sole discretion), Mortgagor creates, or suffers or permits to be created or to exist any mortgage, lien, claim, security interest, charge, encumbrance or other right or claim of any kind whatsoever upon the Premises or any part thereof or any interest or estate in any thereof (including any beneficial interest in any trust holding title to any of the Premises);

(u) If Mortgagor or any entity comprising Mortgagor or the owner of the Premises (if other than Mortgagor) is a corporation, the sale, pledge or assignment of any shares of stock without the prior written consent of Mortgagee. If Mortgagor or any entity comprising Mortgagor or the owner of the Premises (if other than Mortgagor) is a partnership or joint venture, the sale, pledge or assignment of any of its partnership or joint venture interests or the withdrawal from or admission into it of any general partner or joint venturer without the prior written consent of Mortgagee;

(v) If any letter of credit or certificate of deposit is required to be delivered to Mortgagee in connection with the Loan, failure, during the term of the Loan, to extend the expiration or maturity date of any such letter of credit or certificate of deposit as it exists from time to time and to deliver evidence thereof satisfactory to Mortgagee, in its sole determination, at least thirty (30) days prior to such expiration or maturity date; provided, further, notwithstanding anything to the contrary contained herein or in any of the other Loan Instruments, including, without limitation, any provision hereof or thereof which may

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require Mortgagee to provide Mortgagor, any guarantor or any other party obligated hereunder or thereunder with any written notice prior to declaring an Event of Default, such parties shall not be entitled to receive nor shall Mortgagee have an obligation to give any such notice if Mortgagor fails to perform any of its obligations under this Section 13(s) and such failure shall constitute an Event of Default under the Loan Instruments without any notification by Mortgagee or the passage of time;

(w) The filing of formal charges, by any governmental or quasi governmental entity, including the issuance of an indictment, under any federal or state law, including the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO"), for which forfeiture of assets is a potential penalty (a "RICO Related Law") against Mortgagor, any of its partners, shareholders or affiliates, or any Guarantor; or

(x) The occurrence of any default or Event of Default under the Construction Line Mortgage or any of the related Construction Line Loan Instruments (as defined in the Construction Line Mortgage); or

(y) If any lessee under any of the Leases or if Mortgagor, as lessor therein, shall fail to perform and fulfill any term, covenant, condition or provision in said Lease on its or their part to be performed or fulfilled at the times and in the manner in said Lease provided, if Mortgagor shall cancel, terminate, amend, modify or void any of the Leases without Mortgagee's prior written consent, or if Mortgagor shall suffer or permit to occur any breach or default under the provisions of any assignment of any Lease given as additional security for the payment of the Indebtedness and such default shall continue for fifteen (15) days.

14. **Acceleration.** At any time after the occurrence of any Event of Default, Mortgagee is hereby authorized and empowered, at its option and without affecting the lien hereby created or the priority of said lien or any other right of Mortgagee hereunder, to declare, without further notice, all Indebtedness to be immediately due and payable with interest thereon at the rate (the "Default Rate") of five percent (5%) per annum in excess of the Applicable Rate (as defined in the Note), whether or not such Event of Default shall be thereafter remedied by Mortgagor. Mortgagee may also immediately proceed to foreclose this Mortgage and/or to exercise any right, power or remedy provided by this Mortgage, the other Loan Instruments, any other document or instrument regulating, evidencing, securing or guarantying any of the Indebtedness or by law or in equity.

15. **Foreclosure.** When the Indebtedness, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof in accordance with the laws of the State of Illinois and to exercise any other remedies of Mortgagee provided in the Note, this Mortgage, or the Loan Instruments, or which Mortgagee may have at law, at equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree of sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to

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evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this Section 15 and such other expenses and fees as may be incurred in the protection of the Premises and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Mortgage, the other Loan Instruments or the Premises, including probate and bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceedings, or otherwise in dealing specifically therewith, shall be so much additional Indebtedness and shall be immediately due and payable by Mortgagor with interest thereon at the Default Rate until paid.

15. **Right of Possession.** When the Indebtedness shall become due, whether by acceleration or otherwise, or in any case in which under the provisions of this Mortgage, Mortgagor has a right to institute foreclosure proceedings, Mortgagor shall, forthwith upon demand of Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of, the Premises or any part thereof, personally or by its agent or attorneys, and Mortgagee, in its discretion, may enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers, and accounts of Mortgagor or the then owner of the Premises relating thereto, and may exclude Mortgagor, such owner, and any agents and servants thereof wholly therefrom and may, on behalf of Mortgagor or such owner, or in its own name as Mortgagee and under the powers herein granted:

(a) hold, operate manage and control all or any part of the Premises and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Premises, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;

(b) cancel or terminate any Lease or sublease of all or any part of the Premises for any cause or on any ground that would entitle Mortgagor to cancel the same;

(c) elect to disaffirm any Lease or sublease of all or any part of the Premises made subsequent to this Mortgage without Mortgagee's prior written consent;

(d) extend or modify any then existing Leases and make new Leases of all or any part of the Premises, which extensions, modifications, and new Leases may provide for terms which expire, or for options to lessees to extend or renew terms which expire, beyond the maturity date of the Loan and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Premises are subject to the lien hereof, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

(e) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments, and improvements in connection with the Premises as may seem judicious to Mortgagee;



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(f) insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation, and management thereof, and to receive all rents, issues, deposits, profits, and avails therefrom; and

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

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises.

17. Receiver. Upon the filing of a complaint to foreclose this Mortgage or at any time thereafter, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of Mortgagor at the time of application for such receiver, and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have the power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and such receiver shall have all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court may, from time to time, authorize the receiver to apply the net income from the Premises in payment in whole or in part of (i) the Indebtedness, (ii) the indebtedness secured by a decree foreclosing this Mortgage, (iii) any tax, special assessment, or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure sale, or (iv) the deficiency in case of a sale and deficiency.

18. Foreclosure Sale. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Section 15; second, all other items which, under the terms hereof, constitute Indebtedness additional to that evidenced by the Note, with interest on such items as herein provided; third, to interest remaining unpaid upon the Note; fourth, to the principal remaining unpaid upon the Note; and lastly, any surplus to Mortgagor, and its successors or assigns, as their interests may appear.

19. Insurance During Foreclosure. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy, if not applied in rebuilding or restoring the Improvements, as aforesaid, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. In the case of foreclosure of this Mortgage, the court, in its decree, may provide that the mortgagee's clause attached to each of the casualty insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said casualty insurance policies making the loss thereunder

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payable to said decree creditors. Any such foreclosure decree may further provide that in case of one or more redemptions under said decree, pursuant to the statutes in such case made and provided, then in every such case, each and every successive redeemer may cause the preceding loss clause attached to each casualty insurance policy to be cancelled and a new loss payable clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of the insurance policies without credit or allowance to Mortgagor for prepaid premiums thereon.

20. Waiver of Right of Redemption and Other Rights. To the full extent permitted by law, Mortgagor hereby covenants and agrees that it will not at any time (i) insist upon or plead, or in any manner whatsoever claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, (ii) claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisement of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or (iii) after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and of all other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note.

21. Rights Cumulative. Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter provided by law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient to Mortgagee. The exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or otherwise arising shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein. Except as otherwise specifically required herein, notice of the exercise of any right, remedy or power granted to Mortgagee by this Mortgage is not required to be given.

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22. Compliance with Illinois Mortgage Foreclosure Law. If any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law, Chapter 110, Sections 15-1101 et seq., Illinois Revised Statutes (the "Act"), the provisions of the Act shall take precedence over the Mortgage provisions, but shall not invalidate or render unenforceable any other Mortgage provision that can be construed in a manner consistent with the Act. If any Mortgage provision shall grant to Mortgagee any rights or remedies upon Mortgagor's default which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of such provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law.

Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in Section 18 of this Mortgage, shall be added to the Indebtedness secured by this Mortgage or by the judgment of foreclosure.

23. Successors and Assigns.

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

(b) Covenants Run With Land; Successor Owners. All of the covenants of this Mortgage shall run with the Land and be binding on any successor owners of the Land. In the event that the ownership of the Premises or any portion thereof becomes vested in a person or persons other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest of Mortgagor with reference to this Mortgage and the Indebtedness in the same manner as with Mortgagor without in any way releasing or discharging Mortgagor from its obligations hereunder. Mortgagor will give immediate written notice to Mortgagee of any conveyance, transfer or change of ownership of the Premises, but nothing in this Section 23 shall vary or negate the provisions of Section 12.

(c) Modification by Successor Owners. Each Mortgagor agrees that it shall be bound by any modification of this Mortgage or any of the other Loan Instruments made by Mortgagee and any subsequent owner of the Premises, with or without notice to such Mortgagor, and no such modifications shall impair the obligations of such Mortgagor under this Mortgage or any other of the Loan Instruments. Nothing in this Section shall be construed as permitting any transfer of the Premises which would constitute an Event of Default under other provisions of this Mortgage.

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24. Effect of Extensions and Amendments. If the payment of the Indebtedness, or any part thereof, be extended or varied, or if any part of the security or guaranties therefor be released, all persons now or at any time hereafter liable therefor, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability, and the lien, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the premises or any part thereof or any interest therein, shall take the said lien subject to the rights of Mortgagee to amend, modify, extend or release the Note, this Mortgage or any other document or instrument evidencing, securing or guarantying the Indebtedness, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

25. Loan Agreement. Mortgagor has executed the Loan Agreement relating to the construction of certain improvements upon the Premises and the disbursement of all or part of the Indebtedness for the purpose of financing a portion of the costs thereof. The Loan Agreement is hereby incorporated herein by this reference as fully and with the same effect as if set forth herein at length. This Mortgage secures all funds advanced pursuant to the Loan Agreement (which advances shall constitute part of the Indebtedness, whether more or less than the principal amount stated in the Note) and the due and punctual performance, observance and payment by Mortgagor of all of the terms, conditions, provisions and agreements provided in the Loan Agreement to be performed, observed or paid by Mortgagor. Mortgagor hereby agrees duly and punctually to perform, observe and pay all of the terms, conditions, provisions and payments provided for in the Loan Agreement to be performed, observed or paid by Mortgagor. In the event of express and direct contradiction between any of the terms and provisions contained in the Loan Agreement and any of the terms and provisions contained herein, then the terms and provisions contained in the Loan Agreement shall control. Any warranties, representations and agreements made in the Loan Agreement by Mortgagor shall survive the execution and recording of this Mortgage and shall not merge herein.

26. Future Advances. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures as part of the Indebtedness the payment of any and all loan finance charges, commissions, service charges, liquidated damages, attorney's fees, expenses and advances due to or incurred by Mortgagee in connection with the Indebtedness, all in accordance with the Loan Instruments; provided, however, that in no event shall the total amount of the Indebtedness, including loan proceeds disbursed plus any additional charges, exceed five hundred percent (500%) of the face amount of the Note.

27. Execution of Separate Security Agreements, Financing Statements, Etc.; Estoppel Letter. Mortgagor will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, conveyances, notes, mortgages, security agreements, financing statements and assurances as Mortgagee shall require for the better assuring, conveying, mortgaging, assigning and confirming unto Mortgagee all property mortgaged hereby or property intended so to be, whether now owned by Mortgagor or hereafter acquired. Without limitation of the foregoing, Mortgagor will assign to Mortgagee, upon request, as further security for the Indebtedness, all of its interest in all agreements, contracts, licenses and permits affecting the Premises, such assignments to be made by

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instruments satisfactory to Mortgagee, but no such assignment shall be construed as a consent by Mortgagee to any agreement, contract, license or permit or to impose upon Mortgagee any obligations with respect thereto. From time to time, Mortgagor shall furnish within five (5) days after Mortgagee's request a written and duly acknowledged statement of the amount due under the Note and this Mortgage and whether any alleged offsets or defenses exist against the Indebtedness.

28. Subrogation. If any part of the Indebtedness is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Premises or any part thereof, then Mortgagee shall be subrogated to the rights of the holder thereof in and to such other lien or encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same, irrespective of whether such liens, charges or encumbrances are released of record. The terms and provisions of this Mortgage shall, however, govern the rights and remedies of Mortgagee and shall supersede the terms, provisions, rights and remedies under the lien or liens to which Mortgagee is subrogated pursuant to this Section 28.

## ARTICLE III GENERAL

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

30. Hold Harmless. Mortgagor will defend, at its own cost and expense, and hold Mortgagee and its affiliates harmless from, any proceeding or claim in any way relating to the Premises or the Loan Instruments. All costs and expenses incurred by Mortgagee in protecting its interests hereunder, including all court costs and reasonable attorneys' fees, shall be borne by Mortgagor. The provisions of this Section 30 shall survive the payment in full of the Indebtedness and the release of this Mortgage as to events occurring and causes of action arising before such payment and release.

31. Governing Law; Jurisdiction; Venue; and Service of Process. THIS MORTGAGE AND ALL OTHER LOAN INSTRUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORD WITH THE INTERNAL SUBSTANTIVE LAWS (AND NOT THE CHOICE OF LAW PRINCIPLES) OF THE STATE OF ILLINOIS (INCLUDING THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF ILLINOIS CONCERNING INTEREST AND USURY). THE MORTGAGOR ACKNOWLEDGES THAT THE MORTGAGEE'S PRINCIPAL OFFICE IS LOCATED IN CHICAGO, ILLINOIS AND THAT THE MORTGAGEE MAY BE IRREPARABLY HARMED IF IT IS REQUIRED TO INSTITUTE OR DEFEND ANY ACTION IN ANY JURISDICTION OTHER THAN THE NORTHERN DISTRICT OF ILLINOIS OR COOK COUNTY, ILLINOIS. THEREFORE, THE MORTGAGOR IRREVOCABLY (A) AGREES THAT ANY SUIT, ACTION OR OTHER LEGAL PROCEEDING RELATING TO THE LOAN INSTRUMENTS MAY BE BROUGHT ONLY IN THE CIRCUIT COURT OF COOK COUNTY OR IN THE NORTHERN DISTRICT OF ILLINOIS, AT THE MORTGAGEE'S OPTION; (B) CONSENTS TO THE JURISDICTION OF EACH SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDINGS; (C) WAIVES ANY OBJECTION WHICH THE MORTGAGOR MAY HAVE TO THE LAYING OF VENUE IN ANY SUCH SUIT, ACTION OR PROCEEDING IN EITHER SUCH COURT; AND (D) AGREES TO JOIN THE MORTGAGEE IN ANY PETITION FOR REMOVAL TO EITHER SUCH COURT. THE MORTGAGOR HEREBY IRREVOCABLY APPOINTS CT CORPORATION, AS ITS AUTHORIZED AGENT IN THE STATE OF ILLINOIS TO

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ACCEPT ON ITS BEHALF SERVICE OF PROCESS FOR PURPOSES OF ANY SUCH SUIT, ACTION OR PROCEEDING. THE MORTGAGOR MAY APPOINT A REPLACEMENT AGENT FOR SERVICE IN THE STATE OF ILLINOIS, PROVIDED THAT SUCH AGENT FOR SERVICE SHALL BE REASONABLY SATISFACTORY TO THE MORTGAGEE, AND THE MORTGAGOR SHALL DELIVER TO THE MORTGAGEE EVIDENCE IN WRITING OF ITS IRREVOCABLE APPOINTMENT OF SAID REPLACEMENT AGENT FOR SERVICE AND THE AGENT FOR SERVICE'S ACCEPTANCE OF SUCH APPOINTMENT. THE MORTGAGEE MAY OBTAIN PERSONAL JURISDICTION AND PERFECT SERVICE OF PROCESS THROUGH THE AGENT FOR SERVICE OR BY ANY OTHER MEANS NOW OR HEREAFTER PERMITTED BY APPLICABLE LAW.

32. Waiver of Jury Trial. MORTGAGOR WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THE LOAN INSTRUMENTS. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY MORTGAGOR AND MORTGAGOR ACKNOWLEDGES THAT NEITHER MORTGAGEE NOR ANY PERSON ACTING ON BEHALF OF MORTGAGEE HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. MORTGAGOR FURTHER ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED (OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THE LOAN INSTRUMENTS AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL. MORTGAGOR FURTHER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER PROVISION AND AS EVIDENCE OF THIS FACT SIGNS ITS INITIALS.

SK  
INITIALS OF PERSON SIGNING  
FOR BENEFICIARY

JK  
INITIALS OF PERSON SIGNING  
FOR TRUSTEE

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

34. Inspection of Premises and Records. Mortgagee and its representatives and agents shall have the right to inspect the Premises and all books, records and documents relating thereto at all reasonable times and access thereto shall be permitted for that purpose. Mortgagor shall keep and maintain complete and correct books and records showing in detail the income and expenses of the Premises and shall permit Mortgagee or its agents to examine such books and records and all supporting vouchers and data at any time and from time to time on request at its office at the address provided below or at such other location as may be mutually agreed upon.

35. Accountant's Letters. At Mortgagee's request, the Mortgagor shall deliver to Mortgagee one or more letters addressed to Mortgagee and signed by each accountant or firm of accountants who prepared or certified any of the financial statements furnished, or who will prepare or certify any financial statement to be furnished, to Mortgagee hereunder or under any of the other Loan Instruments, affirming that such accountant or firm of accountants understands that Mortgagee will rely on such financial statements and that the liability and responsibility of such accountant or firm of accountants to Mortgagee with respect thereto will not be eliminated, diminished or affected in any way by Illinois Public Act 84-1251 (Laws 1986) or any other statutory, regulatory, administrative or other law, regulation, enactment, or ordinance.

36. Trade Names. At the request of Mortgagee, Mortgagor shall execute a certificate in form satisfactory to Mortgagee listing the trade names under which Mortgagor intends to operate

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the Premises, and representing and warranting that Mortgagor does business under no other trade names with respect to the Premises. Mortgagor shall immediately notify Mortgagee in writing of any change in said trade names and will, upon request of Mortgagee, execute any additional financing statements and other certificates required to reflect the change in trade names and will execute and file any assumed name certificate required by applicable laws.

37. Further Assurances. Mortgagor, upon the request of Mortgagee, will execute, acknowledge, deliver and record such further instruments and do such further acts as may be necessary, desirable or proper to carry out the purposes of the Loan Instruments and to subject to the liens and security interests created thereby any property intended by the terms thereof to be covered thereby, including specifically but without limitation any renewals, additions, substitutions, replacements, improvements, or appurtenances to the Premises.

38. Time of the Essence. Time is of the essence of the Note, this Mortgage, and the other Loan Instruments.

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

40. Notices. All notices, requests, reports, demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Mortgagee shall be in writing and directed to Mortgagor or Mortgagee as the case may be at the following addresses:

If to Mortgagee: Continental Bank N.A.  
231 South LaSalle Street  
Chicago, Illinois 60697  
Attention: (231/4J)  
Victor P. Stasica

with a copy to: Mayer, Brown & Platé  
190 South LaSalle Street  
Chicago, Illinois 60603  
Attention: Ivan P. Kane

If to Mortgagor: Wood Oaks Developers Limited Partnership  
1755 Lake Cook Road  
Highland Park, Illinois 60035  
Attention: Suzann Kogen

with a copy to: Rudnick & Wolfe  
203 N. LaSalle Street  
Chicago, IL 60601  
Attn: David Cass

Any such notices, requests, reports, demands or other instruments shall be (i) personally delivered to the offices set forth above, in which case they shall be deemed delivered on the date of delivery to said offices, (ii) sent by certified or registered mail, return receipt requested, in which case they shall be deemed delivered three (3) business days after deposit in the U.S. mail, postage prepaid, or (iii) sent by air courier (Federal Express or like service), in which case they shall be deemed delivered on the date of actual delivery. Either party may change the address to which any such notice, report, demand or other instrument is to be delivered by furnishing written notice

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of such change to the other party in compliance with the foregoing provisions.

41. Excess Loan Charges. If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit and (b) any sums already collected from the obligor which exceeded permitted limits ("Excess Loan Charges") will, at Mortgagee's option, either be refunded to the obligor or applied as a credit against the then outstanding principal balance or accrued and unpaid interest thereon. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note. Neither Mortgagor nor any other guarantor or obligor on the Note shall have any action against Mortgagee for any damages whatsoever arising from the payment of Excess Loan Charges.

42. Attorneys' Fees. Mortgagor will pay Mortgagee's attorneys' fees (which in all cases shall include the charges and fees of in-house counsel) and costs in connection with the preparation, administration and enforcement of this Mortgage. Without limiting the generality of the foregoing, if at any time or times hereafter Mortgagee employs such counsel for advice or other representation with respect to any matter concerning Mortgagor, this Mortgage, the Premises, or the Loan Instruments or to protect, collect, lease, sell, take possession of, or liquidate any of the Premises, or to attempt to enforce or protect any security interest or lien or other right in any of the Premises or under any of the Loan Instruments or to enforce any rights of Mortgagee or obligations of Mortgagor or any other person, firm or corporation which may be obligated to Mortgagee by virtue of this Mortgage, any of the Loan Instruments or any other agreement, instrument or document, heretofore or hereafter delivered to Mortgagee in furtherance hereof, then in any such event all of the attorneys' fees arising from such services, and any expenses, costs and charges relating thereto, shall constitute an additional indebtedness owing by Mortgagor to Mortgagee payable on demand and evidenced and secured by the Loan Instruments.

43. Severability. In case any of the provisions of this Mortgage shall for any reason be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

44. Binding Effect. Whenever Mortgagor or Mortgagee is named or referred to herein, the heirs, legal representatives, successors and assigns of such person or entity shall be included and all covenants and agreements contained in this Mortgage shall bind the heirs, legal representatives, successors and assigns of Mortgagor, including any subsequent owner of all or any part of the Premises, and inure to the benefit of the successors and assigns of Mortgagee. This Paragraph 43 shall not be construed to permit an assignment, transfer, conveyance, encumbrance or other disposition otherwise prohibited by this Mortgage.

45. Land Trustee: Exculpation and Authority.

(a) This Mortgage is executed by the Trustee not individually or personally, but solely as trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such trustee, and it is expressly understood and agreed that nothing herein contained shall be construed as

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creating any liability on the Trustee personally to pay the Note or any interest that may accrue thereon or any of the indebtedness arising or accruing under or pursuant hereto or to the Note, or to perform any covenant, undertaking, representation or agreement, either express or implied, contained herein or in the Note, all such personal liability of the Trustee, if any, being expressly waived by the Mortgagee and by each and every person now or hereafter claiming any right or security under this Mortgage; provided, however, that nothing herein contained shall in any way limit the liability of the Beneficiary or of any guarantor or other obligor (not including the Trustee) hereunder or under the Loan Agreement, the Note or the Loan Instruments.

(b) The Trustee hereby warrants that it possesses full power and authority to execute and deliver this instrument.

WITNESS the respective hands and seals of the Trustee and the Beneficiary at Chicago, Illinois, on the day and year first above written, pursuant to proper authority duly granted.

## TRUSTEE

American National Bank and Trust  
Company of Chicago, not  
individually but solely as trustee  
under a Trust Agreement dated  
July 10, 1991 and known as Trust  
No. 11419603

Attest:

By: Gregory S. Kasprzak  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: Michael Whelan  
Name: MICHAEL WHELAN  
Title: \_\_\_\_\_

## BENEFICIARY

WOOD OAKS DEVELOPERS  
LIMITED PARTNERSHIP

By:

WOOD OAKS BUILDERS, INC., an  
Illinois corporation and its sole  
general partner

Attest:

By: Jack Edelbrock  
Name: Jack Edelbrock  
Title: Esq.

By: Suzann Kogen  
Name: Suzann Kogen  
Title: President

THIS INSTRUMENT WAS PREPARED  
BY AND AFTER RECORDING RETURN  
TO:

Jack Edelbrock, Esq.  
Mayer, Brown & Platt  
190 South LaSalle Street  
Chicago, Illinois 60603

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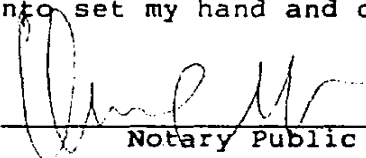
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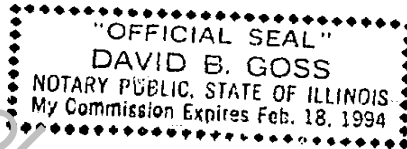
## ACKNOWLEDGEMENT

STATE OF ILLINOIS            )  
  ) SS:  
COUNTY OF COOK            )

On this 4<sup>th</sup> day of November, 1991, before me, the undersigned, personally appeared Soborn Fomenko and Daniel Ziv who acknowledged themselves to be the President and Secretary of Wood Oak's Builders, Inc., an Illinois corporation and the sole general partner of Wood Oaks Developers Limited Partnership, an Illinois limited partnership, and that as such President, and Secretary being authorized so to do, executed the foregoing instrument on behalf of said corporation for the purposes therein contained, on behalf of said limited partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
\_\_\_\_\_  
Notary Public



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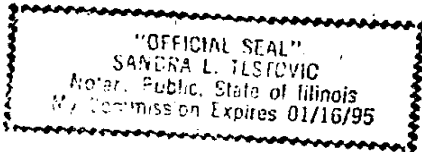
LAND TRUSTEE'S ACKNOWLEDGEMENT

STATE OF ILLINOIS )
COUNTY OF \_\_\_\_\_ ) SS.

SANDRA L. TLSTOVIC

I, SANDRA L. TLSTOVIC, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that MICHAEL WHELAN and Gregory S. Kasprzyk, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as VICE PRESIDENT and ASSISTANT SECRETARY of American National Bank and Trust Company of Chicago, not personally but solely as Trustee under a Trust Agreement dated July 10, 1991 and known as Trust No. 11419603, appeared before me this day in person and severally acknowledged to me that they, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said company as Trustee aforesaid, and as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this NOV 04 1991 day of \_\_\_\_\_, 1991.



Sandra L. Tlstovic
Notary Public

My Commission Expires:

Notary Public of Cook County Clerk's Office

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## EXHIBIT A

### The Land

#### LEGAL DESCRIPTION

LOTS 1 TO 8, BOTH INCLUSIVE, AND OUTLOT "A" IN WOODOAKS COURT RESUBDIVISION (A PROPOSED PLAT), BEING A RESUBDIVISION OF PART OF THE SOUTH 1/2 OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, NORTHFIELD TOWNSHIP, RECORDED AUGUST 12, 1991 AS DOCUMENT NUMBER 91408577, IN COOK COUNTY, ILLINOIS.

PIN Numbers: 04-07-301-009, 04-07-301-010, 04-07-301-011, 04-07-301-013, 04-07-301-014, 04-07-301-015, 04-07-301-016, 04-07-301-017, 04-07-301-018

Common Street Address: vacant land at Walters and Sanders Roads, Northbrook, Illinois

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