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Drawn By and Mail To:  
Moore & Van Allen  
NationsBank Corporate Center  
100 North Tryon Street, Floor 47  
Charlotte, North Carolina 28202-4003  
Attention: Lea Stromire Johnson

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COOK COUNTY, ILLINOIS  
FILED FOR RECORD

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**MORTGAGE, SECURITY AGREEMENT  
AND FINANCING STATEMENT**

STATE OF ILLINOIS

COUNTY OF COOK

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THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Mortgage") dated effective as of October 26, 1993 (the "Effective Date") is made by Grantor (as defined below) to Agent (as defined below), as mortgagee, is executed and delivered by Grantor for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by Grantor.

**ARTICLE I - Certain Definitions; Granting Clauses;  
Secured Indebtedness**

Section 1.1. Certain Definitions and Reference Terms. In addition to other terms defined herein, each of the following terms shall have the meaning assigned to it:

"Agent" shall mean NationsBank of Texas, N.A., a national banking association, in its capacity as agent for the Banks, having an office at 901 Main Street, 51st Floor, Dallas, Texas 75202, as mortgagee.

"Assignment of Leases" shall mean that certain Collateral Assignment of Leases dated as of the Effective Date, executed by Borrower to Agent for the benefit of the Banks.

"Banks" shall mean those lending institutions now or hereafter parties to the Credit Agreement and designated by the term thereof as a "Bank." The Banks on the date hereof are NationsBank of Texas, N.A. and Fleet National Bank.

"Credit Agreement" shall mean that certain Credit Agreement dated as of the Effective Date, executed by Borrower and NationsBank of Texas, N.A., as agent for the Banks, governing the loan made pursuant to the Credit Agreement and the related Notes.

"Event of Default" shall have the meaning given to such term in the Credit Agreement.

"Grantor" shall mean SWI Real Estate Limited Partnership, a Delaware limited partnership, having an office at c/o JER SWI Services, Inc., General Partner, 11 Canal Center Plaza, Suite 200, Alexandria, Virginia 22314.

"Loan Documents" shall have the meaning given to such term in the Credit Agreement.

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"Note" or "Notes" shall mean each of the promissory notes originally dated as of the Effective Date executed by Grantor made payable to the order of one or more of the Banks in the aggregate principal amount of One Hundred Ten Million Six Hundred Four Thousand Dollars (\$110,604,000.00) bearing interest as therein provided, containing a provision for the payment of a reasonable additional amount as attorneys' fees, and finally maturing on October 26, 1996, as such Notes may be hereafter renewed, extended, increased, modified, amended and/or restated.

"Permitted Liens" shall have the meaning given to such term in the Credit Agreement.

Section 1.2. Mortgaged Property. Grantor does hereby MORTGAGE, WARRANT, CONVEY, TRANSFER, ASSIGN and SET OVER to the Agent, for the benefit of the Banks, as mortgagee, the following: (a) the real estate (herein called the "Land") described in Exhibit A which is attached hereto and incorporated herein by reference, and (i) all improvements now or hereafter situated or to be situated on the Land (herein together called the "Improvements"); and (ii) all right, title and interest of Grantor in and to (1) all streets, roads, alleys, easements, rights-of-way, licenses, rights of ingress and egress, vehicle parking rights and public places, existing or proposed, abutting, adjacent, used in connection with or pertaining to the Land or the Improvements; (2) any strips or gores between the Land and abutting or adjacent properties; and (3) all water and water rights, timber, crops and mineral interests on or pertaining to the Land (the Land, Improvements and other rights, titles and interests referred to in this clause (a) being herein sometimes collectively called the "Premises"); (b) all fixtures, equipment, systems, machinery, furniture, furnishings, appliances, inventory, goods, building and construction materials, supplies, and articles of personal property, of every kind and character, now owned or hereafter acquired by Grantor, which are now or hereafter attached to or situated in, on or about the Land or the Improvements, or used in or necessary to the complete and proper planning, development, use, occupancy or operation thereof or acquired (whether delivered to the Land or stored elsewhere) for use or installation in or on the Land or the Improvements, and all renewals and replacements of, substitutions for and additions to the foregoing (the properties referred to in this clause (b) being herein sometimes collectively called the "Accessories," all of which are hereby declared to be permanent accessions to the Land); (c) all (i) plans and specifications for the Improvements; (ii) Grantor's rights, but not liability, for any breach by Grantor, under all commitments (including any commitment for financing to pay any of the secured indebtedness, as defined below), insurance policies and other contracts and general intangibles (including but not limited to trademarks, trade names and symbols) related to the Premises or the Accessories or the operation thereof; (iii) deposits (including, but not limited to, Grantor's rights in tenants' security deposits, deposits with respect to utility services to the Premises, and any deposits or reserves hereunder or under any other Loan Document for taxes, insurance or otherwise), money, accounts, instruments, documents, notes and chattel paper arising from or by virtue of any transactions related to the Premises or the Accessories; (iv) to the extent assignable, permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Premises or the Accessories; (v) subject to the terms of the Assignment of Leases, leases, rents, royalties, bonuses, issues, profits, revenues and other benefits of the Premises and the Accessories, including all accounts receivable, credit card receivables, petty cash, guest room charges, reservation deposits, advance payments and all income and revenue derived from guests, conventions, room rentals, food sales, beverage sales, telephone usage, vending

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machines, parking, catering, and all miscellaneous other income; (vi) oil, gas and other hydrocarbons and other minerals produced from or allocated to the Land and all products processed or obtained therefrom, and the proceeds thereof; and (vii) engineering, accounting, title, legal and other technical or business data concerning the Mortgaged Property which are in the possession of Grantor or in which Grantor otherwise can grant a security interest; and (d) all (i) proceeds of or arising from the properties, rights, titles and interests referred to above in this Section 1.2, including but not limited to proceeds of any sale, lease or other disposition thereof, proceeds of each policy of insurance relating thereto (including premium refunds), proceeds of the taking thereof or of any rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, by eminent domain or transfer in lieu thereof for public or quasi-public use under any law, and proceeds arising out of any damage thereto; and (ii) other interests of every kind and character which Grantor now has or hereafter acquires in, to or for the benefit of the properties, rights, titles and interests referred to above in this Section 1.2 and all property used or useful in connection therewith, including but not limited to rights of ingress and egress and remainders, reversions and reversionary rights or interests; and if the estate of Grantor in any of the property referred to above in this Section 1.2 is a leasehold estate, this conveyance shall include, and the lien and security interest created hereby shall encumber and extend to, all other or additional title, estates, interests or rights which are now owned or may be acquired hereafter by Grantor in or to the property demised under the lease creating the leasehold estate; TO HAVE AND TO HOLD the foregoing rights, interests and properties, and all rights, estates, powers and privileges appurtenant thereto (herein collectively called the "Mortgaged Property"), unto Agent for the benefit of the Banks, and their successors and assigns, upon the terms, provisions and conditions herein set forth. No part of the Mortgaged Property constitutes all or any part of the homestead of Grantor.

Section 1.3. Security Interest. Grantor hereby grants to Agent, for the benefit of the Banks, a security interest in all of the Mortgaged Property which constitutes personal property or fixtures (herein sometimes collectively called the "Collateral"). In addition to its rights hereunder or otherwise, Agent shall have all of the rights of a secured party under the Uniform Commercial Code in force in the state where the Mortgaged Property is located or in any other state to the extent the same is applicable law (the "UCC").

Section 1.4. Note, Loan Documents, Other Obligations. This Mortgage is made to secure and enforce the payment and performance of the following promissory notes, obligations, indebtedness and liabilities and all renewals, extensions, supplements, increases, and modifications thereof in whole or in part from time to time: (a) the Notes and all other notes given in substitution therefor or in modification, supplement, increase, renewal or extension thereof, in whole or in part; (b) all indebtedness and other obligations owed by Grantor to each of the Banks now or hereafter incurred or arising pursuant to or permitted by the provisions of the Notes, this Mortgage, or any of the other Loan Documents; (c) all obligations and liabilities of [the Grantor] to any Bank under or with respect to any interest rate swap, cap, collar or other similar agreement or arrangement designed to protect the Grantor against fluctuations in interest rates with respect to the Notes; and (d) all other loans and future advances (up to an amount equal to two hundred percent of the original principal amount of the Note, as set forth in Section 1.1 above) made by any Bank to Grantor under or in connection with the transactions described in the Loan Documents and all other debts, obligations and liabilities of Grantor of every kind and character now or hereafter existing in favor of any Bank in connection with the transactions

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described in the Loan Documents, whether direct or indirect, primary or secondary, joint or several, fixed or contingent, secured or unsecured, it being contemplated that Grantor may become indebted to one or more of the Banks hereafter for such future debts, obligations and liabilities; provided, however, this Mortgage shall not secure any such other loan, advance, debt, obligation or liability with respect to which a Bank is by applicable law prohibited from obtaining a lien on real estate nor shall this clause operate or be effective to constitute or require any assumption or payment by any person, in any way, of any debt of any other person to the extent that the same would violate or exceed the limit provided in any applicable usury or other law. The indebtedness referred to in this Section 1.4 is hereinafter sometimes referred to as the "secured indebtedness" or the "indebtedness secured hereby."

## ARTICLE 2 - Representations, Warranties and Covenants

Section 2.1. Grantor represents, warrants, and covenants as follows:

(a) Condemnation. Grantor shall notify Agent immediately of any threatened or pending proceeding for condemnation affecting the Mortgaged Property or arising out of damage to the Mortgaged Property, and Grantor, at Grantor's expense, diligently shall prosecute any such proceedings. Agent shall have the right (but not the obligation) to participate in any such proceeding and to be represented by counsel of its own choice. Agent, for the benefit of the Banks, shall be entitled to receive all sums which may be awarded or become payable to Grantor for the condemnation of the Mortgaged Property, or any part thereof, for public or quasi-public use, or by virtue of private sale in lieu thereof, and any sums which may be awarded or become payable to Grantor for injury or damage to the Mortgaged Property. Grantor, promptly upon request of Agent, shall execute such additional assignments and other documents as may be necessary from time to time to permit such participation and to enable Agent to collect and receipt for any such sums. All such sums hereby are assigned to Agent, for the benefit of the Banks, and, after deduction therefrom of all reasonable expenses actually incurred by Agent, including attorneys' fees, shall be applied by the Agent pro rata to the unpaid principal balance of the Notes. In any event the unpaid portion of the secured indebtedness shall remain in full force and effect and the payment thereof shall not be excused. Neither the Agent nor any of the Banks, under any circumstances, shall be liable or responsible for failure to collect or to exercise diligence in the collection of any such sum or for failure to see to the proper application of any amount paid over to Grantor. Agent is hereby authorized, in the name of Grantor, to execute and deliver valid acquittances for, and to appeal from, any such award, judgment or decree. All costs and expenses (including but not limited to attorneys' fees) incurred by Agent in connection with any condemnation shall be a demand obligation owing by Grantor (which Grantor hereby promises to pay) to Agent pursuant to this Mortgage.

(b) Operation of Mortgaged Property. Grantor will operate the Mortgaged Property in a good and workmanlike manner and substantially in accordance with all Legal Requirements and will pay all fees or charges of any kind in connection therewith. Grantor will keep the Mortgaged Property occupied so as not to impair the insurance carried thereon. Grantor will not use or occupy or conduct any activity on, or allow the use or occupancy of or the conduct of any activity on, the Mortgaged Property in any manner which violates any Legal Requirement in any material respect or which constitutes a public or private nuisance or which



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makes void, voidable or cancelable, or increases the premium of, any insurance then in force with respect thereto. Grantor will not initiate or permit any zoning reclassification of the Mortgaged Property or seek any variance under existing zoning ordinances applicable to the Mortgaged Property or use or permit the use of the Mortgaged Property in such a manner which would result in such use becoming a nonconforming use under applicable zoning ordinances or other Legal Requirement. Grantor will preserve, protect, renew, extend and retain all material rights and privileges granted for or applicable to the Mortgaged Property. Without the prior written consent of the Agent, there shall be no drilling or exploration for or extraction, removal or production of any mineral hydrocarbon, gas, natural element, compound or substance (including sand and gravel) from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof. As used in this Mortgage (i) the term "Legal Requirement" means any Law (defined below), agreement, covenant, restriction, easement or condition (including, without limitation of the foregoing, any condition or requirement imposed by any insurance or surety company), as any of the same now exists or may be changed or amended or come into effect in the future; and (ii) the term "Law" means any federal, state or local law, statute, ordinance, code, rule, regulation, license, permit, authorization, decision, order, injunction or decree, domestic or foreign.

Section 2.2. Performance by Banks or Agent on Grantor's Behalf. Grantor agrees that, if Grantor fails to perform any act or to take any action which Grantor is required by the terms hereof to perform or take, or to pay any money which Grantor is required by the terms hereof to pay, and whether or not the failure then constitutes a default hereunder, and whether or not there has occurred any default or defaults hereunder or the secured indebtedness has been accelerated, Agent, on behalf of the Banks, in Grantor's name or its own name, may, but shall not be obligated to, perform or cause to be performed such act or take such action or pay such money, and any expenses so incurred by Agent and any money so paid by Agent shall be a demand obligation owing by Grantor to Agent (which obligation Grantor hereby promises to pay), shall be a part of the indebtedness secured hereby, and Agent, upon making such payment, shall be subrogated to all of the rights of the person, entity or body politic receiving such payment. Agent and its designees shall have the right to enter upon the Mortgaged Property at any time and from time to time for any such purposes. No such payment or performance by Agent shall waive or cure any default or waive any right, remedy or recourse of Agent. Any such payment may be made by Agent in reliance on any statement, invoice or claim without inquiry into the validity or accuracy thereof. Each amount due and owing by Grantor to Agent or any Bank pursuant to this Mortgage shall bear interest from the date such amount becomes due until paid, at the rate per annum provided in the Credit Agreement for interest on past due principal owed on the Loan but never in excess of the maximum nonusurious amount permitted by applicable law, which interest shall be payable to Agent or such Bank on demand; and all such amounts, together with such interest thereon, shall automatically and without notice be a part of the indebtedness secured hereby. Absent manifest error, the amount and nature of any expense by Agent or any Bank hereunder and the time when paid shall be fully established by the certificate of Agent or such Bank or any Agent or any Bank officers or agents of the Agent or such Bank.

Section 2.3. Absence of Obligations of Agent and the Banks with Respect to Mortgaged Property. Notwithstanding anything in this Mortgage to the contrary, including, without

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limitation, the definition of "Mortgaged Property" (i) to the extent permitted by applicable law, the Mortgaged Property is composed of Grantor's rights, title and interests therein but not Grantor's obligations, duties or liabilities pertaining thereto, (ii) Agent and the Banks neither assume nor shall have any obligations, duties or liabilities in connection with any portion of the items described in the definition of "Mortgaged Property" herein, either prior to or after obtaining title to such Mortgaged Property, whether by foreclosure sale, the granting of a deed in lieu of foreclosure or otherwise, and (iii) Agent and the Banks, at any time prior to or after the acquisition of title to any portion of the Mortgaged Property as above described, may advise any party in writing as to the extent of Agent or the Bank's interest therein and/or expressly disaffirm in writing any rights, interests, obligations, duties and/or liabilities with respect to such Mortgaged Property or matters related thereto. Without limiting the generality of the foregoing, it is understood and agreed that Agent and the Banks shall have no obligations, duties or liabilities prior to or after acquisition of title to any portion of the Mortgaged Property, as lessee under any lease or purchaser or seller under any contract or option unless Agent or such Bank elects otherwise by written notification.

**ARTICLE 3 - Event of Default**

Section 3.1. Events of Default. The occurrence of an Event of Default (as defined in the Credit Agreement) under the Credit Agreement shall constitute a default under this Mortgage and Agent may exercise its right to accelerate the whole of the indebtedness in accordance with the terms of the Loan Documents and may exercise any and all remedies provided in the Loan Documents, or at law or in equity.

**ARTICLE 4 - Remedies**

Section 4.1. Certain Remedies. If an Event of Default shall occur, Agent may exercise (but shall have no obligation to exercise) any one or more of the remedies set forth in the Credit Agreement and the remedies set forth in this Mortgage, without notice (unless notice is required by applicable statute), including the following:

(a) Foreclosure. Upon the occurrence of a default this Mortgage may be foreclosed as to any of the Mortgaged Property in any manner permitted by applicable law and in accordance with the terms of this Mortgage.

(b) Uniform Commercial Code. Without limitation of Agent's rights of enforcement with respect to the Collateral or any part thereof in accordance with the procedures for foreclosure of real estate, Agent may exercise its rights of enforcement with respect to the Collateral or any part thereof under the UCC as amended and in conjunction with, in addition to or in substitution for those rights and remedies: (1) Agent may enter upon Grantor's premises to take possession of, assemble and collect the Collateral or, to the extent and for those items of the Collateral permitted under applicable law, to render it unusable; (2) Agent may require Grantor to assemble the Collateral and make it available at a place Agent designates which is mutually convenient to allow Agent to take possession or dispose of the Collateral; (3) written notice mailed to Grantor as provided herein at least five (5) days prior to the date of public sale of the Collateral or prior to the date after which private sale of the Collateral will be made shall



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constitute reasonable notice; (4) any sale made pursuant to the provisions of this paragraph shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with and upon the same notice as required for the sale of the Mortgaged Property under power of sale as provided in paragraph (a) above in this Section 4.1; (5) in the event of a foreclosure sale, whether made by Trustee under the terms hereof, or under judgment of a court, the Collateral and the other Mortgaged Property, at the option of Agent, may be sold as a whole; (6) it shall not be necessary that Agent take possession of the Collateral or any part thereof prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that the Collateral or any part thereof be present at the location of such sale; (7) with respect to application of proceeds of disposition of the Collateral under Section 4.3 hereof, the costs and expenses incident to disposition shall include the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and the reasonable attorneys' fees and legal expenses incurred by Agent; (8) any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to nonpayment of the secured indebtedness or as to the occurrence of any default, or as to Agent having declared all of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, or as to any other act or thing having been duly done by Agent, shall be taken as prima facie evidence of the truth of the facts so stated and recited; and (9) Agent may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Agent, including the sending of notices and the conduct of the sale, but in the name and on behalf of Agent.

(c) Lawsuits. Agent may proceed by a suit or suits in equity or at law, whether for collection of the indebtedness secured hereby, the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction.

(d) Entry on Mortgaged Property. Agent is authorized, prior or subsequent to the institution of any foreclosure proceedings, to the fullest extent permitted by applicable law, to enter upon the Mortgaged Property, or any part thereof, and to take possession of the Mortgaged Property and all books and records relating thereto, and to exercise without interference from Grantor any and all rights which Grantor has with respect to the management, possession, operation, protection or preservation of the Mortgaged Property. Agent shall not be deemed to have taken possession of the Mortgaged Property or any part thereof except upon the exercise of its right to do so, and then only to the extent evidenced by its demand and overt act specifically for such purpose. All costs, expenses and liabilities of every character incurred by Agent in managing, operating, maintaining, protecting or preserving the Mortgaged Property shall constitute a demand obligation of Grantor (which obligation Grantor hereby promises to pay) to Agent pursuant to this Mortgage except to the extent such costs, expenses or liabilities result from Agent's bad faith or through Agent's gross negligence or willful misconduct. If necessary to obtain the possession provided for above, Agent may invoke any and all legal remedies to dispossess Grantor. In connection with any action taken by Agent pursuant to Section, Agent shall not be liable for any loss sustained by Grantor resulting from any failure to let the Mortgaged Property or any part thereof, or from any act or omission of Agent in managing the Mortgaged Property unless such loss is caused by the willful misconduct, gross

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negligence and bad faith of Agent, nor shall Agent be obligated to perform or discharge any obligation, duty or liability of Grantor arising under any lease or other agreement relating to the Mortgaged Property or arising under any Permitted Lien or otherwise arising. Grantor hereby assents to, ratifies and confirms any and all actions of Agent with respect to the Mortgaged Property taken under this Section.

(e) Receiver. Agent as a matter of right shall be entitled to the appointment of a receiver or receivers for all or any part of the Mortgaged Property, whether such receivership be incident to a foreclosure of such property or otherwise, and without regard to the value of the Mortgaged Property or the solvency of any person or persons liable for the payment of the indebtedness secured hereby, and Grantor does hereby irrevocably consent to the appointment of such receiver or receivers, waives any and all defenses to such appointment, agrees not to oppose any application therefor by Agent. Nothing herein is to be construed to deprive Agent of any other right, remedy or privilege it may have under the law to have a receiver appointed. Any money advanced by Agent in connection with any such receivership shall be a demand obligation (which obligation Grantor hereby promises to pay) owing by Grantor to Agent pursuant to this Mortgage.

(f) Other Rights and Remedies. Agent may exercise any and all other rights and remedies which Agent may have under the Loan Documents, or at law or in equity or otherwise.

Section 4.2. Proceeds of Foreclosure. The proceeds of any foreclosure sale of the liens and security interests evidenced hereby shall, subject to applicable law, be applied: FIRST, to the payment of all necessary costs and expenses incident to such foreclosure proceeding and sale, including but not limited to all reasonable attorneys' fees and legal expenses, all court costs and charges of every character, and to the payment of any other secured indebtedness, including specifically without limitation the principal, accrued interest and attorneys' fees due and unpaid on the Notes and the amounts due and unpaid and owed to Agent under this Mortgage, the order and manner of application to the items in this clause FIRST to be in Agent's sole discretion; and SECOND, the remainder, if any, shall be paid to Grantor, or to Grantor's heirs, devisees, representatives, successors or assigns, or such other persons (including the holder or beneficiary of any inferior lien) as may be entitled thereto by law; provided, however, that if Agent is uncertain which person or persons are so entitled, Agent may interplead such remainder in any court of competent jurisdiction, and the amount of any attorneys' fees, court costs and expenses incurred in such action shall be a part of the secured indebtedness and shall be reimbursable (without limitation) from such remainder.

Section 4.3. Agent or any Bank as Purchaser. Agent and the Banks each shall have the right to become the purchaser at any foreclosure sale or at any public sale, and Agent or such Bank shall have the right to credit upon the amount of Agent's or such Bank's successful bid, to the extent necessary to satisfy such bid, all or any part of the secured indebtedness in such manner and order as Agent or such Bank may elect.

Section 4.4. Foreclosure as to Matured Debt. Upon the occurrence of an Event of Default, Agent shall have the right to accelerate all or any portion of the secured indebtedness and to proceed with foreclosure of the liens and security interests hereunder with or without

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declaring the entire secured indebtedness due, and such foreclosure sale may be made subject to the unmatured part of the secured indebtedness; and any such sale shall not in any manner affect the unmatured part of the secured indebtedness if Grantor is not in default thereunder, but as to such unmatured part this Mortgage shall remain in full force and effect just as though no foreclosure had been made. The proceeds of such sale shall be applied as provided in Section 4.2 hereof except that the amount paid under clause FIRST thereof shall be only the matured portion of the secured indebtedness and any proceeds of such sale in excess of those provided for in clause FIRST (modified as provided above) shall be applied to the prepayment (without penalty) of any other secured indebtedness in such manner and order and to such extent as Agent deems advisable, and the remainder, if any, shall be applied as provided in clause SECOND of Section 4.2 hereof. Several foreclosures may be made hereunder without exhausting the right of foreclosure as to any unmatured part of the secured indebtedness if Grantor is not in default thereunder.

Section 4.5. Remedies Cumulative. All rights and remedies provided for herein and in any other Loan Document are cumulative of each other and of any and all other rights and remedies existing at law or in equity, and Agent, in addition to the rights and remedies provided herein or in any other Loan Document, shall be entitled to all such other rights and remedies as may exist now or hereafter at law or in equity for the collection of the secured indebtedness and the enforcement of the covenants herein and the foreclosure of the liens and security interests evidenced hereby, and the resort to any right or remedy provided for hereunder or under any such other Loan Document or provided for by law or in equity shall not prevent the concurrent or subsequent employment of any other appropriate right or rights or remedy or remedies.

Section 4.6. Agent's Discretion as to Security. Agent may resort to any security given by this Mortgage or to any other security now existing or hereafter given to secure the payment of the secured indebtedness, in whole or in part, and in such portions and in such order as may seem best to Agent in its sole and uncontrolled discretion, and any such action shall not in any way be considered as a waiver of any of the rights, benefits, liens or security interests evidenced by this Mortgage.

Section 4.7. Grantor's Waiver of Certain Rights. To the full extent Grantor may do so, Grantor agrees that Grantor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension, reinstatement, or redemption, and Grantor, for Grantor, Grantor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, to the extent permitted by applicable law, hereby waives and releases all rights of redemption, reinstatement, valuation, appraisal, stay of execution, notice of intention to mature or declare due the whole of the secured indebtedness, notice of election to mature or declare due the whole of the secured indebtedness and all rights to a marshaling of assets of Grantor, including the Mortgaged Property, or to a sale in inverse order of alienation in the event of foreclosure of the liens and/or security interests hereby created. Grantor shall not have or assert any right under any statute or rule of law pertaining to the marshaling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatever to defeat, reduce or affect the right of Agent under the terms of this Mortgage to the foreclosure and sale of the Mortgaged Property for the

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collection of the secured indebtedness without any prior or different resort for collection, or the right of Agent under the terms of this Mortgage to the payment of the secured indebtedness out of the proceeds of any foreclosure or other sale of the Mortgaged Property in preference to every other claimant whatever. Grantor waives any right or remedy which Grantor may have or be able to assert pursuant to applicable law, pertaining to the rights and remedies of sureties. If any law referred to in this Section and now in force, of which Grantor or Grantor's heirs, devisees, representatives, successors or assigns or any other persons claiming any interest in the Mortgaged Property might take advantage despite this Section, hereafter shall be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section.

**Section 4.8. Delivery of Possession After Foreclosure.** In the event there is a foreclosure sale hereunder and at the time of such sale, Grantor or Grantor's heirs, devisees, representatives, successors or assigns are occupying or using the Mortgaged Property, or any part thereof, each and all immediately shall become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of either landlord or tenant, at a reasonable rental per day based upon the value of the property occupied, such rental to be due daily to the purchaser; and to the extent permitted by applicable law, the purchaser at such foreclosure sale, notwithstanding any language herein apparently to the contrary, shall have the sole option to demand possession immediately following the sale or to permit the occupants to remain as tenants at will. In the event the tenant fails to surrender possession of said property upon demand, the purchaser shall be entitled to institute and maintain a summary action for possession of the property (such as an action for forcible detainer) in any court having jurisdiction.

## ARTICLE 5 - Miscellaneous

**Section 5.1. Scope of Mortgage.** This Mortgage, including Illinois Mortgage Rider, which is attached hereto and made a part hereof, is a mortgage of both real and personal property, a security agreement, a financing statement and a collateral assignment, and also covers proceeds and fixtures.

**Section 5.2. Effective as a Financing Statement.** This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Mortgaged Property and is to be filed for record in the real estate records of each county where any part of the Mortgaged Property (including said fixtures) is situated. This Mortgage also shall be effective as a financing statement covering any other Mortgaged Property and may be filed in any other appropriate filing or recording office. The mailing address of Grantor is the address of Grantor set forth at the end of this Mortgage and the address of Agent from which information concerning the security interests hereunder may be obtained is the address of Agent set forth at the end of this Mortgage. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Section.

**Section 5.3. Notice to Account Debtors.** In addition to the rights granted elsewhere in this Mortgage, upon the occurrence of an Event of Default the Agent at any time may notify the account debtors or obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness included in the Collateral to pay Agent directly.



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**Section 5.4. Waiver by Agent.** Agent at any time and from time to time by a specific writing intended for the purpose may: (a) waive compliance by Grantor with any covenant herein made by Grantor to the extent and in the manner specified in such writing; (b) consent to Grantor's doing any act which hereunder Grantor is prohibited from doing, or to Grantor's failing to do any act which hereunder Grantor is required to do, to the extent and in the manner specified in such writing; (c) release any part of the Mortgaged Property or any interest therein from the lien and security interest of this Mortgage; or (d) release any party liable, either directly or indirectly, for the secured indebtedness or for any covenant herein or in any other Loan Document, without impairing or releasing the liability of any other party. No such act in any way shall affect the rights or powers of Agent hereunder except to the extent specifically agreed to by Agent in such writing.

**Section 5.5. No Impairment of Security.** The lien, security interest and other security rights of Agent hereunder or under any other Loan Document shall not be impaired by any indulgence, moratorium or release granted by Agent including, but not limited to, any renewal, extension or modification which Agent may grant with respect to any secured indebtedness, or any surrender, compromise, release, renewal, extension, exchange or substitution which Agent may grant in respect of the Mortgaged Property, or any part thereof or any interest therein, or any release or indulgence granted to any endorser, guarantor or surety of any secured indebtedness. The taking of additional security by Agent shall not release or impair the lien, security interest or other security rights of Agent hereunder or affect the liability of Grantor or of any endorser, guarantor or surety, or improve the right of any junior lienholder in the Mortgaged Property (without implying hereby Agent's consent to any junior lien).

**Section 5.6. Acts Not Constituting Waiver by Agent.** Agent may waive any default without waiving any other prior or subsequent default. Agent may remedy any default without waiving the default remedied. Neither failure by Agent to exercise, nor delay by Agent in exercising, nor discontinuance of the exercise of any right, power or remedy (including but not limited to the right to accelerate the maturity of the secured indebtedness or any part thereof) upon or after any default shall be construed as a waiver of such default or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise by Agent of any right, power or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No modification or waiver of any provision hereof nor consent to any departure by Grantor therefrom in any event shall be effective unless the same shall be in writing and signed by Agent and then such waiver or consent shall be effective only in the specific instance, for the purpose for which given and to the extent therein specified. No notice to nor demand on Grantor in any case shall of itself entitle Grantor to any other or further notice or demand in similar or other circumstances. Remittances in payment of any part of the secured indebtedness other than in the required amount in immediately available U.S. funds shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Agent in immediately available U.S. funds and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Agent of any payment in an amount less than the amount then due on any secured indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of a default hereunder.

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Section 5.7. Grantor's Successors. If the ownership of the Mortgaged Property or any part thereof becomes vested in a person other than Grantor, Agent, without notice to Grantor, may deal with such successor or successors in interest with reference to this Mortgage and to the indebtedness secured hereby in the same manner as with Grantor, without in any way vitiating or discharging Grantor's liability hereunder or for the payment of the indebtedness or performance of the obligations secured hereby. No transfer of the Mortgaged Property, no forbearance on the part of Agent, and no extension of the time for the payment of the indebtedness secured hereby given by Agent shall operate to release, discharge, modify, change or affect, in whole or in part, the liability of Grantor hereunder for the payment of the indebtedness or performance of the obligations secured hereby or the liability of any other person hereunder for the payment of the indebtedness secured hereby. Each Grantor agrees that it shall be bound by any modification of this Mortgage or any of the other Loan Documents made by Agent and any subsequent owner of the Mortgaged Property, with or without notice to such Grantor, and no such modifications shall impair the obligations of such Grantor under this Mortgage or any other Loan Document. Nothing in this Section or elsewhere in this Mortgage shall be construed to imply Agent's consent to any transfer of the Mortgaged Property.

Section 5.8. Application of Payments to Certain Indebtedness. If any part of the secured indebtedness cannot be lawfully secured by this Mortgage or if any part of the Mortgaged Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is not secured by this Mortgage.

Section 5.9. Release of Mortgage. If (i) all of the secured indebtedness be paid as the same becomes due and payable and all of the covenants, warranties, undertakings and agreements made in this Mortgage are kept and performed, and all obligations, if any, of Agent for further advances have been terminated, or (ii) the Release Price shall be paid pursuant to the Credit Agreement then, and in either such event only, all rights under this Mortgage shall terminate and the Mortgaged Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, and such liens and security interests shall be released by Agent in due form at Grantor's cost. Without limitation, all provisions in any of the Loan Documents for indemnity of any Bank shall survive discharge of the secured indebtedness and any foreclosure, release or termination of this Mortgage.

Section 5.10. Notices. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder or under any other Loan Document shall be given pursuant to Section 9.01 of the Credit Agreement.

Section 5.11. Invalidity of Certain Provisions. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability, or validity of such provision as it may apply to other persons or circumstances.

Section 5.12. Gender; Titles; Construction. Within this Mortgage, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. Titles

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appearing at the beginning of any subdivisions hereof are for convenience only, do not constitute any part of such subdivisions, and shall be disregarded in construing the language contained in such subdivisions. The use of the words "herein," "hereof," "hereunder" and other similar compounds of the word "here" shall refer to this entire Mortgage and not to any particular Article, Section, paragraph or provision. The term "person" and words importing persons as used in this Mortgage shall include firms, associations, partnerships (including limited partnerships), joint ventures, trusts, corporations and other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons.

**Section 5.13. Agent's Consent.** Except where otherwise expressly provided herein, in any instance hereunder where the approval, consent or the exercise of judgment of Agent is required or requested, (i) the granting or denial of such approval or consent and the exercise of such judgment shall be within the sole discretion of Agent, and Agent shall not, for any reason or to any extent, be required to grant such approval or consent or exercise such judgment in any particular manner, regardless of the reasonableness of either the request or Agent's judgment, and (ii) no approval or consent of Agent shall be deemed to have been given except by a specific writing intended for the purpose and executed by an authorized representative of Agent.

**Section 5.14. Grantor.** Unless the context clearly indicates otherwise, as used in this Mortgage, "Grantor" means the grantors named in Section 1.1 hereof or any of them. The obligations of Grantor hereunder shall be joint and several. If any Grantor, or any signatory who signs on behalf of any Grantor, is a corporation, partnership or other legal entity, Grantor and any such signatory, and the person or persons signing for it, represent and warrant to Agent that this instrument is executed, acknowledged and delivered by Grantor's duly authorized representatives. If Grantor is an individual, no power of attorney granted by Grantor herein shall terminate on Grantor's disability.

**Section 5.15. Execution; Recording.** This Mortgage has been executed in several counterparts, all of which are identical, and all of which counterparts together shall constitute one and the same instrument. The date or dates reflected in the acknowledgments hereto indicate the date or dates of actual execution of this Mortgage, but such execution is as of the date shown on the first page hereof, and for purposes of identification and reference the date of this Mortgage shall be deemed to be the date reflected on the first page hereof. Grantor will cause this Mortgage and all amendments and supplements thereto and substitutions therefor and all financing statements and continuation statements relating thereto to be recorded, filed, re-recorded and refiled in such manner and in such places as Agent shall reasonably request and will pay all such recording, filing, re-recording and refiling taxes, fees and other charges.

**Section 5.16. Successors and Assigns.** The terms, provisions, covenants and conditions hereof shall be binding upon Grantor, and the heirs, devisees, representatives, successors and assigns of Grantor, and shall inure to the benefit of Agent and the Banks and shall constitute covenants running with the Land. All references in this Mortgage to Grantor shall be deemed to include all such heirs, devisees, representatives, successors and assigns of Grantor.

**Section 5.17. Modification or Termination.** This Mortgage may be modified or terminated only by a written instrument or instruments intended for that purpose and executed by the party against which enforcement of the modification or termination is asserted. Any

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alleged modification or termination which is not so documented shall not be effective as to any party.

Section 5.18. No Partnership, etc. The relationship between Agent and Grantor is solely that of lender and borrower. Agent has no fiduciary or other special relationship with Grantor. Nothing contained in the Loan Documents is intended to create any partnership, joint venture, association or special relationship between Grantor and Agent or in any way make Agent a co-principal with Grantor with reference to the Mortgaged Property. All agreed contractual duties between Agent and Grantor are set forth herein and in the other Loan Documents and any additional implied covenants or duties are hereby disclaimed. Any inferences to the contrary of any of the foregoing are hereby expressly negated.

Section 5.19. Applicable Law. THIS MORTGAGE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS IN ILLINOIS, AND THE INTERNAL LAWS OF THE STATE WHERE THE MORTGAGED PROPERTY IS LOCATED SHALL GOVERN THE LIEN PRIORITY AND VALIDITY OF THIS MORTGAGE AND THE PROCEDURES WITH RESPECT TO THE ENFORCEMENT THEREOF.

Section 5.20. Entire Agreement. The Loan Documents constitute the entire understanding and agreement between Grantor and Agent with respect to the transactions arising in connection with the indebtedness secured hereby and supersede all prior written or oral understandings and agreements between Grantor and Agent with respect to the matters addressed in the Loan Documents. Grantor hereby acknowledges that, except as incorporated in writing in the Loan Documents, there are not, and were not, and no persons are or were authorized by Agent to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the matters addressed in the Loan Documents.

Section 5.23. Non-Recourse Obligations. The obligations with respect to the loan made pursuant to the Credit Agreement and any obligations arising hereunder are subject in all respects to Section 9.14 of the Credit Agreement.

SEE ATTACHED ILLINOIS MORTGAGE RIDER FOR ADDITIONAL SECTIONS.

THE WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

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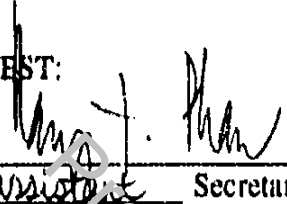
IN WITNESS WHEREOF, this instrument is executed by Grantor as of the Effective Date.

The address and federal tax identification number of Grantor are:

**GRANTOR:**  
SWI REAL ESTATE LIMITED PARTNERSHIP,  
a Delaware limited partnership

ATTEST:

By:

  
\_\_\_\_\_  
Assistant Secretary  
(Corporate Seal)

By its General Partner  
JER SWI SERVICES, INC., a Virginia corporation

By:

  
\_\_\_\_\_  
Name: Daniel T. Ward  
Title: Vice President

SWI Real Estate Limited Partnership  
JER SWI Services, Inc. General Partner  
11 Canal Center Plaza  
Suite 200  
Alexandria, Virginia 22314

Federal Tax No. 54-1657182

The address of Agent is (including county):

NationsBank of Texas, N.A.  
901 Main Street, 51st Floor  
Dallas, Dallas County, Texas 75202  
Attention: Deborah K. Newman

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STATE OF North Carolina  
COUNTY OF Meklenburg ) ss

I, Phyllis Jones, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Daniel J. Wood and Dang J. Phan, the Vice President and Assistant Secretary, respectively, of JER SWI Services, Inc., a Virginia corporation and the general partner of SWI Real Estate Limited Partnership, a Delaware limited partnership, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant Secretary, appeared before me this day in person and acknowledged that they signed and delivered said instrument as such officers of said corporation, as their own free and voluntary act and as the free and voluntary act of the corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of October, 1993.

Phyllis Jones  
Notary Public

My Commission Expires:

9-5-95

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## ILLINOIS MORTGAGE RIDER

**THIS ILLINOIS MORTGAGE RIDER ("Rider") is attached to and made a part of that certain Mortgage, Security Agreement and Financing Statement ("Mortgage") of even date herewith granted by SWI Real Estate Limited Partnership,\* having an office at c/o JER SWI Services, Inc., 11 Canal Center ("Grantor") to NationsBank of Texas, N.A., a national banking association having an office at 901 Main Street, 51st Floor, Dallas, Texas 75202, in its capacity as Agent for the Banks.**

Notwithstanding anything to the contrary contained in the Mortgage, Grantor and Agent hereby agree as follows:

1. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Mortgage. The terms "secured indebtedness" and "indebtedness secured hereby" shall also have the meaning set forth in the Mortgage.

2. The provisions contained in this Rider are to be construed as conferring additional rights and remedies upon the Agent and are not to be construed as limiting any rights or remedies of the Agent as set forth in the Mortgage. In the event of a conflict between the terms of the Mortgage and this Rider, the Agent shall be entitled to the benefit of the provisions which provide it with the greatest rights and remedies, subject, however, to applicable provisions of Illinois law including, without limitation, the Illinois Mortgage Foreclosure Law, 735 ILCS 15/1101 et seq., and any successor statute thereto.

3. The following shall be added to Paragraph 4.2:

In any suit to foreclose the lien hereof or in any other action to enforce any other remedy of Agent under this Mortgage or with respect to any of the other secured indebtedness, there shall be allowed and included as additional indebtedness in the decree for sale, judgment of foreclosure or other judgment or decree all expenditures and expenses which may be paid or incurred by or on behalf of Agent for attorneys' fees and expenses, paralegals' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title and value as Agent may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature described in this Section 4.2 and such additional expenses and fees as may be incurred in the protection of the Mortgaged Property and the maintenance of the lien of this Mortgage, including but not limited to the fees and expenses of any attorney employed by Agent in any litigation or proceeding affecting this Mortgage, the secured indebtedness or the Premises, including bankruptcy

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\* a Delaware limited partnership

\*\* Plaza, Suite 200, Alexandria, Virginia 22314

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proceedings, or in the preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Grantor, with interest thereon at the default rate described in the Note and shall be secured by this Mortgage. At any foreclosure sale, Agent may bid for and acquire the Premises or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting the amount of indebtedness of Grantor secured by this Mortgage against the sale price.

4. The following paragraphs shall be added to Section 4.1(e) of the Mortgage:

Agent may be appointed as such receiver. Any receiver shall have the power, in accordance with law: (a) 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 redemption or not, as well as during any further times when Grantor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (b) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Note and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Grantor and all persons whose interest in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from any judgment or decree of foreclosure, satisfaction of the secured indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchase; and (c) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period.

The court from time to time may authorize the receiver to apply the net income in its hands in payment in whole or in part to: (x) the secured indebtedness or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to any foreclosure sale; and (y) the deficiency in case of a sale and deficiency.

5. The following Paragraph shall be added as Section 5.21 to the Mortgage:

Section 5.21. Business Loan Recital/Statutory Exemption. (a) Grantor acknowledges and agrees that (i) the proceeds of the Loan will be used in conformance with subparagraph (1)(1) of Section 4 of "An Act in relation to the rate of interest and other charges in connection with sales on credit and the lending of money," approved May 24, 1879, as amended (815 ILCS 205/4(1)(1));

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(ii) that the indebtedness secured hereby constitute a business loan which comes within the purview of said Section 4; and (iii) that the secured indebtedness is an exempted transaction under the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 et seq. (b) Grantor acknowledges and agrees that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in 735 ILCS 5/15-1201 (1992)) or residential real estate (as defined in 735 5/15-1219 (1992)).

6. The following Paragraph shall be added as Section 5.22 to the Mortgage:

**Section 5.22. Agent's Right of Possession in Case of Default.** To the extent permitted by law, in any case in which under the provisions of this Mortgage Agent has a right to foreclose the lien hereof, Grantor shall, forthwith, upon demand by Agent, surrender to Agent, and Agent shall be entitled to take actual possession of, the Premises or any part thereof personally or by its agent or attorneys. In such event, Agent in its discretion may, in accordance with law, enter upon and take and maintain possession of all or any part of the Premises together with all documents, books, records, papers, and accruals of Grantor or the then owner of the Premises relating thereto and may exclude Grantor, its agents or servants wholly therefrom and may, as attorney in fact, as agent for Grantor or in its own name as Agent, and to the extent permitted by law, hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Grantor to cancel the same; (b) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (c) to extend or modify any then existing leases and to make new leases, which extensions, modification and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Note and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Grantor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, satisfaction of the secured indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchase; (d) to make all necessary or proper repairs, decorating renewals, replacements, alterations, additions, betterments and improvements to the Premises as to it may seem judicious; (e) to insure and reinsure the same and all risks incidental to Agent's possession,

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operation and management thereof; and (f) to receive all of such avails, rents, issues and profits; Grantor hereby granting Agent full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Grantor. Agent shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Grantor shall and does hereby agree to indemnify and hold Agent harmless of and from any and all liability under any leases. Grantor shall and does hereby agree to indemnify and hold Agent harmless of and from any and all liability, loss or damage which Agent may or might incur by reason of its performance of any action authorized under this Section 5.22 and of and from any and all claims and demand whatsoever which may be asserted against Agent by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements of Grantor.

7. The following shall be added as Section 5.23 to the Mortgage:

**Section 5.23. Agent's Lien for Service Charge and Expenses.** At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures (in addition to any loan proceeds disbursed from time to time) the payment of any and all expenses and advances due to or incurred by Agent in connection with the indebtedness to be secured hereby and which are to be reimbursed by Grantor under the terms of this Mortgage; provided, however, that in no event shall the total amount of loan proceeds disbursed plus such additional amounts exceed two hundred percent of the original principal amount of the Note.

8. The following shall be added as Section 5.24 to the Mortgage:

**Section 5.24 Future Advances.** All future advances secured by this Mortgage shall have the same priority as if all such future advances were made on the date of execution hereof. Nothing in this Section 5.24 or in any other provision of this Mortgage shall be deemed either (a) an obligation on the part of Agent to make any future advances, or (b) an agreement on the part of Agent to increase the amount of the Loan;

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IN WITNESS WHEREOF, Grantor has duly executed this Illinois Mortgage Rider this \_\_\_ day of \_\_\_\_\_, 19\_\_.

GRANTOR:

SWI REAL ESTATE LIMITED PARTNERSHIP

By its general partner:

~~SIGNATURE BLOCK~~

JER SWI Services, Inc., a Virginia corporation

ATTEST:

By: [Signature]

Its: \_\_\_\_\_

(Corporate Seal)

By: [Signature]

Its: \_\_\_\_\_

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EXHIBIT A

M7 - Farmgate

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**PARCEL 1:**

LOT 1 IN THE FARMGATE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 27, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 12, 1917 AS DOCUMENT 24055984, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

PERPETUAL, NON-EXCLUSIVE EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 FOR THE PURPOSE OF OPERATING, MAINTAINING, REPAIRING, REPLACING AND RENEWING A SIGN AND RELATED UTILITIES, AS CREATED BY SHOPPING CENTER EASEMENT AGREEMENT DATED JULY 27, 1989 AND RECORDED MARCH 12, 1990 AS DOCUMENT 90110612 BY AND BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED OCTOBER 1, 1988 AND KNOWN AS TRUST NUMBER 106741-09 AND MCDONALD'S CORPORATION, OVER, ABOVE, ALONG, UNDER AND ACROSS THE FOLLOWING DESCRIBED PARCEL OF LAND:

THE NORTH 15.0 FEET OF THE EAST 28.0 FEET OF LOT 2 IN THE FARMGATE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 12, 1977 AS DOCUMENT NUMBER 24055984, IN COOK COUNTY, ILLINOIS.

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