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## CONSTRUCTION MORTGAGE

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THIS INDENTURE, made this 27th day of January, 1993 by and between Harris Bank Hinsdale, National Association, as Trustee under Trust Agreement dated September 20, 1988 and known as Trust No. L-2040 and not personally, the mailing address of which is 50 South Lincoln Street, Hinsdale, Illinois 60521, herein referred to as "Mortgagor," and Harris Bank Hinsdale, National Association, with offices at 50 South Lincoln Street, Hinsdale, Illinois 60521, herein referred to as "Mortgagee" witnesseth:

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Mortgagor has requested that Mortgagee make a loan (the Loan") in the amount of Three Hundred Sixty Three Thousand and No/100 Dollars (\$363,000.00) to Mortgagor in accordance with the terms, covenants and conditions of a Construction Loan Agreement dated January 27, 1993 (the "Construction Loan Agreement"). Mortgagor's obligation to repay the principal amount of the Loan, or so much thereof as may be advanced from time to time by Mortgagee, together with interest thereon, and all other sums as may be advanced by Mortgagee to protect the Mortgaged Premises (hereinafter defined) or to preserve the priority of the lien created hereby ("Other Sums") (the Principal, Interest and Other Sums are sometimes collectively referred to herein as the "Indebtedness") is evidenced by a promissory note (the "Note") dated of even date herewith, made payable to the order of Mortgagee at its principal place of business at 50 South Lincoln Street, Hinsdale, Illinois 60521, or such other place as the legal owner and Holder of the Note may from time to time appoint.

NOW, THEREFORE, Mortgagor, to secure the payment of the Indebtedness and the performance of the terms, covenants, conditions and agreements contained herein, and in the Construction Loan Commitment, Note(s), Construction Loan Agreement, and any other document, instrument or agreement executed and delivered to Mortgagee to secure the Indebtedness (collectively "Other Loan Documents"), Mortgagor does, by these presents, Mortgage, Grant, Bargain, Sell and Convey unto Mortgagee, its successors and assigns, forever, the real estate, and all of its estate, right, title and interest therein, more particularly described in Exhibit A attached hereto;

Together with all right, title, and interest of Mortgagor, now owned or hereafter acquired, in and to any and all strips and gores of land adjacent to and used in connection with the Mortgaged Premises and all right, title, and interest of Mortgagor, now owned or hereafter acquired, in, to, and under the street, sidewalks, and alleys adjoining the Mortgaged Premises;

Together with all improvements, buildings, and structures now or at any time hereafter erected or situated on the Mortgaged Premises, and all tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues, and profits thereof (which are pledged primarily and on a parity with said real estate and not secondarily), and all shades, awnings, venetian blinds,

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screens, screen doors, storm doors and windows, stoves and ranges, curtain fixtures, partitions, attached floor coverings, now or hereafter therein or thereon; and all fixtures, apparatus, equipment and articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration and ventilation; and all fixtures, apparatus, equipment and articles, other than such as constitute trade fixtures, used or usable in the operation of the Mortgaged Premises, all of which for the purposes of this Mortgage shall be deemed to be real estate and conveyed and mortgaged hereby;

Together with Mortgagor's interest as lessor in and to all leases of the said Mortgaged Premises, or any part thereof, heretofore or hereafter made and entered into by Mortgagor during the life of this Mortgage or any extension or renewal hereof;

Together with all awards made to the present and all subsequent owners of the Mortgaged Premises by any governmental or other lawful authority for taking by eminent domain the whole or any part of the Mortgaged Premises or improvements thereon, the temporary use thereof or any easement thereon or thereunder, including any awards for any changes of grade of streets, which said awards are hereby assigned to Mortgagee, who is hereby authorized to collect and receive the proceeds of any such awards from said authorities and to give proper receipts and acquittances therefor;

For convenience, the land, improvements and other interests are herein collectively referred to as the "Mortgaged Premises."

TO HAVE AND TO HOLD the same unto Mortgagee, together with all estates, titles, claims, and demands whatsoever of Mortgagor in and to said Mortgaged Premises or any part thereof; and Mortgagor does hereby covenant, warrant, and agree that it is lawfully seized and possessed of said real estate in fee simple absolute and has good and lawful right and authority to sell, convey, and mortgage same; that said real estate is free from all liens, claims, charges, and encumbrances whatsoever except as set forth herein; and that Mortgagor will warrant and defend the title to said real estate against the lawful claims and demands of all persons whomsoever.

It is agreed by the parties hereto that this instrument shall be null and void on the condition that Mortgagor shall keep and perform all covenants, conditions, and terms of this Mortgage and pay or cause to be paid to Mortgagee the above-described Indebtedness in full according to the terms and conditions of said Note and shall keep and perform all covenants, conditions, and terms contained in said Note, Construction Loan Agreement and herein.

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Mortgagor further covenants, warrants, and agrees with Mortgagee as follows:

1. Payment of Indebtedness. Mortgagor will promptly pay the Indebtedness at the times and in the manner provided in the Note, and will also pay any other note or notes which hereafter may be given in renewal or extension thereof and any and all Other Sums secured hereby at the time therein and herein designated. This Mortgage shall be and remain security for the payment of all such notes. Privilege is reserve to make prepayments on said Note only as set forth in said Note. Mortgagor agrees to pay a late charge not to exceed four percent (4.00%) of each and every installment which becomes overdue for a period in excess of ten (10) days for each month such installment shall remain so past due to help defray expenses incurred in handling said delinquent payments.

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

3. Insurance. Until the Indebtedness is paid in full, Mortgagor shall keep all buildings and improvements now or hereafter situated on the Mortgaged Premises insured against loss or damage by fire and such other hazards as may, from time to time, be reasonably required by Mortgagee, in forms, companies, and amounts satisfactory to Mortgagee, and with Mortgagee clauses attached to all policies in favor of and on forms satisfactory to Mortgagee, and shall deliver all policies to Mortgagee. Not less frequently than once every three years, Mortgagor, at its expense, will furnish Mortgagee with an appraisal of the full insurable value of the Mortgaged Premises, made by fire insurance appraisers satisfactory to Mortgagee and fire insurance companies generally. Mortgagor shall also carry public liability insurance protecting Mortgagor (and any tenant or other user of the Mortgaged Premises) against liability for injuries to persons and property occurring in, on, or adjacent to the Mortgaged Premises, in forms, companies, and amounts satisfactory to Mortgagee with the policy or policies evidencing such insurance to contain a thirty (30) day notice of cancellation clause in favor of Mortgagee. Such liability policy or policies or certificates thereof shall be delivered to Mortgagee. Mortgagor shall, until the Indebtedness secured hereby is paid in full, furnish Mortgagee at least thirty (30) days prior to the date each coverage required herein would otherwise expire, with evidence of the renewal or continuation of such coverage in the form of premium receipts or renewal policies or certificates. In the event the Mortgaged Premises or any part thereof are at any

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time leased and the lease or leases have been assigned to Mortgagee as additional security for the payment of Indebtedness secured by this Mortgage, Mortgagor shall, upon the request of Mortgagee, provide rent interruption insurance payable to Mortgagee in an amount equal to the annual rental payable under such assigned lease or leases plus the lessee's or lessees' approximate annual liability for taxes and insurance as provided in the lease or leases.

Without in any way limiting the generality of the foregoing, Mortgagor agrees to maintain the following insurance policies on Mortgaged Premises:

a. Builders' Risk Completed Value Form (non-reporting), (including vandalism and malicious mischief) for any amount equal to not less than 100% of the full replacement cost of the Improvements to be constructed upon Mortgaged Premises;

b. Comprehensive General Public Liability and Property Damage Insurance for an amount no less than One Million (\$1,000,000.00) Dollars combined single limit for claims arising from any accident or occurrence in or upon the Mortgaged Property;

c. Flood Insurance whenever in the opinion of Mortgagee such protection is necessary and is available;

d. Such other insurance policies as may be reasonably required from time to time by Mortgagee.

4. Damage or Destruction. In the event of any damage to or destruction of the Mortgaged Premises covered by any policy or policies of insurance required to be carried by Mortgagor, Mortgagee may in its discretion (and is hereby authorized to) either settle and adjust any claim under such insurance policy or policies without consent of Mortgagor, or allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, the proceeds (hereinafter "Proceeds") shall be paid to Mortgagee; and Mortgagee is authorized to collect and to give receipt therefor. The proceeds in the sole discretion of Mortgagee, shall be applied in reduction of the Indebtedness, whether or not any Indebtedness is then due, or shall be held by Mortgagee and used to reimburse Mortgagor for the cost of rebuilding or restoring the Mortgaged Premises.

If the Proceeds are used for rebuilding or restoring the Mortgaged Premises, the Mortgaged Premises shall be rebuilt or restored to the extent reasonably possible, as similar to the condition which existed prior to such casualty. Proceeds shall be made available to Mortgagor, from time to time, upon the delivery to Mortgagee of satisfactory evidence of the estimated cost of completing such rebuilding or restoration, together with such

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architect's certificates, contractor's sworn statements, waivers of lien and other evidence of cost and payments as Mortgagee may reasonably require and approve. No payment made prior to final completion of such repair or restoration shall exceed ninety percent (90%) of the value thereof, and at all times, the undisbursed balance of Proceeds shall be at least sufficient to pay for the cost of completion thereof, free and clear of liens. In the event the Proceeds are insufficient to cover the cost of such rebuilding or restoring, Mortgagor shall pay such excess costs prior to any disbursement of Proceeds to it or shall otherwise satisfy Mortgagee that sufficient funds are available to complete such rebuilding or restoration. Any surplus proceeds, after the payment of all costs or rebuilding or restoring shall, at the option of Mortgagee, be applied on account of Indebtedness or paid to Mortgagor.

If a loss should occur at any time prior to the Completion Date, as defined in the Construction Loan Agreement, and if there should be any conflict between the terms of this Mortgage and the terms of the Construction Loan Agreement as relates to the use, application or disbursement of insurance proceeds, the terms of the Construction Loan Agreement shall control. If a loss should occur after the Completion Date the terms of this Mortgage shall control.

Should a loss occur after foreclosure or sale proceedings have been instituted, the Proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoration of the buildings or improvements, shall be used to pay the amount due in accordance with any judgment of foreclosure or deficiency judgment that may be entered in connection with such proceedings; and the balance, if any, shall be paid to the owner of the equity of redemption if he shall then be entitled to the same, or otherwise as any court having jurisdiction may direct. Following any foreclosure sale or other sale of the Mortgaged Premises by Mortgagee pursuant to the terms hereof, Mortgagee is authorized without the consent of Mortgagor to assign its interest in any and all insurance policies to the purchaser of the sale and to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any such insurance policies.

## 5. Escrow Deposits.

a. Mortgagor covenants and agrees, at the option of Mortgagee, to deposit at such place as Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee at 50 South Lincoln, Hinsdale, Illinois 60521, concurrently herewith such amount which when added to the monthly deposits hereinafter specified will be sufficient to pay the annual real estate taxes as and when they next become due and to deposit on the first day of each month until the Indebtedness secured by this

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Mortgage is fully paid, a sum equal to one-twelfth (1/12) of the last total annual taxes and assessments for the last ascertainable year (general and special) on said Mortgaged Premises (unless said taxes are based upon assessments which exclude the improvements or any part thereof now constructed, or to be constructed, in which event the amount of such deposits shall be based upon Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed), plus such sufficient additional sums as Mortgagee shall deem necessary to take care of known increases in taxes and assessments, such deposits to be held without any allowance of interest and to be used for the payment of taxes and assessments (general and special) on said Mortgaged Premises next due and payable when they become due. If the funds so deposited are insufficient to pay any such taxes or assessments (general and special) for any year when the same shall become due and payable, Mortgagor shall within ten (10) days after receipt of demand therefor, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year, the excess shall be applied to a subsequent deposit or deposits;

b. Mortgagor covenants and agrees, at the option of Mortgagee, to deposit at such place as Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee at Hinsdale, Illinois, on the first day of each month until the Indebtedness secured by this Mortgage is fully paid, an installment of the premium or premiums that will become due and payable to renew the insurance as herein above required by Paragraph 3 hereof. Each of such installments shall be in an amount which, by the payment of approximately equal installments, will result in there accumulating in the hands of the depository an amount sufficient to pay renewal premiums upon such policies of insurance at least one (1) month prior to the expiration date or dates of the policy or policies to be renewed, such deposits to be held without any allowance of interest and to be used for renewal of such insurance policies. If the funds so deposited are insufficient to pay all premiums for such renewals, Mortgagor shall within ten (10) days after receipt of demand thereof deposit such additional funds as may be necessary to pay such premiums. If the funds so deposited exceed the amount required to pay such premiums, the excess shall be applied on a subsequent deposit or deposits.

6. Application of Escrow Deposits upon Default. In the event of a default in any of the provisions contained in this Mortgage or in the Note secured hereby, Mortgagee may at its option, without being required to do so, apply any moneys at the time on deposit

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pursuant to Paragraphs 5 (a) and 5 (b) hereof, as any one or more of the same may be applicable, on any of Mortgagor's obligations herein or in the Note contained, in such order and manner as Mortgagee may elect. When the Indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagor or to the then owner or owners of the Mortgaged Premises. Such deposits are hereby pledged as additional security for the Indebtedness hereunder and shall be held in trust to be irrevocably applied by the depository for the purposes for which made hereunder and shall not be subject to the direction or control of Mortgagor, provided however, that neither Mortgagee nor said depository shall be liable for any failure to apply to the payment of taxes and assessments any amount so deposited unless Mortgagor, while not in default hereunder, shall have requested said depository in writing to make application of such funds to the payment of the particular taxes or assessments for payment of which they were deposited, accompanied by the bills for such taxes and assessments.

7. Condemnation. For the purposes of this Agreement, the term "Condemnation" shall mean any taking by condemnation or eminent domain proceedings, either permanent or temporary, and the term "Award" shall mean all awards and other compensation heretofore or hereafter to be made to mortgagor and all subsequent owners of the Mortgaged Premises. In the event that the Mortgaged Premises, or any part thereof, is taken by Condemnation, Mortgagee is hereby empowered to collect and receive any Awards, which shall be used to repair or restore Mortgaged Premises if the Improvements so damaged can be completed prior to the maturity date set forth in the Note and sufficient funds are available for said purpose as set forth below, otherwise, Awards may be applied by Mortgagee, as it may elect, to the payment of Indebtedness or to the repair and restoration of that part of Mortgaged Premises so taken or damaged.

In the event Mortgagee elects to permit the use of Awards for rebuilding or restoring Mortgaged Premises, Mortgaged Premises shall be rebuilt or restored to the extent reasonably possible, as similar to the condition which existed prior to such Condemnation. In the event Mortgagor is entitled to reimbursement out of Awards, the proceeds of same shall be paid in the same manner as provided in Paragraph 6 hereof with respect to a loss by Casualty. In the event Awards are insufficient to cover the cost of such rebuilding or restoring, Mortgagor shall pay such excess costs prior to any disbursement of Awards to it or shall otherwise satisfy Mortgagee that sufficient funds are available to complete such rebuilding or restoration. Any surplus Awards, after the payment of all costs of rebuilding or restoring shall, at the option of Mortgagee, be applied on account of Indebtedness or paid to Mortgagor.

8. Condemnation after Foreclosure. In the event of Condemnation after foreclosure proceedings have been instituted, Awards, if not applied as specified in Paragraph 7 above, shall be used to pay the amounts due in accordance with any judgment of

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foreclosure which may be entered in any such proceedings and the balance, if any, shall either be paid to the owner of the equity redemption, if such owner shall be entitled to the same, or as the court may direct.

9. Mortgagee's Liability for Collection of Proceeds or Awards. Mortgagee shall not be held liable for any failure to collect Proceeds or Awards, regardless of the cause of such failure and:

a. the power and authority granted to Mortgagee to collect Proceeds or Awards is irrevocable and coupled with an interest and shall, in no way, affect the security of this Mortgage or the liability of Mortgagor for payment of Indebtedness; and

b. the entry of a judgment of foreclosure of the lien hereof shall not affect or impair said power and authority.

10. Use, Care or Waste. Mortgagor shall:

a. not abandon Mortgaged Premises or do or suffer anything to be done which would depreciate or impair the value thereof or the security of this Mortgage;

b. not remove or demolish any part of Improvements of a structural nature which would adversely affect the value of Mortgaged Premises;

c. pay promptly all services, labor and material necessary and required to complete construction of Improvements or repair or restoration pursuant to contracts therefor approved by Mortgagee ("Construction Contracts");

d. not make any changes, additions or alterations to Mortgaged Premises of a structural nature or which would adversely affect the value thereof, except as required by the Construction Loan Agreement or any applicable statute, law or ordinance of any governmental authority having jurisdiction over Mortgaged Premises and the intended use thereof, or as otherwise approved in writing by Mortgagee;

e. maintain, preserve and keep Mortgaged Premises in good, safe and insurable condition;

f. promptly restore and replace any Improvements or other interests which are destroyed or damaged; and

g. not commit or permit to exist any waste of Mortgaged Premises;

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h. perform all of the obligations of Borrower under the Construction Loan Agreement.

Mortgagor shall comply with and cause the Mortgaged Premises, and the use and condition thereof, to comply with all covenants, restrictions, easements, statutes, ordinances, requirements, regulations, orders and judgments relating to Mortgagor or Mortgaged Premises, or the use thereof, by any and all private agreements, federal, state, county or other governmental authority and with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions (including without limitation, those relating to land use and development, construction, access, water rights, noise and pollution) which are applicable to Mortgagor or have been granted for the Mortgaged Premises, or the use thereof.

## 11. Hazardous or Toxic Substances.

a. The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. Mortgagor represents and warrants to Mortgagee that: (a) During the period of Mortgagor's ownership of the Mortgaged Premises, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Mortgaged Premises; (b) Mortgagor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Mortgagee in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance by any prior owners or occupants of the Mortgaged Premises or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by Mortgagee in writing, (i) neither Mortgagor nor any tenant, contractor, agent or other authorized user of the Mortgaged Premises shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, or about the Mortgaged Premises and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Mortgagor



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authorizes Mortgagee and its agents to enter upon the Mortgaged Premises to make such inspections and tests as Mortgagee may deem appropriate to determine compliance of the Mortgaged Premises with this section of the Mortgage. Any inspections or tests made by Mortgagor shall be for Mortgagor's purposes only and shall not be construed to create any responsibility or liability on the part of Mortgagee to Mortgagor or to any other person. The representations and warranties contained herein are based on Mortgagor's due diligence in investigating the Mortgaged Premises for hazardous waste. Mortgagor hereby (a) releases and waives any future claims against Mortgagee for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Mortgagee against any and all claims, losses, liabilities, damages, penalties, and expenses which Mortgagee may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release occurring prior to Mortgagor's ownership or interest in the Mortgaged Premises, whether or not the same was or should have been known to Mortgagor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the Lien of this Mortgage and shall not be affected by Mortgagee's acquisition of any interest in the Mortgaged Premises, whether by foreclosure or otherwise.

b. Mortgagor covenants and agrees with Mortgagee that Mortgagor shall promptly notify Mortgagee as soon as Mortgagor knows or suspects that a toxic or hazardous substance has been released on the Mortgaged Premises.

c. The provisions of this paragraph are in addition to and not in substitution for an Environmental Affidavit and Indemnity Agreement of even date herewith.

12. Mortgagee's Performance of Mortgagor's Obligations. In the event of a default by Mortgagor in:

- a. the prompt discharge of any liens or encumbrances;
- b. defending the title to Mortgaged Premises;
- c. the payment of any taxes, impositions or assessments levied, imposed or assessed against the Mortgaged Premises ("Impositions");
- d. diligently and continuously pursuing the construction of Improvements in accordance with the Construction Loan Agreement or rebuilding or restoration of Mortgaged Premises in the event of loss by casualty or Condemnation;

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e. the procurement and maintenance of insurance policies;

f. the proper maintenance and preservation of Mortgaged Premises, including, but not limited to, the maintenance of the Mortgaged Premises free from all hazardous or toxic wastes as described in Paragraph 11 herein;

Mortgagee may, at its election and without further demand or notice, pay and discharge such lien or encumbrance, defend the title to Mortgaged Premises, pay such Impositions (plus any interest and penalties thereon), procure insurance policies and pay the premiums therefor, complete such rebuilding or restoration and maintain and preserve Mortgaged Premises, or perform on behalf of Mortgagor all of the terms, covenants, conditions and agreements to be performed by Mortgagor pursuant to the provisions hereof, in Note and Other Loan Documents, fees in which event, all expenditures therefor, including attorney's, incurred by Mortgagee shall forthwith become due and payable to Mortgagor together with interest thereon at Default Rate specified in the Note, which shall be added to and become a part of Indebtedness and shall be secured by the lien of this Mortgage, all without prejudice to the right of Mortgagee to declare Indebtedness immediately due and payable by reason thereof. Mortgagee shall have the sole right of determination as to the validity of any lien, encumbrance or Imposition attributable to or assessed against Mortgaged Premises and the payment thereof by Mortgagee shall establish its right to recover the amount so paid, with interest at Default Rate specified in the Note, subject to the provisions of Paragraph 13 following.

13. Contest of Liens or Encumbrances. If the Mortgagor desires to contest the validity of any lien, encumbrance or Imposition attributable to or assessed against Mortgaged Premises, it will:

a. prior to the due date thereof, notify Mortgagee in writing that it intends to so contest the same;

b. on or before the due date thereof, on demand deposit with Mortgagee or a depository acceptable to Mortgagee, insurance over any such lien, encumbrance or Imposition or other security (in form and content satisfactory to Mortgagee) that when added to the moneys or other security, if any, deposited with Mortgagee pursuant to any other provision contained in this Mortgage is sufficient in Mortgagee's reasonable judgment for the payment of the full amount of such lien, encumbrance or Imposition, or any balance thereof then remaining unpaid (or provide to Mortgagee such other indemnity as may be reasonably acceptable to it); and

c. from time to time deposit additional security or indemnity, so that, at all times adequate security or

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indemnity will be available for the payment of the full amount of the lien, encumbrance or Imposition remaining unpaid, together with all interest, penalties, costs and charges accrued or accumulated thereon.

If the foregoing deposits are made and Mortgagor continues, in good faith, to contest the validity of such lien, encumbrance or Imposition, by appropriate legal proceedings which shall operate to prevent the collection thereof and the sale of the Mortgaged Premises or any part thereof, to satisfy the same, Mortgagor shall be under no obligation to pay such lien, encumbrance or Imposition until such time as the same have been decreed, by court order, to be a valid lien on Mortgaged Premises. Mortgagee shall have full power and authority to reduce any such security or indemnity to cash and apply the amount so received to payment of any unpaid lien, encumbrance or Imposition to prevent the sale or forfeiture or Mortgaged Premises for non-payment thereof, without liability of said Mortgagee for failure to apply the security or indemnity so deposited, unless Mortgagor, in writing, requests the application thereof to the payment of the particular lien, encumbrance or Imposition for which such deposit was made. Any surplus deposit retained by Mortgagee after the payment of the lien, encumbrance or Imposition for which the same was made, shall be repaid to the Mortgagor unless a Monetary Default or Non-Monetary Default shall exist, in which event, such surplus shall be applied by Mortgagee towards the cure of same.

14. Waivers. To the full extent permitted by law, Mortgagor:

a. shall not, at any time, 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) nor claim, take or insist upon any benefit or advantage of or from any law (now or hereafter in force) providing for the valuation or appraisal of Mortgaged Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained or to any decree, judgment or order of any court of competent jurisdiction or after such sale or sales, claim or exercise any rights pursuant to any statute now or hereafter in force to redeem Mortgaged Premises so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof;

b. hereby expressly waives any and all rights of redemption from sale under any order or judgment of foreclosure of this Mortgage, on its own behalf, and 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 Mortgaged Premises subsequent to the date hereof, it being the intent of Mortgagor hereby that any and all such rights of

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redemptor of Mortgagor and all other persons are and shall be deemed to be hereby waived to the full extent permitted by applicable law; and

c. 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 has, have been or will have been made or enacted.

15. Unpermitted Transfers. It shall be an Event of Default hereunder and the Indebtedness shall be immediately due and payable (to the extent permitted by law) if, without the prior written consent of Mortgagee, any one or more of the following (herein called "Unpermitted Transfers") shall occur:

a. If Mortgagor shall create, effect, consent to, or suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of the Mortgaged 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 Mortgaged Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by new Collateral subject to the first and prior lien hereof of at least equal value and utility;

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

c. If Mortgagor is a corporation, or if any corporation is a beneficiary of a trustee mortgagor, then if any shareholder of such corporation shall create, effect, or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of any such shareholder's shares in such corporation; provided that if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "Over The Counter" market, then this subparagraph 15(c) shall be inapplicable;

d. If Mortgagor is a partnership or joint venture, or if any beneficiary of a trustee Mortgagor is a partnership or joint venture, then if any partner or joint venturer in such partnership or joint venture shall create, effect, or consent

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to or suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of all or any part of the partnership interest or joint venture interest, as the case may be, of such partner or joint venturer, in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance, or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law, or otherwise; provided that the foregoing provisions of this Section 15 shall not apply to (i) liens securing the Indebtedness, (ii) the lien of current taxes and assessments not in default, (iii) any transfers of the Mortgaged Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interest, as the case may be, in Mortgagor or any beneficiary of a trustee Mortgagor 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, personal representatives, or committee; and (iv) to the extent prohibited by law. The provisions of this Section 15 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise shall acquire any part of or interest in or encumbrance upon the Mortgaged Premises, beneficial interest in, shares of stock of, or partnership or joint venture interest in, Mortgagor or any beneficiary of a trustee Mortgagor.

Mortgagee may condition its consent to an Unpermitted Transfer upon the payment of a fee to Mortgagee and/or an increase in the rate of interest due on Note, PROVIDED THAT a consent by Mortgagee to an Unpermitted Transfer or a waiver of a default by reason thereof, shall not constitute a consent to or waiver of any right, remedy or power accruing to Mortgagee by reason of any subsequent Unpermitted Transfer.

16. Default. In the event:

a. of a default in the payment of any of the several installments of the Notes or Other Sums due on account of Indebtedness, when due, ("Monetary Default");

b. of a default in the performance of any of the terms, agreements, covenants or conditions contained in this Mortgage or in the performance of the terms, agreements, covenants or conditions contained in the Construction Loan Agreement or Other Loan Documents;

c. Mortgagor shall default in the performance of any obligation contained in any document evidencing any Indebtedness due and owing to Mortgagee which is secured by any part or all of Mortgaged Premises, and such default is not

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cured within the time permitted pursuant thereto;

d. Mortgagor shall default in the payment of amounts due or any other loan made by Mortgagee to Mortgagor or in the performance of any of the terms, conditions, covenants or agreements set forth in the documents which evidence and secure such other loans;

e. of an Unpermitted Transfer;

f. if (for the purpose of this Paragraph 16 (f) only, the term Mortgagor shall mean and include not only Mortgagor, but also any beneficiary of a trustee Mortgagor, any general partner in a partnership Mortgagor or in a partnership which is a beneficiary of a trustee Mortgagor or any owner of more than ten percent (10%) of the stock in a corporation Mortgagor or a corporation which is the beneficiary of a trustee Mortgagor and each person who, as guarantor, co-maker or otherwise, shall be or become liable for or obligated upon all or any part of the Indebtedness or any of the covenants or agreements contained herein):

i. Mortgagor shall file a voluntary petition or commence any case, proceeding or other action in bankruptcy or for arrangement, reorganization or other relief under any Chapter of Title 11 of the United States Code (the "Bankruptcy Code") or any similar law, state or federal, now or hereafter in effect;

ii. Mortgagor shall file an answer or other pleading in any proceeding admitting insolvency, bankruptcy, or inability to pay its debts as they mature;

iii. Within sixty (60) days after the filing against Mortgagor of any involuntary proceeding under the Bankruptcy Code or similar law, state or federal, now or hereafter in effect such proceedings shall not have been dismissed;

iv. Any of Mortgagor's assets are attached, seized, subjected to a writ or distress warrant, or are levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within sixty (60) days;

v. Mortgagor shall be adjudicated a bankrupt;

vi. Mortgagor shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its property, or the Mortgaged Premises; or

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vii. The appointment of a receiver, trustee, custodian, conservator or liquidator of Mortgagor or all or part of Mortgagor's property, or the Mortgaged Premises;

viii. If Mortgagor is enjoined, restrained or in any way prevented by court order from conducting all or a substantial part of its business affairs;

ix. The liquidation, termination, dissolution, merger or death of Mortgagor.

g. If a notice of lien, levy or assessment is filed or recorded with respect to all or any part of the property of Mortgagor (or if Mortgagor is a Trustee of its beneficiaries) by the United States or any department;

h. The existence of any collusion, fraud, dishonesty, or bad faith by or with acquiescence of Mortgagor which in any way relates to or affects the Loan or the construction of the improvements upon the Mortgaged Premises;

i. The assertion by the Lessee under any lease of the Mortgaged Premises of the existence of any default by Mortgagor, as Lessor, under the terms of the lease;

j. The occurrence of a material adverse change in the financial condition of Mortgagor, or guarantor or co-obligor of the Indebtedness (or any beneficiaries of a trustee Mortgagor).

k. The death of any Guarantor.

(b. through k. collectively the "Non-Monetary Defaults") then, or at any time thereafter during the continuance of any Monetary Default or Non-Monetary Default, as the case may be, the entire Indebtedness, together with interest accrued thereon, shall, at the election of Mortgagee, without notice of such election and without demand or presentment, become immediately due and payable, anything contained herein or in the Note secured hereby to the contrary notwithstanding, and the principal balance so accelerated and declared due as aforesaid shall thereafter bear interest at the Default Rate specified in the Note.

17. Remedies Not Exclusive. No remedy or right of Mortgagee hereunder or pursuant to Note, the Construction Loan or Other Loan Documents or otherwise available under applicable law, shall be exclusive of any other remedy or right but each such remedy or right shall be in addition to every other remedy or right now or hereinafter existing at law or in equity pursuant thereto. No delay in the exercise of or omission to exercise any remedy or right accruing upon the event of a Monetary Default or Non-Monetary

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Default shall impair any such remedy or right or be construed to be a waiver of any such default or an acquiescence therein nor shall the same affect any subsequent Monetary Default or Non-Monetary Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, when and as often as may be deemed expedient by Mortgagee. All obligations of Mortgagor and all rights, powers and remedies of Mortgagee expressed herein shall be in addition to and not in limitation of those provided by law and in this Mortgage, the Construction Loan Agreement and the Other Loan Documents.

18. Mortgagee's Right to Complete Construction and Repair or Restoration. In the event of a Monetary Default or Non-Monetary Default by Mortgagor hereunder or pursuant to Note, Construction Loan Agreement or Other Loan Documents:

a. Mortgagor hereby waives all right to possession, income and rents of Mortgaged Premises and Mortgagee is hereby expressly authorized and empowered to enter into and upon Mortgaged Premises, or any part thereof, take possession of the same and complete construction of Improvements, at the expense of Mortgagor, lease the same, collect and receive all rents therefor and apply the same, less the necessary or appropriate expenses of collection thereof, including attorney's fees, either for the care, operation and preservation of Mortgaged Premises or, at the election of Mortgagee, in its sole discretion, to a reduction of Indebtedness, in such order as Mortgagee may elect.

b. Mortgagee, in addition to the exercise of the rights and remedies provided hereunder and pursuant to Construction Loan Agreement and Other Loan Documents, is also hereby granted full and complete authority (but is not obligated) to:

i. enter upon Mortgaged Premises for the purpose of protecting and preserving the same from damage or depreciation and to employ watchmen for the purposes thereof;

ii. continue any and all outstanding Construction Contracts and make and enter into any contracts and obligations wherever necessary, in its own name; and

iii. pay and discharge all debts, obligations and liabilities incurred by reason of the foregoing, all at the expense of Mortgagor, which expenditures by Mortgagee shall be added to and become a part of Indebtedness and shall become immediately due and payable upon demand.

c. Mortgagee may disburse that part of Indebtedness not previously disbursed or Proceeds or Awards to complete construction of Improvements or perform any obligation of

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Mortgagor pursuant to any contract for the sale of Mortgaged Premises.

19. Remedies. Upon the occurrence of a Monetary Default or Non-Monetary Default pursuant hereto or pursuant to the Note, Construction Loan Agreement or Other Loan Documents, Mortgagee shall have the right to immediately foreclose this Mortgage. Upon the filing of any complaint by reason thereof, the court in which the same is filed may:

a. upon application of Mortgagee or at any time thereafter;

b. either before or after foreclosure sale and without notice to Mortgagor or to any party claiming under Mortgagor;

c. without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of Indebtedness, or any part thereof;

d. without regard to the then value of Mortgaged Premises or whether the same shall then be occupied in whole or in part, as a homestead by the owner of the equity of redemption; and

e. without requiring any bond from the complainant in such proceedings;

appoint the Mortgagee as Mortgagee in Possession or may appoint a receiver for the benefit of Mortgagee, with power to take possession, charge and control of Mortgaged Premises, to lease the same, keep Mortgaged Premises insured and in good repair, and collect all rentals during the pendency of such foreclosure suit and, in the event of foreclosure sale and a deficiency in the proceeds received therefrom, during any period of redemption. The court may, from time to time, authorize such Mortgagee in Possession or receiver to apply the net amounts remaining in its possession, after deducting reasonable compensation for itself and its counsel to be allowed by the court, in payment (in whole or in part) of any part or all of Indebtedness, including, without limitation, the following, in such order of application as Mortgagee may elect:

i. to the payment of Indebtedness;

ii. to any amount due upon any judgment entered in any suit foreclosing this Mortgage;

iii. to costs and expenses of foreclosure and litigation upon Mortgaged Premises;



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iv. to the payment of premiums due on insurance policies, repairs, impositions (and any interest, penalties and costs thereon) or any other lien or charge upon Mortgaged Premises which may be or become superior to the lien of this Mortgage or of any judgment foreclosing the same;

v. to the payment of all sums advanced by Mortgagee to cure or attempt to cure any Monetary Default or Non-Monetary Default by Mortgagor in the performance of any obligation or condition contained herein, in Note, Construction Loan Agreement, Other Loan Documents or otherwise, to protect the security provided herein and therein, with interest on such advances at Default Rate.

Any overplus of the proceeds of foreclosure sale shall then be paid to Mortgagor, upon request. This Mortgage may be foreclosed at any time against all or successively against any part or parts of the Mortgaged Premises, as Mortgagee may elect and this Mortgage and the right of foreclosure hereunder shall not be impaired to exhausted by one or any foreclosure or by one or any sale and may be foreclosed successively and in parts until all of Mortgaged Premises shall have been foreclosed and sold. In the event of any foreclosure of Mortgaged Premises (or commencement of or preparation for the same) in any court, all expenses of every kind paid or incurred by Mortgagee for the enforcement, protection or collection of this security, including reasonable costs, attorney's fees, stenographers fees, costs of advertising, title charges and other costs and expenses shall be paid by Mortgagor.

20. Possessory Rights of Mortgagee. Upon the occurrence of a Monetary Default or Non-Monetary Default pursuant hereto or pursuant to the Note, Construction Loan Agreement or Other Loan Documents, whether before or after the institution of legal proceedings to foreclose the lien of this Mortgage or any sale thereunder, Mortgagee shall be entitled, in its sole discretion, to perform any of the following:

a. enter and take actual possession as Mortgagee in Possession of the Mortgaged Premises, Leases and the rents payable pursuant thereto, personally or by its agents or attorneys and exclude Mortgagor therefrom;

b. with or without process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Mortgagor relating thereto;

c. as attorney-in-fact or agent of Mortgagor, or in its own name as Mortgagee and pursuant to the powers herein granted, hold, operate, manage and control the Mortgaged Premises and Leases and collect all rentals payable pursuant thereto and conduct the business, if any, thereof, either

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personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as, in its discretion, may be deemed proper or necessary to enforce the terms and conditions of Leases and the rentals payable pursuant thereto (including actions for the recovery of rents, actions in forcible detainer and actions in distress of rent);

d. cancel or terminate any Lease or sublease for any cause or for any reason which would entitle Mortgagor to cancel the same;

e. make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to Mortgaged Premises which, in Mortgagee's sole discretion, may seem appropriate;

f. insure and re-insure Mortgaged Premises against all risks incidental to Mortgagee's possession, operation and management thereof; and

g. perform such other acts in connection with the management and operation of Mortgaged Premises as Mortgagee, in its sole discretion, may deem proper; Mortgagor hereby granting full power and authority to Mortgagee to exercise each and every of the rights, privileges and powers contained herein at any and all times following the occurrence of a Monetary Default or Non-Monetary Default.

Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the rentals collected by it to the payment or on account of the following, in such order as it may determine:

i. operating expenses of the Mortgaged Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and leasing commissions and other compensation and expenses in seeking and procuring tenants and entering into Leases), established claims for damages, if any, and premiums on insurance policies;

ii. Impositions, costs of repairs, decorating, renewals, replacements, alterations, and improvements of Mortgaged Premises, including the cost, from time to time, of installing, replacing or repairing Mortgaged Premises and of placing Mortgaged Premises in such condition as will, in the judgment of Mortgagee, make the same readily rentable; and

iii. Indebtedness, or any part thereof.

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21. Financing Statement; Other Remedies; Uniform Commercial Code. This Mortgage constitutes a security agreement under the Uniform Commercial Code of the State of Illinois (herein called the "Code") with respect to any part of the Premises which may or might now or hereafter be or be deemed to be personal property, fixtures or property other than real estate owned by Mortgagor or any beneficiary thereof (all for the purposes of this Paragraph 21 called "Collateral"); 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; and the following provisions of this Paragraph 21 shall not limit the generality or 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 to no liens, charges or encumbrances other than the lien hereof.

b. The Collateral is to be used by the Mortgagor solely for business purposes, being installed upon the Premises for Mortgagor's own use or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Premises.

c. The Collateral will be kept at the real estate comprised within the Premises and will not be removed therefrom other than in the ordinary course of business without the consent of the Mortgagee (being the "Secured Party" as that term is used in the Code) or any other person and the Collateral may be affixed to such real estate but will not be affixed to any other real estate.

d. The only persons having any interest in the Collateral are the Mortgagor and its beneficiaries, if any, the Mortgagee, permitted tenants and users thereof and the holder of a Senior Mortgage, if any.

e. No Financing Statement covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto and under a Senior Mortgage, if any, and Mortgagor will at its own cost and expense, upon demand, furnish to the Mortgagee such further information and will execute and deliver to the Mortgagee such financing statements and other documents in form satisfactory to the Mortgagee and will do all such acts and things as the Mortgagee may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness Hereby Secured, subject to no adverse liens or encumbrances and the First Party will pay the cost of filing the same or filing or recording such financing

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statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Mortgagee to be necessary or desirable.

f. Upon and Event of Default hereunder and at any time thereafter (such Event of Default not having previously been cured), the Mortgagee at its option may declare the Indebtedness Hereby Secured immediately due and payable, all as more fully set forth in this Paragraph 21, and thereupon 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, so far as the First Party can give authority therefor, without judicial process, enter (if this can be done without breach of the peace), upon any place where 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); and the 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 the Mortgagor's obligations, as provided in the Code. The Mortgagee may render the Collateral unusable without removal of the Collateral from the Premises and dispose of the Collateral on the Premises. The Mortgagee may require the Mortgagor to assemble the Collateral and make it available to the Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. The Mortgagee will give Mortgagor at least five (5) business days notice of the time and place of any public sale thereof 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 mail or equivalent, postage prepaid, to the address of Mortgagor shown in Paragraph 41 of this Mortgage at least five (5) business days before the time of the sale or disposition. The Mortgagee may buy at any public sale and if the Collateral is of a type customarily sold in a recognized market or is of the 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 real estate which is a part of the Premises, the Collateral and real estate to 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 attorneys' fees and legal expenses incurred by Mortgagee, shall be applied in satisfaction of the Indebtedness Hereby Secured. The Mortgagee will account to the Mortgagor for any surplus realized on such disposition.



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g. The remedies of the Mortgagee hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of the other remedies of the Mortgagee, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness Hereby Secured remains unsatisfied.

h. The terms and provisions contained in this Paragraph 21 shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

i. 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 at the beginning of this Mortgage which goods are or are to become fixtures relating to the Premises. The addresses of the Mortgagor (Debtor) and Mortgagee (Secured Party) are set forth in Paragraph 41 hereof. This Mortgage is to be filed for record with the Recorder of Deeds of the County or Counties where the Premises are located. The Mortgagor is the record owner of the Premises.

22. Performance of Construction Contracts. Mortgagor shall notify any person obligated to it or to beneficiary of Mortgagor pursuant to a Construction Contract, of the existence of a Monetary Default or Non-Monetary Default hereunder or pursuant to the Construction Loan Agreement or Other Loan Documents and require that performance be made directly to Mortgagee, at the expense of Mortgagor, and advance such sums as may be necessary or appropriate to satisfy Mortgagor's obligations thereunder.

23. Non-Liability of Mortgagee. Notwithstanding anything contained herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligations, duty or liability of Mortgagor pursuant to Leases or otherwise and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur pursuant thereto or by reason of its exercise of its rights hereunder and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings, on its part, to perform or discharge any of the terms, covenants or agreements with respect to Mortgaged Premises except in the event such loss, liability or damage is caused by the willful misconduct, bad faith or negligence of Mortgagee, its employees or agents. Prior to the exercise of its rights hereunder Mortgagee shall not have responsibility for the control, care, management or repair of Mortgaged Premises nor shall Mortgagee be responsible or liable for any negligence in the management, operation, upkeep, repair or control of Mortgaged Premises resulting in loss, injury or death to any tenants, licensee, employee or stranger upon Mortgaged

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Premises. No liability shall be enforced or asserted against Mortgagee in the exercise of the powers herein granted to it and Mortgagor expressly waives and releases any such liability. In the event Mortgagee incurs any such liability, loss or damage prior to the exercise of its rights hereunder pursuant hereto and to any Lease or in the defense of any claim or demand, Mortgagor agrees to reimburse Mortgagee, immediately upon demand, for the amount thereof, including costs, expenses and reasonable attorney's fees.

24. Change of Law: In the event of an enactment, following the date hereof, of any law in the State of Illinois deducting from the value of Mortgaged Premises, for the purpose of taxation, the amount of any lien, encumbrance or imposition or imposing upon Mortgagee the payment of the whole or any part thereof or changing, in any way, the laws relating to the taxation of mortgages or debts secured by mortgages or the manner of collection of liens, encumbrances or Impositions, so as to affect this Mortgage, the Indebtedness of Mortgagee, Mortgagor shall, in any such event, upon demand by Mortgagee, pay such liens, encumbrances or Impositions or reimburse Mortgagee therefor; PROVIDED, HOWEVER, that if, in the opinion of counsel for Mortgagee:

a. it may be unlawful to require Mortgagor to make such payment; or

b. the making of such payment may result in the payment of interest beyond the maximum amount permitted by law;

then, and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare Indebtedness, together with interest thereon, to be and become due and payable within sixty (60) days from the giving of such notice. Notwithstanding the foregoing, it is understood and agreed that Mortgagor is not obligated to pay any part of Mortgagee's federal, state or local income tax.

25. Construction Loan.

a. This Mortgage:

i. is granted to secure future disbursements of Principal by Mortgagee to Mortgagor as provided in a certain Construction Loan Commitment and Construction Loan Agreement, and all costs and, expenses incurred in enforcing Mortgagor's obligations pursuant hereto and pursuant to Note, Construction Loan Agreement and Other Loan Documents, to pay for the cost of construction of Improvements, as provided in Construction Loan Agreement; and

ii. constitutes a "Construction Loan" within the meaning of Section 9-313 (1) (c) of the Illinois Uniform Commercial Code.

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All disbursements required by Construction Loan Agreement are obligatory disbursements up to the full amount of Principal and shall, to the extent permitted by law, have priority over mechanic's liens, if any, arising after the recording of this Mortgage.

b. Notwithstanding anything contained herein to the contrary, until Mortgagor and Mortgagee shall have performed all of the terms, covenants, conditions and agreements required of each of them pursuant to Construction Loan Agreement:

i. the Note shall be subject to the terms and conditions of the Construction Loan Commitment and Construction Loan Agreement and any amendments thereto;

ii. any default under the Construction Loan Agreement, which is not cured within any applicable cure period, shall constitute a default pursuant hereto, in which event, at the option of the Mortgagee, all of the Indebtedness shall become immediately due and payable; and

iii. except as otherwise specifically provided herein, the provisions of the Construction Loan Commitment, Construction Loan Agreement, the Note and this Mortgage and other loan documents are to the extent possible to be construed as cumulative, however in the event of a conflict between any of the terms and provisions thereof, the terms of the Construction Loan Commitment shall prevail over the Construction Loan Agreement, the Mortgage and other loan documents, the Construction Loan Agreement shall prevail over the Mortgage and other loan documents and the Mortgage shall prevail over the other loan documents.

26. Security Agreement. Mortgagor and Mortgagee agree that:

a. this Mortgage shall constitute a security agreement within the meaning of the Illinois Uniform Commercial Code ("Code") with respect to any and all sums at any time on deposit for the benefit of or held by Mortgagee (whether deposited by or on behalf of Mortgagor or others) pursuant to any provision of this Mortgage, Note, Construction Loan Agreement, or Other Loan Documents and any personal property included in the granting clauses of this Mortgage, which may not be deemed to be affixed to Mortgaged Premises or may not constitute a "fixture" (within the meaning of Section 9-313 of Code) and all replacements thereof, substitutions therefor, additions thereto and the proceeds thereof (collectively "Collateral");

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b. a security interest in and to Collateral is hereby granted to Mortgagee;

c. Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee to secure the payment of Indebtedness;

d. all of the terms, provisions, conditions and agreements continued herein shall pertain and apply to Collateral as fully and to the same extent as the same apply to any other property comprising Mortgaged Premises; and

e. the following provisions shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

i. Mortgagor (being the "Debtor," as such term is defined in Code) is and will be the true and lawful owner of Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefiting Mortgagee only and liens and encumbrances, if any, expressly permitted pursuant hereto and to the Note, Construction Loan Agreement and Other Loan Documents.

ii. Collateral shall be used by Mortgagor solely for business purposes.

iii. Collateral shall be kept at Mortgaged Premises and, except for obsolete Collateral, will not be removed therefrom without the prior consent of Mortgagee.

iv. No financing statement (other than financing statements indicating Mortgagee as the sole "Secured Party" (as such term is defined in Code) or except as permitted in writing by Mortgagee or with respect to liens or encumbrances, if any, expressly permitted pursuant hereto and to Note, Construction Loan Agreement, Other Loan Documents covering any part of Collateral or any proceeds thereof is on file in any public office. Mortgagor shall, upon demand and at its sole cost and expense, furnish to Mortgagee such further information, execute and deliver such financing statements and other documents (in form satisfactory to Mortgagee) and 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 Collateral as security for Indebtedness, free and clear of all liens or encumbrances other than liens or encumbrances benefiting Mortgagee only and liens and encumbrances, if any, expressly permitted hereby or pursuant to Note, Construction Loan

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Agreement or Other Loan Documents and Mortgagor will pay the cost of filing or recording this instrument and such financing statements or other documents in all public offices wherever filing or recording is deemed necessary or desirable by Mortgagee.

v. In the event of the occurrence of a Monetary Default, or a Non-Monetary Default, Mortgagee shall have the remedies of a Secured Party pursuant to Code, including, without limitation, the right to take immediate and exclusive possession of Collateral, or any part thereof and, for that purpose, may, insofar as Mortgagor can give authority therefor, with or without judicial process, enter (if the same can be done without breach of the peace) upon any place in which Collateral, or any part thereof, may be situated and remove the same therefrom (provided that if Collateral is affixed to real estate, such removal shall be subject to the conditions stated in Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare Collateral for sale (until disposed of). Mortgagee may render Collateral unusable without removal and may dispose of the same on Mortgaged Premises. Mortgagee may require Mortgagor to assemble Collateral and make the same available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonable, convenient to both parties. Mortgagee will furnish to Mortgagor not less than ten (10) days prior written notice of the time and place of any public sale of 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 hereafter set forth. Mortgagee may purchase, at any public sale and, if Collateral is of a type customarily sold in a recognized market or the subject of widely distributed standard price quotations, Mortgagee may purchase Collateral at private sale. Any such sale may be held as a part of and in conjunction with any foreclosure sale of Mortgaged Premises and Collateral and Mortgaged Premises may be sold as one lot, if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of re-taking, holding, preparing for sale, selling or the like, and reasonable attorney's fees and legal expenses incurred by Mortgagee shall be applied against Indebtedness in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

vi. The terms and provisions contained in this Paragraph 26 shall, unless the context otherwise

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requires, have the meanings contained and be construed as provided in Code.

vii. This Mortgage is intended to be a financing statement within the purview of Section 9-402(6) of Code with respect to Collateral and the goods described herein, which are or may become fixtures relating to Mortgaged Premises; the addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are hereafter set forth; this Mortgage shall be filed or recorded with the Recorder of Deeds of DuPage County in which Mortgaged Premises are located; and Mortgagor is the record owner of Mortgaged Premises.

viii. To the extent permitted by applicable law, the security interest established hereby is specifically intended to cover and include all of the right, title and interest of Mortgagor, as landlord, in and to Leases, including all extended terms and extensions and renewals thereof, together with any amendments to or replacements thereof and all right, title and interest of Mortgagor, as landlord thereunder, including, without limitation, the present and continuing right to make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, profits and moneys payable as damages or, in lieu of the rents and moneys payable, as the purchase price of Mortgaged Premises, or any part thereof or of awards or claims of money and other sums of money payable or receivable thereunder, howsoever payable, and to bring actions and proceeds thereunder or for the enforcement thereof and to do any and all things which Mortgagor or any landlord is or may become entitled to do pursuant to Leases.

27. Execution of Separate Security Agreement and Financing Statement; Rent Roll. In addition to this Mortgage being deemed a security agreement, Mortgagor shall, upon the written request of Mortgagee, as additional security for the payment of Indebtedness and the performance of all of the terms, covenants, conditions and agreements set forth herein and in Note, Construction Loan Agreement and Other Loan Documents, execute and deliver to Mortgagee a security agreement, in form reasonably acceptable to Mortgagor, granting to Mortgagee a first security interest in and to Collateral, all right, title and interest of Mortgagor, as landlord, in and to Leases and all rents, issues and profits due or which may hereafter become due and payable pursuant to the terms and provisions thereof; and, further, execute and deliver Financing Statements pursuant to the Uniform Commercial Code, State of Illinois. Mortgagor agrees, from time to time, to execute such additional Security Agreements and Financing Statements as may be necessary to vest in Mortgagee a security interest in and to Collateral and Leases until Indebtedness is paid in full.

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Mortgagor shall furnish to Mortgagee within thirty (30) days of each anniversary hereof a current rent roll of the Mortgaged Premises with such detail as Mortgagee may reasonably require. Mortgagor shall also furnish Mortgagee with copies of all leases of the Mortgaged Premises and amendments thereto concurrently with execution hereof and thereafter when requested by Mortgagee, but not less often than annually.

28. Release. Upon payment in full of Indebtedness, at the time and in the manner herein provided, this conveyance shall be null and void and, upon demand therefor following such payment, an appropriate instrument of reconveyance or release shall, in due course, be made by Mortgagee to Mortgagor.

29. Care. Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any part of Mortgaged Premises in its possession if it takes such action for that purpose, as Mortgagor requests in writing, but failure of Mortgagee to comply with any such request shall not, of itself, be deemed a failure to exercise reasonable care and no failure of Mortgagee to preserve or protect any rights with respect to Mortgaged Premises against prior parties or do any act with respect to the preservation thereof not so requested by Mortgagor shall be deemed a failure to exercise reasonable care in the custody or preservation of Mortgaged Premises.

30. Mortgagor's Continuing Liability. This Mortgage is intended only as security for Indebtedness and anything herein contained to the contrary notwithstanding:

a. Mortgagor shall be and remain liable to perform all of the obligations assumed by it pursuant hereto; and

b. Mortgagee shall have no obligation or liability by reason of or arising out of this Mortgage and shall not be required or obligated, in any manner, to perform or fulfill any of the obligations of Mortgagor pursuant hereto.

31. Mechanics' Liens. The lien of any mechanic or materialman shall not be permitted to attach to or remain against Mortgaged Premises unless the same is being contested as permitted under Paragraph 13 hereof.

32. Inspections. Mortgagee, by any authorized agent or employee and for the protection of its interest in Mortgaged Premises, is hereby authorized and empowered to enter in and upon Mortgaged Premises at any and all reasonable times, for the purpose of inspecting the same and ascertaining the condition thereof.

33. Indemnification. Mortgagor shall indemnify Mortgagee from all losses, damages and expenses, including reasonable attorney's fees, incurred in connection with any suit or proceeding

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in or to which Mortgagee may be made a party for the purpose of protecting or enforcing the lien of this Mortgage.

34. Appraisals. Within thirty (30) days of the third year anniversary of this Mortgage and each succeeding third year anniversary of this Mortgage, or whenever and as often as required by regulation applicable to Mortgagee or by regulatory authorities having power to regulate Mortgagee (with respect to this Mortgage or to Mortgage loans made by Mortgagee generally), if any part of the indebtedness secured hereby shall then remain unpaid, Mortgagor shall furnish to Mortgagee a current appraisal of the Mortgaged Premises in form satisfactory to Mortgagee by an appraiser satisfactory to Mortgagee. If Mortgagor shall fail to furnish such appraisal, Mortgagee may obtain such appraisal and the cost thereof shall be additional indebtedness secured hereby and payable on demand.

35. Additional Documents; Power of Attorney. Mortgagor, from time to time, will execute, acknowledge and deliver to Mortgagee upon request such other documents, in form and substance satisfactory to Mortgagee, as Mortgagee may request in order to perfect, preserve, continue, extend or maintain the assignments herein contained, the lien and security interest under this Mortgage or Other Loan Documents, and the priority thereof. Mortgagor will pay to Mortgagee upon request therefor all costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document.

36. Governing Law. This Mortgage has been delivered at Hinsdale, Illinois and shall be construed in accordance with and governed by the laws thereof. Whenever possible, each provision of this Mortgage shall be interpreted in such a manner as to be effective and valid pursuant to applicable law; however, if the same shall be prohibited by or invalid thereunder, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder thereof or the remaining provisions of this Mortgage.

37. Marshalling of Assets. At any foreclosure sale, the Mortgaged Premises may, at Mortgagee's option, be offered for sale for one total price, and the proceeds of such sale accounted for in one account without distinction between the items of security or without assigning to them any proportion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshalling and, in case Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged Premises in parts or parcels, said sales may be held from time to time, and the power shall not be fully executed until all of the Mortgaged Premises not previously sold shall have been sold.

38. Corrective Documents. Mortgagor shall, at the request of Mortgagee, promptly correct any defect, error or omission which may

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be discovered in the contents of this Mortgage or in the execution or acknowledgment hereof or in any other instrument executed in connection herewith or in the execution or acknowledgment of any such instrument and will execute and deliver any and all additional instruments as may be requested by Mortgagee to correct such defect, error or omission.

39. Consent or Approval. The consent by Mortgagee in any single instance shall not be deemed or construed to be Mortgagee's consent in any like matter arising at a subsequent date and the failure of Mortgagee to promptly exercise any right, power, remedy or consent provided herein or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Mortgagee be estopped from exercising such right, power, remedy or consent at a later date.

Any consent or approval required of and granted by Mortgagee pursuant hereto shall:

a. be narrowly construed to be applicable only to Mortgagor and the facts identified in such consent or approval and no third party shall claim any benefit by reason thereof; and

b. not be deemed to constitute Mortgagee a venturer or partner with Mortgagor whatsoever nor shall privity of contract be presumed to have been established with any such third party.

If, to consider a request by Mortgagor it is necessary that Mortgagee deem it to be to its best interests to retain the assistance of any person, firm or corporation (such as, but not limited to, attorneys, appraisers, engineers, surveyors, etc.) Mortgagor shall reimburse Mortgagee for all costs incurred in connection with the employment of such parties.

40. Financial Statements. Mortgagor will furnish during the life of this mortgage, to Mortgagee within ninety (90) days after the close of each fiscal year of Mortgagor's beneficiary a detailed and analytical audit covering the full and complete operation of Mortgagor's business, including a balance sheet, statement of income and expenses and a statement of surplus accounts as at the close of the preceding fiscal year. This audit report will be prepared by a certified public accountant of recognized standing who has been previously approved by Mortgagee, and said audit report will be accompanied by the certificate of said certified public accountant. In addition to the items named above, Mortgagor agrees to supply Mortgagee with such additional information and records as may be from time to time required by Mortgagee.

41. Notices. Any notice, consent or other communication to be given hereunder or pursuant to the Construction Loan Agreement

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and Other Loan Documents shall be in writing and shall be delivered either personally or by United States certified or registered mail, postage prepaid, return receipt requested, which shall be deemed received three (3) days after the deposit thereof with the United States Postal Service and shall be mailed to Mortgagor and Mortgagee at their respective addresses set forth below or to such other addresses as Mortgagor, Mortgagee or such other parties, to whom copies of notices, consents or other communications are to be mailed, direct in writing:

If to Mortgagor, at: Harris Bank Hinsdale, N.A.  
50 South Lincoln Street  
Hinsdale, Illinois 60521  
ATTENTION: Land Trust  
Department

If to Mortgagee, at: Harris Bank Hinsdale, N.A.  
50 South Lincoln Street  
Hinsdale, Illinois 60521  
ATTENTION: John F. Kovacs

42. Documents Required by Regulation. While any part of the indebtedness secured hereby remains unpaid, Mortgagor, at Mortgagor's costs, shall furnish to Mortgagee any document or report that is or becomes required by regulation or interpretation of regulation (with respect to this Mortgage or to Mortgage loans made by Mortgagee generally), or which is or becomes necessary to prevent any adverse classification of the loan secured hereby by Mortgagee's regulators. If Mortgagor shall fail to furnish such document or report, Mortgagee may obtain such document or report and the cost thereof shall be additional indebtedness secured hereby and payable on demand.

43. Time is of the Essence. It is specifically agreed that time is of the essence of this Mortgage and that the waiver of the options, or obligations secured hereby, shall not at any time thereafter be held to be abandonment of such rights. Notice of the exercise of any option granted to the Mortgagee herein, or in the Note secured hereby, is not required to be given.

44. Benefit. All grants, conditions and provisions hereof shall apply, extend to and be binding upon Mortgagor and all persons claiming any interest in Mortgaged Premises by, through or under Mortgagor, and shall inure to the benefit of Mortgagee, its successors and assigns.

This document is made by Harris Bank Hinsdale, National Association, as Trustee and accepted upon the express understanding that Harris Bank Hinsdale, National Association, enters into the same not personally, but as Trustee, and that no personal liability is assumed by or shall be asserted or enforced against Harris Bank

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Hinsdale, National Association because of or on account of the making or executing of this document or of anything herein contained, all such liability, if any, being expressly waived, nor shall Harris Bank Hinsdale, National Association be held personally liable upon or in consequence of any of the covenants of this document, either expressed or implied.

IN WITNESS WHEREOF, Mortgagor has executed these presents as of the day and year first above written.

Harris Bank Hinsdale, National Association as Trustee under Trust Agreement dated September 20, 1988 and known as Trust No. L-2040 and not personally

By: Janet Hale  
Asst. Vice President/Trust Officer

Attest: Barbara Ahern  
Loan Officer

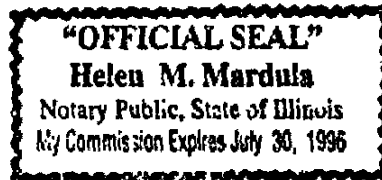
State of Illinois )  
County of DuPage )

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#3010 # 5-070889  
COOK COUNTY RECORDER

I, the undersigned, a Notary Public in and for said County, in the State of Illinois, do hereby certify that Janet Hale, who is Assistant Vice President/Trust Officer of Harris Bank Hinsdale, National Association and Barbara Ahern who is Loan Officer of the same corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Vice President/Trust Officer, and Loan Officer respectively, appeared before me this day in person and acknowledged that they signed and delivered the foregoing instrument as their 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 seal this 27th day of January, 1993.

Helen M. Mardula  
Notary Public

mail to:  
THIS INSTRUMENT PREPARED BY:  
Helen Mardula/ba  
Harris Bank Hinsdale  
50 South Lincoln Street  
Hinsdale, Illinois 60521



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**EXHIBIT A**  
**(Legal Description)**

Lot 13 in Block 7 in the Subdivision of that part of the West 1/2 of the Southwest 1/4 of Section 6, Township 38 North, Range 12 East of the Third Principal Meridian, lying North of the Chicago Burlington and Quincy Railroad Right of Way (except the North 241.56 feet of said West 1/2 of said Southwest 1/4), in Cook County, Illinois.

P.I.N. 18-06-314-013

Commonly known as: 230 Justina, Hinsdale, Illinois

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