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09/01/95

**MORTGAGE AND SECURITY  
AGREEMENT WITH  
ASSIGNMENT OF RENTS**

DEPT-01 RECORDING \$111.50  
T40008 TRAN 5898 10/24/95 13:40:00  
49082 JB \*-95-723737  
COOK COUNTY RECORDER

THIS MORTGAGE AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS ("Mortgage") dated as of August 31, 1995 from RLH MATTFSON

ASSOCIATES, L.L.C., an Illinois limited liability company ("Mortgagor"), with a mailing address of c/o BriJus Property Company, One South Wacker Drive, Chicago, Illinois 60606, to and for the benefit of BANK ONE CHICAGO, N.A., with its office at 111 North Canal Street, Fifteenth Floor, Chicago, Illinois 60606 (hereinafter referred to as "Mortgagee").

**W I T N E S S E T H T H A T:**

WHEREAS, Mortgagor has executed and delivered to Mortgagee that certain Promissory Note payable to Mortgagee dated even date herewith in the principal amount of Eight Million Nine Hundred Seventy-Five Thousand and no/100 Dollars (\$8,975,000.00) (said note and any and all extensions and renewals thereof, amendments thereto and substitutions or replacements therefor is referred to herein as the "Note") pursuant to which Mortgagor promises to pay said principal sum (or so much thereof as may be outstanding at the maturity thereof) on September 30, 1997, together with interest on the balance of principal from time to time outstanding and unpaid thereon at the rate and at the times specified in the Note; and

95723737

This Instrument Prepared By  
and After Recording Return to:

Edward W. Malstrom  
Miller, Shabman, Hamilton, Kurtzon  
& Schifke  
208 South LaSalle Street  
Suite 1100  
Chicago, Illinois 60604

TAX IDENTIFICATION NUMBERS:

ADDRESS OF PROPERTY

Southeast corner of U.S. Route 30 and  
I-57, in Matteson, Illinois

95723737

Handwritten notes: \$111.50, 10/24/95, 13:40:00

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WHEREAS, the real estate that is encumbered by this Mortgage (the "Total Property") and which forms part of the "Mortgaged Premises" (as defined below) consists of real estate located in Cook County, Illinois, as more particularly described in GRANTING CLAUSE I below; and

WHEREAS, this Mortgage, the Note and all other instruments and documents evidencing or securing the indebtedness evidenced by the Note are hereinafter collectively referred to as the "Loan Documents"; and

WHEREAS, Mortgagor contemplates resubdividing the Total Property to create two parcels, one consisting of approximately 10.4 acres and the improvements thereon, which includes a 204 Room Hotel ("Hotel Property") and the other consisting of approximately 6.9 acres and the improvements located thereon (the "Office Property"), which include a five floor office building (the "Office Building"); and

WHEREAS, in contemplation of completion of the resubdivision of the Total Property, and as additional security for the Note, Mortgagor has executed and delivered to Mortgagee a Mortgage and Security Agreement with Assignment of Rents dated even date herewith intended to cover the Office Building ("Office Mortgage") (the property encumbered by this Mortgage and the property covered by the Office Mortgage are collectively referred to herein as the "Project");

WHEREAS, this Mortgage and the Office Mortgage presently encumber the Total Property, Mortgagor and Mortgagee contemplate that upon the resubdivision of the Total Property and recordation of a Final Plat of Resubdivision therefor, Mortgagor and Mortgagee shall prepare and record amendments to this Mortgage and the Office Mortgage to reflect the new legal descriptions for the resubdivided portions of the Total Property; and

WHEREAS, Mortgagor has requested that Mortgagee make the loan secured hereby (the "Loan").

NOW, THEREFORE, to secure (i) the payment when and as due and payable of the principal of and interest on the Note or so much thereof as may be advanced from time to time, (ii) the payment of all other indebtedness which this Mortgage and the Hotel Mortgage, by their terms secure and (iii) the performance and observance of the covenants and agreements contained in this Mortgage, the Note, the Hotel Mortgage and any other Loan Documents (all of such indebtedness, obligations and liabilities identified in (i), (ii) and (iii) above being hereinafter referred to as the "indebtedness hereby secured"), the Mortgagor does hereby grant, sell, convey, mortgage and assign unto the

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Mortgagee, its successors and assigns and does hereby grant to Mortgagee, its successors and assigns a security interest in all and singular the properties, rights, interests and privileges described in Granting Clauses I, II, III, IV, V, VI and VII below all of same being collectively referred to herein as the "Mortgaged Premises":

## GRANTING CLAUSE I

That certain parcel of real estate lying and being in the County of Cook and State of Illinois, more particularly described in Exhibit "A" attached hereto and made a part hereof.

## GRANTING CLAUSE II

All buildings and improvements of every kind and description heretofore or hereafter erected or placed on the property described in Granting Clause I and all materials intended for construction, reconstruction, alteration and repair of the buildings and improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the premises immediately upon the delivery thereof to the said real estate, all fixtures, machinery, apparatus, equipment, fittings and articles of personal property of every kind and nature whatsoever now or hereafter attached to or contained in or used in connection with said real estate and the buildings and improvements now or hereafter located thereon and the operation, maintenance and protection thereof, including but not limited to, all machinery, motors, fittings, radiators, awnings, shades, screens, all gas, coal, steam, electric, oil and other heating, cooking, power and lighting apparatus and fixtures, all fire prevention and extinguishing equipment and apparatus, all cooling and ventilating apparatus and systems, all plumbing, incinerating, sprinkler equipment and fixtures, all elevators and escalators, all communication and electronic monitoring equipment, all window and structural cleaning rigs and all other machinery and other equipment of every nature and fixtures and appurtenances thereto and all items of furniture, appliances, including, without limitation, ranges, refrigerators, dishwashers, television sets, radios, computers, draperies, carpets, beds, dressers, other furnishings, equipment and personal property used or useful in the operation, maintenance and protection of the said real estate and the buildings and improvements now or hereafter located thereon and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to said buildings or improvements in any manner; it being mutually agreed, intended and declared that all the aforesaid property shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and for the purpose of this Mortgage to

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be real estate and covered by this Mortgage; and as to the balance of the property aforesaid, this Mortgage is hereby deemed to be as well a Security Agreement under the provisions of the Uniform Commercial Code for the purpose of creating hereby a security interest in said property to the extent the same may be created in such property under the Uniform Commercial Code, which is hereby granted by Mortgagor as debtor to Mortgagee as secured party, securing the indebtedness hereby secured. The addresses of Mortgagor (debtor) and Mortgagee (secured party) appear at the beginning hereof.

## GRANTING CLAUSE III

All right, title and interest of Mortgagor now owned or hereafter acquired in and to all and singular the estates, tenements, hereditaments, privileges, easements, licenses, franchises, appurtenances and royalties, mineral, oil and water rights belonging or in any wise appertaining to the property described in the preceding Granting Clause I and the buildings and improvements now or hereafter located thereon and the reversions, rents, issues, revenues and profits thereof, including all interest of Mortgagor in all rents, issues and profits of the aforementioned property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits of money as advance rent or for security) under any and all leases and renewals thereof of all or any part of said property (including during any period allowed by law for the redemption of said property after any foreclosure or other sale), including, without limitation, all revenues, receipts, income, receivables and accounts relating to or arising from rentals, rent equivalent income, profits, revenues, receipts, royalties, bonuses, rights, accounts, income and profits from guest rooms, meeting rooms, food and beverage facilities, vending machines, telephone and television systems, guest laundry, the provision or sale of other goods and services and any other item or revenue, receipt or income as identified on the Uniform System of Accounts for Hotels, 8th Edition International Association of Hospitality Accountants (1986), as from time to time amended, contract rights, general intangibles and benefits and guarantees under any and all leases, tenancies, licenses or other use agreements or arrangements now existing or hereafter created of the Premises or any part thereof (including any business conducted thereon), together with the right, but not the obligation, to collect, receive and receipt for all such rents and other sums and apply them to the indebtedness hereby secured and to demand, sue for and recover the same when due or payable; provided that the assignments made hereby shall not impair or diminish the obligations of Mortgagor under the provisions of such leases or other agreements nor shall such obligations be imposed upon Mortgagee. By acceptance of this

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Mortgage, Mortgagee agrees that until an Event of Default (as hereinafter defined) shall occur giving Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive (but not more than 30 days in advance) and enjoy such rents.

## GRANTING CLAUSE IV

All judgments, awards of damages, settlements and other compensation hereafter made resulting from condemnation proceedings or the taking of the property described in Granting Clause I or any part thereof or any building or other improvements now or at any time hereafter located thereon or any easement or other appurtenance thereto under the power of eminent domain, or any similar power or right (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for the payment thereof), whether permanent or temporary, or for any damage (whether caused by such taking or otherwise) to said property or any part thereof or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including severance and consequential damage, and any award for change of grade of streets (collectively "Condemnation Awards").

## GRANTING CLAUSE V

All property and rights, if any, which are by the express provisions of this instrument required to be subjected to the lien hereof and any additional property and rights that may from time to time hereafter by installation or writing of any kind, be subjected to the lien hereof.

## GRANTING CLAUSE VI

All rights in and to common areas and access roads on adjacent properties heretofore or hereafter granted to Mortgagor and any after-acquired title or reversion in and to the beds of any ways, roads, streets, avenues and alleys adjoining the property described in Granting Clause I or any part thereof.

## GRANTING CLAUSE VII

All of the Mortgagor's "general intangibles" (as defined in the Uniform Commercial Code) now owned or hereafter acquired and related to the Mortgaged Premises, including, without limitation, all right, title and interest of the Mortgagor in and to: (i) all agreements, leases, licenses and contracts to which the Mortgagor is or may become a party relating to the Mortgaged Premises or improvements thereon; (ii) all obligations or indebtedness owing to the Mortgagor (other than accounts) or

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other rights to receive payments of money from whatever source arising relating to the Mortgaged Premises; (iii) all tax refunds and tax refund claims; (iv) all intellectual property; and (v) all choses in action and causes of action.

Mortgagor's interest in the "Account" (as defined in Subparagraph 11(g) hereof) and all of Mortgagor's "accounts" (as defined in the Uniform Commercial Code) now owned or hereafter created or acquired as relates to the Mortgaged Premises, including, without limitation, all of the following now owned or hereafter created or acquired by Mortgagor: (i) accounts receivable, contract rights, book debts, notes, drafts, and other obligations or indebtedness owing to the Mortgagor arising from the sale, lease or exchange of goods or other property and/or the performance of services, (ii) the Mortgagor's rights in, to and under all purchase orders for goods, services or other property, (iii) the Mortgagor's rights to any goods, services or other property represented by any of the foregoing, (iv) monies due to or to become due to the Mortgagor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of the Mortgagor), (v) uncertificated securities, and (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing. All warranties, guarantees, permits and licenses received by Mortgagor in respect to the Mortgaged Premises.

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

Mortgagor hereby covenants and agrees with Mortgagee as follows:

1. Payment of the Indebtedness. The indebtedness hereby secured will be promptly paid as and when the same becomes due.
2. Representation of Title and Further Assurances; Multiple Parcels. Mortgagor will execute and deliver such

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Premises or upon Mortgagee by reason of any of the foregoing (including, without limitation, corporate privilege, franchise and excise taxes, but excepting therefrom any income tax on interest payments on the principal portion of the indebtedness hereby secured imposed by the United States or any State) is levied, assessed or charged, then, unless all such taxes are paid by Mortgagor to, for or on behalf of Mortgagee as they become due and payable (which Mortgagor agrees to do upon demand of Mortgagee, to the extent permitted by law), or Mortgagee is reimbursed for any such sum advanced by Mortgagee, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee upon thirty (30) days' notice to Mortgagor, notwithstanding anything contained herein or in any law heretofore or hereafter enacted, including any provision thereof forbidding Mortgagor from making any such payment. Mortgagor agrees to provide to Mortgagee, upon request, official receipts showing payment of all taxes and charges which Mortgagor is required to pay hereunder.

5. Tax and Insurance Deposits. Upon written request of Mortgagee, Mortgagor covenants and agrees to deposit with Mortgagee, on the first day of each month until the indebtedness secured by this Mortgage is fully paid, a sum equal to (i) one-twelfth (1/12th) of the annual taxes and assessments (general and special) on the Mortgaged Premises (unless said taxes are based upon assessments which exclude improvements thereon 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) and (ii) one-twelfth (1/12th) of the annual premiums payable for the insurance required to be maintained in accordance with Paragraph 8 hereof. If prior deposits are insufficient, Mortgagor shall deposit with Mortgagee an amount of money which, together with the aggregate of the monthly deposits made or to be made pursuant to (i) above as of one month prior to the date on which the total annual taxes and assessments for the current calendar year become due, shall be sufficient to pay in full the total annual taxes and assessments estimated by Mortgagee to become due and payable with respect to the Mortgaged Premises for the current calendar year, and an amount of money which, together with the aggregate deposits made or to be made pursuant to (ii) above as of one month prior to the date on which the next annual insurance premium becomes due, shall be sufficient to pay in full the total annual insurance premium estimated by Mortgagee to next become due and payable with respect to the Mortgaged Premises. Such deposits are to be held without any allowance of interest and are to be used for the payment of taxes and assessments (general and special) and insurance premiums, respectively, on the Mortgaged Premises next due and payable when they become due; Mortgagee may, at its option, itself pay such taxes, assessments;

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and insurance premiums when the same become due and payable (upon submission of appropriate bills therefor from Mortgagor) or shall release sufficient funds to Mortgagor for payment of such taxes, assessments and insurance premiums. If the funds so deposited are insufficient to pay any such taxes, assessments (general or special) and premiums for any year when the same shall become due and payable, Mortgagor shall within ten (10) days after receipt of demand therefor, deposit additional funds as may be necessary to pay such taxes, assessments (general and special) and premiums in full. If the funds so deposited exceed the amount required to pay such taxes, assessments (general and special) and premiums for any year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of Mortgagor.

6. Mortgagee's Interest In and Use of Deposits. At any time following the occurrence and during continuation of an Event of Default hereunder the Mortgagee may at its option, without being required so to do, apply any monies at the time on deposit pursuant to Paragraph 5 hereof to the performance of any of Mortgagor's obligations hereunder or under the Note, 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. Such deposits are hereby pledged as additional security for the indebtedness hereunder and shall be irrevocably applied by Mortgagee for the purposes for which made hereunder and shall not be subject to the direction or control of Mortgagor; provided, however, that Mortgagee shall not be liable for any failure to apply to the payment of taxes, assessments and insurance premiums any amount so deposited unless Mortgagor, while not in default hereunder, shall have requested Mortgagee in writing to make application of such funds to the payment of which they were deposited, accompanied by the bills for such taxes, assessments and insurance premiums. Mortgagee shall not be liable for any act or omission taken in good faith or pursuant to the instruction of any party.

7. Recordation and Payment of Taxes and Expenses Incident Thereto. Mortgagor will cause this Mortgage, all mortgages supplemental hereto and any financing statement or other notices of a security interest required by Mortgagee at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law for the recording and filing or for the rerecording and refileing of a mortgage, security interest, assignment or other lien or charge upon the Mortgaged Premises, or any part thereof, in order fully to preserve and protect the rights of Mortgagee hereunder, and, without limiting the foregoing, Mortgagor will pay or reimburse Mortgagee for the payment of any and all taxes, fees or other charges incurred in connection with any such recordation or re-

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recordation, including any documentary stamp tax or tax imposed upon the privilege of having this instrument or any instrument issued pursuant hereto recorded.

## 8. Insurance.

(a) Mortgagor will, at its expense, maintain or cause to be maintained the following insurance with good and responsible insurance companies reasonably satisfactory to Mortgagee:

(i) All risk broad form property and casualty insurance with standard noncontributory mortgage clauses providing that any loss is to be adjusted with, and any recovery payable to the Mortgagee as its interest may appear. All such policies shall be in an amount not less than one hundred percent (100%) of the full insurable replacement cost of the Mortgaged Premises, contain such coverages and insure against such risks as shall be reasonably satisfactory to the Mortgagee. Without limiting the generality of the foregoing, the improvements shall be insured under an agreed upon amount endorsement satisfactory to Mortgagee at all times against loss or damage by fire, lightning, windstorm, explosion, theft and such other risks as are usually intended under extended coverage;

(ii) Commercial general liability insurance, in form and amount reasonably satisfactory to Mortgagee, insuring Mortgagor, Mortgagee and such other persons as Mortgagee may reasonably designate, as their interests may appear, against any loss or damage for personal injury, death and property damage occasioned by an accident or casualty occurring in, upon or about the Mortgaged Premises or the sidewalks, alleys or other property adjacent thereto;

(iii) In the event that Mortgagor contracts with or employs any person or persons upon the Mortgaged Premises, worker's compensation insurance, insuring Mortgagor and such other persons as Mortgagee may designate, as their interests may appear, against loss or damages resulting from any accident or casualty within the purview of the Illinois Worker's Compensation Law;

(iv) Host liquor liability insurance;

(v) Business interruption insurance in amounts reasonably satisfactory to Mortgagee; and

(vi) Such other insurance against other insurable hazards that Mortgagee may reasonably require or which are

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commonly insured against in the case of property similarly situated.

(b) Policy Provisions. All insurance maintained by Mortgagor shall be maintained with good and responsible insurance companies, shall provide that no cancellation thereof shall be effective until at least 30 days after receipt by the Mortgagee of written notice thereof, shall provide that losses are payable notwithstanding any acts or omissions of Mortgagor, shall contain no deductible provisions in excess of \$25,000.00 and shall be satisfactory to Mortgagee in all other respects.

(c) Renewal Policies. Mortgagor will deliver to the Mortgagee the original of any policy or a certificate therefor required under the provisions of this Paragraph 8(c) (or, if coverage is provided under a master policy, a photocopy of such policy and an assigned certificate of insurance) and will cause renewal certificates to be delivered thereto at least 15 days prior to the expiration of any such policies and renewal policies as soon as available.

(d) Additional Policies. Mortgagor shall not take out or maintain separate insurance concurrent in kind or form or contributing in the event of loss with any insurance required hereinabove.

In the event of foreclosure, Mortgagor authorizes and empowers Mortgagee to effect insurance upon the Mortgaged Premises in the amounts aforesaid, for a period covering the time of redemption from foreclosure sale provided by law, and if necessary therefor, to cancel any or all existing insurance policies.

## 9. Damage to and Destruction of the Improvements.

(a) Notice. In the case of any material damage to or destruction of any improvements which are or will be constructed on the Mortgaged Premises or any part thereof, Mortgagor shall promptly give notice thereof to Mortgagee generally describing the nature and extent of such damage or destruction. Material damage shall mean damages in excess of \$25,000.00.

(b) Restoration. Upon the occurrence of any damage to or destruction of any improvements on the Mortgaged Premises, provided there shall then exist no Event of Default, Mortgagee shall permit the proceeds of insurance to be used for repairs, and Mortgagor shall cause same to be restored, replaced or rebuilt as nearly as possible to their value, condition and character immediately prior to such damage or destruction. Such restoration, replacement or rebuilding shall be effected promptly and Mortgagor shall notify the Mortgagee if it appears that such

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deficiency with Mortgagee, (iv) Mortgagor shall have obtained a waiver of the right of subrogation from any insurer under such policies of insurance, and (v) in Mortgagee's reasonable judgment, all restoration can be completed prior to the due date of the Note. Any insurance proceeds to be released pursuant to the foregoing provisions may at the option of Mortgagee be disbursed from time to time as restoration progresses to pay for restoration work completed and in place and such disbursements shall be disbursed in such manner as Mortgagee may determine. Mortgagee may impose such further conditions upon the release of insurance proceeds (including the receipt of title insurance) as are customarily imposed by prudent construction lenders to insure the completion of the restoration work free and clear of all liens or claims for lien. All necessary and reasonable title insurance charges and other costs and expenses paid to or for the account of Mortgagee in connection with the release of such insurance proceeds shall constitute so much additional indebtedness secured by this Mortgage to be payable upon demand and if not paid upon demand shall bear interest at the Default Interest Rate (as defined in Paragraph 38 hereof). Mortgagee may deduct any such costs and expenses from insurance proceeds at any time held by Mortgagee. Any interest earned by Mortgagee on such deposits of insurance proceeds held by Mortgagee shall be paid to Mortgagor.

(d) Adjustment of Loss. Mortgagee shall have the right to approve (which approval shall be granted in a diligent fashion but in no event later than thirty (30) days following request therefor, or if refused, refused by written notice given to Mortgagor within such period stating the reasons for such refusal) the adjustment or compromise of any loss of more than \$100,000 under any insurance policies covering or relating to the Mortgaged Premises and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment (i) of 100% of all such losses of more than said amount directly to Mortgagee alone and (ii) of 100% of all such losses of said amount or less directly to Mortgagor alone, after deducting from such insurance proceeds any expenses incurred by Mortgagee in the collection and settlement thereof, including without limitation attorneys' and adjusters' fees and charges, Mortgagee shall apply the net proceeds as provided in Paragraph 9(c). Mortgagee shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

## 10. Eminent Domain.

(a) Notice. Mortgagor covenants and agrees that Mortgagor will give Mortgagee prompt notice of the actual or threatened

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commencement of any proceedings under condemnation or eminent domain affecting all or any material part of the Mortgaged Premises including any easement therein or appurtenance thereof or severance and consequential damage and change in grade of streets, and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings.

(b) Assignment of Claim, Power of Attorney to Collect, Etc. Any and all awards heretofore or hereafter made or to be made to the present and all subsequent owners of the Mortgaged Premises by any governmental body for taking or affecting the whole or any part of said Mortgaged Premises, the improvements on the Mortgaged Premises or any easement therein or appurtenance thereto (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the award for payment thereof) are hereby assigned by Mortgagor to Mortgagee to the extent of the existing principal balance, accrued but unpaid interest thereon and other outstanding charges owed by Mortgagor to Mortgagee and Mortgagor hereby irrevocably constitutes and appoints Mortgagee its true and lawful attorney in fact with full power of substitution for it and in its name, place and stead to collect and receive the proceeds of any such award granted by virtue of any such taking and to give proper receipts and acquittances therefor. Mortgagee shall not settle any condemnation award with the condemning party without the consent of the Mortgagor. Mortgagor shall have the right to participate in any proceedings which determine the award to be granted.

(c) Effect of Condemnation and Application of Awards. In the event that any proceedings are commenced by any governmental body or other person to take or otherwise affect the Mortgaged Premises, the improvements thereon or any easement therein or appurtenance thereto, Mortgagee may, at its option, apply the proceeds of any award made in such proceedings as and for a prepayment on the indebtedness evidenced by the Note notwithstanding the fact that said indebtedness may not then be due and payable or is otherwise adequately secured. Notwithstanding the foregoing, provided that the Mortgaged Premises can be restored to a commercially viable hotel project and will fully comply with all applicable zoning laws and ordinances, proceeds of condemnation will be made available for reconstruction pursuant to the fulfillment of all of the conditions that would permit Mortgagor to receive proceeds of insurance pursuant to Section 9(c) hereof.

## 11. Required Repairs and Reserves.

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A. On or before the date hereof, Mortgagor has delivered to Mortgagee an engineering report prepared by 1 Roupp Associates dated August 2, 1995 ("Report") which identified certain tuckpointing and other repairs needed to the Project ("Required Repairs"). In respect to the Required Repairs, Mortgagor agrees as follows:

(a) Mortgagor shall cause such Required Repairs to be completed on or before December 31, 1995, or Mortgagor shall deposit with Mortgage \$350,000.00 which shall be funded to pay for the Required Repairs as and when made.

(b) All of the Required Repairs shall be completed in a good and workmanlike manner on or before March 1, 1996, using new first-class materials, in accordance with all applicable governmental statutes, codes, rules and regulations and free from liens or claims for lien.

(c) At Mortgage's request, which shall not be unreasonably withheld, Mortgagor will furnish for Mortgagee's approval copies of the plans and specifications for the Required Repairs (for which plans and specifications are customarily required) which shall be prepared by a licensed architect or engineer.

(d) Mortgagor shall obtain all necessary building permits for the Required Repairs and shall furnish copies to Mortgagee.

(e) Mortgagor shall furnish Mortgagee with copies of sworn contractor's affidavits and owner's statements and waivers of lien for all Required Repairs as a condition to the disbursement of proceeds of the loan therefor. No disbursements shall be made in excess of the amounts shown in the Report for specific items.

(f) The disbursement of this funds held by Mortgagee pursuant to this subparagraph 11(A)(f) above shall be subject to such additional reasonable conditions as Mortgagee may require, including receipt of acceptable interim mechanic's lien certifications and date-down endorsements on Mortgagee's loan title insurance policy.

(B) Commencing January 1, 1996 and on the first day of each month thereafter until the Note is repaid in full, Mortgagor shall deposit a total of \$50,000.00 in an account (the "Account") (under this Mortgage and the Office Mortgage) which shall be pledged to Mortgagee as additional security for the indebtedness hereby secured. Such funds shall be held for the purpose of funding capital improvements to the Project Building and, if on

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each July 1 and January 1 any funds remain in such Account which are in excess of the amounts left to be paid on all existing written contracts entered into by Mortgagor for capital improvements to the Project, shall be disbursed on such dates to Mortgagee to pay principal of the Note. Funds held in the Account and not used to pay principal of the Note shall be disbursed as follows:

(i) no funds shall be disbursed from the Account for capital improvements unless the work or items for which a disbursement has been requested have either been completed or progressed to the stage that payment is then due and Mortgagor has furnished Mortgagee with lien waivers supporting such payments;

(ii) the provisions of Subparagraphs (b), (c), (d), (e) and (f) above shall apply to all items for which expenditures are requested from the Account;

(iii) Mortgagor shall furnish Mortgagee with quarterly statements showing all receipts and expenditures into and from the Account.

## 12. Financial Reports

(a) Mortgagor will furnish to Mortgagee (i) within ninety (90) days of the end of Mortgagor's fiscal year the balance sheet of Mortgagor as at the end of such fiscal year and statements of income, cash flow and retained earnings for such fiscal year, in each case prepared by independent certified public accountants reasonably acceptable to Mortgagee pursuant to a compilation prepared in accordance with the current form of the Uniform System of Accounts for Hotels (the "Uniform System") generally accepted auditing standards, reasonably satisfactory to Mortgagee, and certified by the chief financial officer of Mortgagor as true, correct and complete, and (ii) monthly on or before the fifteenth (15th) day of each calendar month, operating statements for the Mortgaged Premises for such monthly period prepared in accordance with the Uniform System. Mortgagor shall maintain a system of accounting in accordance with The Uniform System and capable of furnishing all such information and data, and shall maintain its books and records respecting financial and accounting matters in a proper manner and on a basis consistent with that used in the preparation of The Uniform System financial statements of Mortgagor.

(b) Officer's Certificates; Comfort Letters. At the time of the delivery of the financial statements under

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clause (a) above, Mortgagor shall provide to Mortgagee a certificate of the chief financial officer of Mortgagor that such financial statements have been prepared in accordance with the Uniform System and fairly present the financial condition and the results of operations of Mortgagor and the Mortgaged Premises on the dates and for the periods indicated, subject, in the case of interim financial statements, to normally recurring year end adjustments and that since the date of the prior financial statements delivered pursuant to such clause, no change has occurred in the financial position of Mortgagor, which change could reasonably be expected to result in a material adverse change in the financial condition of Mortgagor, or if such change has occurred describing in reasonable detail the nature of such change.

13. Construction, Repair, Waste, Etc. Mortgagor covenants and agrees (i) except as permitted pursuant to Paragraph 11 hereof, that no building or other improvement on the Mortgaged Premises and constituting a part thereof shall be materially altered, removed or demolished nor shall any fixtures or appliances on, in or about said buildings or improvements be severed, removed, sold or mortgaged, without the consent of Mortgagee, except for the sale or removal in the ordinary course of business of fixtures, chattels and articles of personal property that are worn out or obsolete and are replaced promptly by similar new fixtures, chattels and articles of personal property of good quality free of any security interest, encumbrance or reservation of title other than those securing purchase money financing for the same, and in the event of the demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby, the same will be replaced promptly by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from any security interest in or encumbrance thereon or reservation of title thereto other than those securing purchase money financing for the same; (ii) to permit, commit or suffer no waste, impairment or deterioration of the Mortgaged Premises or any part thereof, ordinary wear and tear and loss, damage or destruction by casualty (if covered by insurance) excepted; (iii) to keep and maintain said Mortgaged Premises and every part thereof in good repair and condition consistent with the age of the Mortgaged Premises (ordinary wear and tear excepted); (iv) to effect such repairs as Mortgagee may reasonably require and from time to time to make all needful and proper replacements and additions so that said buildings, fixtures, machinery and appurtenances will, at all times, be in good condition, consistent with the age thereof and fit and proper for their respective purposes, ordinary wear and tear excepted; (v) to comply with all statutes, orders,

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requirements or decrees relating to said Mortgaged Premises by any Federal, State or Municipal authority; and (vi) to observe and comply in all material respects with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions which are applicable to the Mortgaged Premises or which have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the Mortgaged Premises or any part hereof and not to initiate or acquiesce in any changes to or terminations of any of the foregoing or of zoning classifications affecting the use to which the Mortgaged Premises or any part thereof may be put without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed.

14. Liens and Encumbrances. Except as permitted under and Section 21 hereof and except for equipment leases having an aggregate maximum rental amount of \$25,000.00 (copies of which shall be delivered to Mortgagee), or other purchase money security interests permitted pursuant to Section 13, Mortgagor will not, without the prior written consent of Mortgagee, (which will not be unreasonably withheld or delayed), directly or indirectly, create or suffer to be created, or to remain, and will discharge or promptly cause to be discharged any mortgage, lien, encumbrance or charge on, pledge or conditional sale or other title retention agreement with respect to the Mortgaged Premises or any part thereof, whether superior or subordinate to the lien hereof, except for this instrument and the lien of all other documents given to secure the indebtedness hereby secured; provided, however, that Mortgagor may contest the validity of any mechanic's lien, charge or encumbrance (other than the lien of this Mortgage or of any other document securing payment of the Note) upon giving Mortgagee timely notice of its intention to contest the same and either (a) maintaining with Mortgagee a deposit of cash or negotiable securities reasonably satisfactory to Mortgagee in an amount sufficient in the reasonable opinion of Mortgagee to pay and discharge or to assure compliance with the matter under contest in the event of a final determination thereof adverse to Mortgagor or (b) obtaining title insurance coverage over such lien on Mortgagee's title insurance policy. Mortgagor agrees to prosecute and contest such lien diligently and by appropriate legal proceedings which will prevent the enforcement of the matter under contest and will not impair the lien of this Mortgage or interfere with the normal conduct of business on the Mortgaged Premises. On final disposition of such contest, any cash or securities in Mortgagee's possession not required to pay or discharge or assure compliance with the matter contested shall be returned to Mortgagor without interest.

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18. Subrogation. Mortgagor acknowledges and agrees that Mortgagee shall be subrogated to any lien discharged out of the proceeds of the loan evidenced by the Note or out of any advance by Mortgagee hereunder, irrespective of whether or not any such lien may have been released of record.

19. Environmental Matters.

(a) Definitions: As used herein, the following terms shall have the following meanings:

(i) "Environmental Laws" means all federal, state and local statutes, laws, rules, regulations, ordinances, requirements, or rules of common law, including but not limited to those listed or referred to in Subparagraph (b) below, any judicial or administrative interpretations thereof, and any judicial and administrative consent decrees, orders or judgments, whether now existing or hereinafter promulgated, relating to public health and safety and protection of the environment.

(ii) "Hazardous Material,, means any above or underground storage tanks, flammables, explosives, accelerants, asbestos, radioactive materials, radon, urea formaldehyde foam insulation, lead-based paint, polychlorinated biphenyls, petroleum or petroleum based or related substances, hydrocarbons or like substances and their additives or constituents, methane, solid wastes, refuse, garbage, construction debris, rubble, hazardous materials, hazardous wastes, toxic substances or related materials, and including, without limitation, substances now or hereafter defined as "hazardous substances", "hazardous materials", "toxic substances" or "hazardous wastes" in The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601, et. seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499, 42 U.S.C.), The Toxic Substance Control Act of 1976 as amended, (15 U.S.C. §2601 et. seq.), The Resource Conservation and Recovery Act, as amended (42 U.S.C. §6901, et. seq.), The Hazardous Materials Transportation Act, as amended (49 U.S.C. §1801, et. seq.), The Clean Water Act, as amended (33 U.S.C. §1251, et. seq.), The Clean Air Act, as amended (42 U.S.C. §7401 et. seq.), The Illinois Environmental Protection Act, as amended (415 ILCS 5/1 et. seq.), any so-called "Superfund" or "Superlien" law or any other applicable federal, state or local law, common law, code, rule, regulation, or ordinance, presently in effect or hereafter enacted, promulgated or implemented.

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(iii) "Environmental Liability" means any losses, liabilities, obligations, penalties, charges, fees, claims, litigation demands, defenses, costs, judgments, suits, proceedings, response costs, damages (including consequential damages), disbursements or expenses of any kind or nature whatsoever (including attorneys' fees at trial and appellate levels and experts fees and disbursements and expenses incurred in investigating, defending against or prosecuting any litigation, claim or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Mortgagee or any of Mortgagee's parent or subsidiary corporations, and their affiliates, shareholders, directors, officers, employees, and agents (collectively "Affiliates") in connection with or arising from:

a. any Hazardous Material on, in, under or affecting all or any portion of the Mortgaged Premises, the groundwater, or any surrounding areas that are introduced to the Mortgaged Premises after the date hereof;

b. any violation or claim of violation by Mortgagor of any Environmental Laws;

c. the imposition of any lien for damages caused by, or the recovery of any costs for, the cleanup, release or threatened release of Hazardous Material that are introduced to the Mortgaged Premises after the date hereof;

d. the costs of removal of any and all Hazardous Materials from all or any portion of the Mortgaged Premises or any surrounding areas that are introduced to the Mortgaged Premises after the date hereof; and

e. costs incurred to comply, in connection with all or any portion of the Mortgaged Premises or any surrounding areas, with all Environmental Laws with respect to Hazardous Materials that are introduced to the Mortgaged Premises after the date hereof.

(b) Mortgagor's Covenants. Mortgagor hereby covenants and agrees with Mortgagee as follows:

(i) Compliance. The Mortgaged Premises and the use and operation thereof shall comply in all material respects with all Environmental Laws. All required governmental permits and licenses shall remain in effect, and Mortgagor

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shall comply in all material respects therewith. All Hazardous Material present, handled or generated on the Mortgaged Premises will be disposed in a lawful manner. Mortgagor will satisfy in all material respects all requirements of applicable Environmental Laws for the maintenance and removal of all underground storage tanks on the Mortgaged Premises, if any. Without limiting the foregoing, all Hazardous Material shall be handled in compliance in all material respects with all applicable Environmental Laws.

(ii) Absence of Hazardous Material. No Hazardous Material shall be introduced to or handled on the Mortgaged Premises except in non-reportable quantities and then only if in compliance in all material respects with all Environmental Laws.

(iii) Proceedings and Actions. Mortgagor shall immediately notify Mortgagee and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports or notices relating to the condition of the Mortgaged Premises or compliance with Environmental Laws. Mortgagor shall promptly cure and have dismissed any such actions and proceedings to the reasonable satisfaction of Mortgagee. Mortgagor shall keep the Mortgaged Premises free of any lien imposed pursuant to any Environmental Laws.

(iv) Environmental Audit. Mortgagor shall provide such information and certifications which Mortgagee may reasonably request from time to time to insure Mortgagor's compliance with this Paragraph. To investigate Mortgagor's compliance with Environmental Laws and with this Paragraph, Mortgagee shall have the right, but no obligation, at any time when Mortgagee, in its reasonable judgment, deems appropriate, to enter upon the Mortgaged Premises, at Mortgagee's cost take samples, review Mortgagor's books and records, interview Mortgagee's employees and officers, and conduct similar activities. Mortgagor shall cooperate in the conduct of such an audit.

(c) Indemnification. Mortgagor agrees to indemnify defend (at trial and appellate levels and with counsel reasonably acceptable to Mortgagee and at Mortgagor's sole cost) and hold Mortgagee and its Affiliates free and harmless from and against Mortgagee's Environmental Liability. The foregoing indemnification obligation shall not extend to any Environmental Liability as to which a non-appealable final judgment is rendered by a court of competent jurisdiction finding that the acts and/or omissions of Mortgagee were the sole cause thereof and that the acts or events giving rise to such Environmental Liability

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occurred solely after (i) Mortgagee became a Mortgagee in Possession with respect to the Mortgaged Premises; or (ii) title to the Mortgaged Premises was conveyed to Mortgagee or its nominee through foreclosure or deed-in-lieu of foreclosure. The foregoing indemnity shall survive satisfaction of the Loan evidenced by the Note and any transfer of the Mortgagee's Premises to Mortgagee by voluntary transfer, foreclosure or by a deed in lieu of foreclosure. This indemnification shall not apply to any liability incurred by Mortgagee as a direct result of affirmative actions of Mortgagee as owner and operator of the Mortgaged Premises after Mortgagee has acquired possession of or title to the Mortgaged Premises and which actions are the sole and direct cause of damage resulting from the introduction and initial release of a Hazardous Material upon the Mortgaged Premises by Mortgagee; PROVIDED, HOWEVER, this indemnity shall otherwise remain in full force and effect, including, without limitation, with respect to Hazardous Material which is discovered or released at the Mortgaged Premises after Mortgagee acquires possession of or title to the Mortgaged Premises but which was not actually introduced to the Mortgaged Premises by Mortgagee, with respect to the continuing migration or release of Hazardous Material previously introduced at or near the Mortgaged Premises and with respect to all substances which may be Hazardous Material and which are situated at the Mortgaged Premises prior to Mortgagee taking possession of or title but are removed by Mortgagee subsequent to such date.

(d) Waiver. Mortgagor, its successors and assigns, hereby waive, release and agree not to make any claim or bring any cost recovery action against Mortgagee under CERCLA or any state equivalent, or any similar law now existing or hereafter enacted for any matter or claim arising in connection with any condition existing on the Mortgage Premises prior to the acquisition by Mortgagee of possession of or title to the Mortgaged Premises. The foregoing waiver shall not apply with respect to any matter or claim arising in connection with a condition first existing on the Mortgaged Premises after the acquisition by Mortgagee of possession of or title to the Mortgaged Premises. It is expressly understood and agreed that to the extent that Mortgagee is strictly liable under any Environmental Laws, Mortgagor's obligation to Mortgagee under this indemnity shall likewise be without regard to fault on the part of Mortgagor with respect to the violation or condition which results in liability to Mortgagee.

(e) Interest. Any amount claimed hereunder by Mortgagee, not paid by Mortgagor within 30 days after written demand from Mortgagee with an explanation of the amounts claimed, shall bear interest at a rate per annum equal to the Default Interest Rate under the Note.

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20. Financial Covenants. The Project shall maintain a Debt Service Coverage Ratio ("DSC") of at least 1.50 to 1.0 for every 12 month period while any portion of the indebtedness evidenced by the Note is unpaid. Beginning December 31, 1995 and on each March 31, June 30, September 30 and December 31 thereafter, Mortgagee shall compute the DSC for the 12-month period then ended (each a "Calculation Period"). If it is determined that the Project did not maintain stabilized DSC for such Calculation Period of at least 1.5 to 1.0, Mortgagor shall make an additional principal payment of the first day of the succeeding month following written notice from Mortgagee in an amount which, when subtracted from the then outstanding principal balance of the Loan, would have the result that for the DSC for such Calculation Period would be equal to 1.5 to 1.0.

DSC for any Calculation Period shall mean an amount represented by a fraction, the numerator of which shall be an amount equal to the actual revenues received by Mortgagor in respect to the Project less the sum of (a) expenses related to the Project; provided, however, in no event shall expenses incurred by Borrower for capital improvements during any Calculation Period be deemed to exceed \$317,000.00 with respect to the Mortgaged Premises or \$12,000.00 with respect to the Office Building regardless of the amounts actually spent, (b) tenant improvement and/or allowances relating to the Project ("Leasing Expenses"), and (c) leasing commissions and other reasonable leasing expenses on the Project ("TI Expenses") (collectively, "Adjusted Revenues") and the denominator of which shall be the amount necessary to pay principal and interest on the Note if the Note bore interest at a rate equal to the greater of (i) the then current "Interest Rate" on the Note, or (ii) the then current rate of interest per annum on 7-year U.S. Treasury Notes plus 300 basis point amortized over a 15-year period. In calculating the Adjusted Revenues for any Calculation Period, the amount of Leasing Expenses attributable to any lease for such Calculation Period shall be equal to the total amount of such Leasing Expenses and TI Expenses divided by the number of years (including Fractions thereof) in the term of any such Lease.

21. Transfer of the Mortgaged Premises.

(a) In determining whether or not to make the loan secured hereby, Mortgagee has examined the credit-worthiness of Mortgagor, found it acceptable and relied and continues to rely upon same as the means of repayment of the loan. Mortgagor is well-experienced in borrowing money and owning and operating property such as the Mortgaged Premises, was ably represented by a licensed attorney at law in the negotiation and documentation of the loan secured hereby and bargained at arm's length and without duress of any kind for all of the terms and conditions of

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the loan, including this provision. Mortgagor recognizes that Mortgagee is entitled to keep its loan portfolio at market interest rates by either making new loans at such rate or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Mortgagor. Mortgagor further recognizes that any secondary or junior financing placed upon the Mortgaged Premises, (a) may divert funds which would otherwise be used to pay the Note secured hereby, (b) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security, (c) would detract from the value of the Mortgaged Premises should Mortgagee come into possession thereof with the intention of selling same; and (d) impair Mortgagee's ability to accept a deed in lieu of foreclosure, as a judicial foreclosure initiated by Mortgagee would be necessary to clear the title to the Mortgaged Premises.

(b) In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security, both of repayment by Mortgagor and in the value of the Mortgaged Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) allowing Mortgagee to raise the interest rate and/or collect assumption fees; and (iv) keeping the Mortgaged Premises free of subordinate financing liens, Mortgagor agrees that if this Paragraph be deemed a restraint on alienation, that it is a reasonable one, and Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, mortgage, lease, pledge, encumbrance or other transfer of, or the granting of any option in, or any contract for any of the foregoing (on an installment basis or otherwise) pertaining to:

(i) the Mortgaged Premises, any part thereof, or any interest therein unless Mortgagor pays Mortgagee the lesser of (i) \$7,500,000 or (ii) the entire indebtedness secured hereby; or

(ii) any of the membership interest in Mortgagor, except (A) for transfers to members of the immediate families of the current members or trusts established for the benefit of such family members; (B) transfer to one or more affiliates of the Lane Industries Inc. in exchange for a \$500,000 equity investment; or (C) transfer to an entity which owns or controls Mortgagor, is owned or controlled by Mortgagor or is under common control with Mortgagor; (D) a transfer to current member of Mortgagor or an entity controlled by a current member of Mortgagor.

whether involuntary or by operation of law or otherwise, without the prior written consent of Mortgagee having been obtained to

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such sale, assignment, conveyance, mortgage, lease, option, pledge, encumbrance or other transfer (with respect to any lease Mortgagee shall give or withhold written consent no later than five (5) days after being requested in writing to do so), except, however, for the sale or replacement of obsolete or worn out fixtures, chattels or articles of personal property as permitted pursuant to Section 13 hereof and except that Mortgagor may grant a junior mortgage on the Mortgaged Premises to Holiday Inn Franchising, Inc. to secure a debt not in excess of \$700,000.00 made pursuant to Holiday Inn's "PIP Plan". Mortgagor agrees that in the event the ownership of the Mortgaged Premises, any interest therein or any part thereof becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal in any way with such successor or successors in interest with reference to this Mortgage, the Note, and any other document evidencing the indebtedness secured hereby, without in any way vitiating or discharging Mortgagor's liability hereunder or under any other document evidencing the indebtedness secured hereby. No sale of the Mortgaged Premises, forbearance granted to any person with respect to this Mortgage, or extension to any person of the time for payment of the Note given by Mortgagee shall operate to release, discharge, modify, change or affect the liability of Mortgagor, either in whole or in part, except to the extent specifically agreed in writing by Mortgagee. Without limitation of the foregoing, in any event in which the written consent of Mortgagee is required in this Paragraph 21, Mortgagee may condition its consent upon any combination of (i) the payment of compensation to be determined by Mortgagee, reflecting then current market conditions regarding interest rates and loan fees for indebtedness similar to the indebtedness secured hereby (ii) the increase of the interest rate payable under the Note, (iii) the shortening of maturity of the Note, reflecting the current market conditions regarding interest rates and loan fees for indebtedness similar to the indebtedness secured hereby and (iv) other modifications of the terms of the Note to a date which is not less than one (1) year from the date such consent is given, or the other instruments evidencing the indebtedness secured hereby reflecting the current market conditions for similar indebtedness.

(c) Without limitation of the foregoing, (i) in any event in which Mortgagee's consent is requested in accordance with the terms of this Paragraph 21, Mortgagor shall pay all expenses incurred by Mortgagee, including reasonable attorneys' fees, in connection with the processing of such request, and (ii) the consent of Mortgagee to any transfer of the Mortgaged Premises shall not operate to release, discharge, modify, change or affect the liability of Mortgagor, either in whole or in part.

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22. Books and Records. Mortgagee, its officers, employees and representatives shall have the right at any reasonable time to examine, copy and make extracts of the books and records of Mortgagor. Such books and records shall be made available to Mortgagee, its officers, employees, agents and representatives at all reasonable times at Mortgagor's corporate offices or at such other location as Mortgagee shall approve. Mortgagor agrees to furnish to Mortgagee not more than thirty (30) days following written request from Mortgagee such other reports, financial statements and other financial information concerning Mortgagor as Mortgagee may from time to time request.

23. Management. Mortgagor shall not change managing agents for the Mortgaged Premises without Mortgagee's prior, written consent which shall not be unreasonably withheld.

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

(a) Default in making payment when due (whether by lapse of time, acceleration, or otherwise) of the principal of or interest on the Note or any other indebtedness hereby secured for more than five (5) days after written notice thereof;

(b) Any material violation of Paragraph 21 hereof or any material violation of Paragraph 8 hereof which is not cured within three (3) business days after written demand by Mortgagee.

(c) The Mortgaged Premises is abandoned by the Mortgagor;

(d) Default in the observance or performance of any other covenant, condition, agreement or provisions hereof or of the Note or any additional Loan Document which is not remedied within thirty (30) days after written notice thereof to Mortgagor by Mortgagee provided, however, no Event of Default shall have occurred hereunder if such Default cannot reasonably be cured within such period, and provided Mortgagor shall have commended diligent efforts to effect such cure and shall thereafter prosecute the same to completion within such longer period as shall be reasonably necessary thereafter; but in no event later than an additional 30 days;

(e) Any representation or warranty made by the Mortgagor or in the Note or any Loan Documents or in any statement or certificate furnished pursuant hereto or

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thereto proves untrue in any material respect as of the date of the issuance or making thereof;

(f) Mortgagor becomes insolvent;

(g) Mortgagor admits in writing its inability to pay its debts as they mature or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a trustee, custodian or receiver for the major part of its property;

(h) Bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other proceedings for relief under any bankruptcy laws or laws for the relief of debtors are instituted voluntarily by or involuntarily against the Mortgagor and, if instituted involuntarily against Mortgagor, are not dismissed within sixty (60) days after such institution;

(i) Any judgment or judgments, writ or writs or warrant or warrants of attachment or any similar process or processes shall be entered or filed against Mortgagor in an amount in excess of \$150,000.00 per person or entity or in the aggregate in excess of \$250,000.00 and for which Mortgagor has no insurance coverage, or against any of its property or assets and remains unsatisfied, unvacated, unbonded or unstayed for a period of thirty (30) days; or

(j) The occurrence of an Event of Default under the Office Mortgage.

25. Remedies. When any Event of Default has happened and is continuing (regardless of the pendency of any proceeding which has or might have the effect of preventing Mortgagor from complying with the terms of this instrument) and in addition to such other rights as may be available under applicable law, or under any other Loan Document, but subject at all times to any mandatory legal requirements:

(a) Acceleration. Mortgagee may, by written notice to Mortgagor, declare the Note and all unpaid indebtedness hereby secured, including interest then accrued thereon, to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without other notice or demand of any kind.

(b) Uniform Commercial Code. Mortgagee shall, with respect to any part of the Mortgaged Premises constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the

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Uniform Commercial Code, have all the rights, options and remedies of a secured party under the Uniform Commercial Code of Illinois, including without limitation, the right to the possession of any such property or any part thereof, and the right to enter with legal process any premises where any such property may be found. Any requirement of said Code for reasonable notification shall be met by mailing written notice to Mortgagor at its address above set forth at least ten (10) days prior to the sale or other event for which such notice is required. The expenses of retaking, selling and otherwise disposing of said property, including reasonable attorneys' fees and legal expenses incurred in connection therewith, shall constitute so much additional indebtedness hereby secured and shall be payable upon demand with interest at the Default Interest Rate.

(c) Foreclosure. Mortgagee may proceed to protect and enforce the rights of Mortgagee hereunder (i) by any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or (ii) by the foreclosure of this Mortgage. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness hereby secured in the decree of sale, all expenditures and expenses authorized by the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et. seq., as from time to time amended (the "Act") and all other reasonable expenditures and out-of-pocket expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Mortgaged Premises. All expenditures and expenses of the nature mentioned in this Paragraph, and such other expenses and fees as may be incurred in the protection of the Mortgaged Premises and rents and income therefrom and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Mortgage, the Note or the Mortgaged Premises, including bankruptcy proceedings, or in preparation of the commencement or defense of any

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proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional indebtedness hereby secured and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Interest Rate until paid.

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

(e) Taking Possession, Collecting Rents, Etc. Upon demand by Mortgagee after the occurrence of an Event of Default, Mortgagor shall surrender to Mortgagee and Mortgagee may enter and take possession of the Mortgaged Premises or any part thereof personally by its agents or attorneys or be placed in possession pursuant to court order as mortgagee in possession or receiver as provided in the Act, and Mortgagee, in its discretion, personally, by its agents or attorneys or pursuant to court order as mortgagee in possession or receiver as provided in the Act may enter upon and take and maintain possession of all or any part of the Mortgaged Premises, together with all documents, books, records, papers, and accounts of Mortgagor relating hereto, and may exclude Mortgagor and any agents and servants thereof wholly therefrom and may, on behalf of Mortgagor, or in its own name as Mortgagee and under the powers herein granted:

(i) hold, operate, manage and control all or any part of the Mortgaged Premises and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or

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necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Mortgaged Premises, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;

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

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

(iv) extend or modify any then existing leases and make new leases of all or any part of the Mortgaged Premises, 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 loan evidenced by the Note and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Mortgaged Premises are subject to the lien hereof, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the indebtedness hereby secured, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

(v) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments, and improvements in connection with the Mortgaged Premises as may reasonably seem judicious to Mortgagee, to insure and reinsure the Mortgaged Premises and all risks incidental to Mortgagee's possession, operation and management thereof, and to receive all rents, issues, deposits, profits, and avails therefrom; and

(vi) apply the net income, after allowing a reasonable fee for the collection thereof and for the management of the Mortgaged Premises, to the payment of taxes, premiums and other charges applicable to the Mortgaged Premises, or in reduction of the indebtedness

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hereby secured in such order and manner as Mortgagee shall select.

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Mortgaged Premises. The right to enter and take possession of the Mortgaged Premises and use any personal property therein, to manage, operate, conserve and improve the same, and to collect the rents, issues and profits thereof, shall be in addition to all other rights or remedies of Mortgagee hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. The expenses (including any reasonable receiver's fees, counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby, which expenses Mortgagor promises to pay upon demand together with interest at the rate applicable to the Note at the time such expenses are incurred. Mortgagee shall provide reasonable documentation of fees, costs and expenses. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any rents actually received by Mortgagee. Without taking possession of the Mortgaged Premises, Mortgagee may, in the event the Mortgaged Premises become vacant or are abandoned, take such steps as it deems appropriate to protect and secure the Mortgaged Premises (including hiring watchmen therefor) and all reasonable costs incurred in so doing shall constitute so much additional indebtedness hereby secured payable upon demand with interest thereon at the Default Interest Rate.

## 26. Compliance with Illinois Mortgage Foreclosure Law.

(a) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

(b) If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all reasonable expenses incurred by Mortgagee to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act (or

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any successor provisions), whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in Paragraphs 25(b), 25(c) or 28 of this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

27. Waiver of Right to Redeem - Waiver of Appraisement, Valuation, Etc. Mortgagor shall not and will not apply for or avail itself of any reinstatement, appraisement, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Premises sold as an entirety. In the event of any sale made under or by virtue of this instrument, the whole of the Mortgaged Premises may be sold in one parcel as an entirety or in separate lots or parcels at the same or different times, all as the Mortgagee may determine. Mortgagee shall have the right to become the purchaser at any sale made under or by virtue of this instrument and Mortgagee so purchasing at any such sale shall have the right to be credited upon the amount of the bid made therefor by Mortgagee with the amount payable to Mortgagee out of the net proceeds of such sale. In the event of any such sale, the Note and the other indebtedness hereby secured, if not previously due, shall be and become immediately due and payable without demand or notice of any kind. Mortgagor acknowledges that the Mortgaged Premises does not constitute agricultural real estate, as defined in Section 15-1201 of the Act (or any successor provision), or residential real estate, as defined in Section 15-1219 of the Act (or any successor provision). To the fullest extent permitted by law, Mortgagor, pursuant to Section 15-1601(b) of the Act (or any successor provision), hereby voluntarily and knowingly waives any and all rights of redemption on behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Mortgaged Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by applicable law.

28. Costs and Expenses of Foreclosure. In any suit to foreclose the lien hereof there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as

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to items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, guarantee policies, Torrens certificates and similar data and assurances with respect to title as Mortgagee may reasonably deem to be necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Mortgaged Premises, and all of which expenditures shall become so much additional indebtedness secured hereby which Mortgagor agrees to pay and all of such shall be immediately due and payable with interest thereon from the date of expenditure until paid at the Default Interest Rate.

29. Insurance After Foreclosure. Wherever provision is made in the Mortgage for insurance policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Mortgagee shall continue in the Mortgagee as judgment creditor or mortgagee until confirmation of sale. Upon confirmation of sale, Mortgagee shall be empowered to assign all policies of insurance to the purchaser at the sale.

30. Protective Advances. All reasonable advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to or any successor provisions:

(a) all advances by Mortgagee in accordance with the terms of this Mortgage to: (i) preserve or maintain, repair, restore or rebuild the improvements upon the Mortgaged Premises; (ii) preserve the lien of this Mortgage or the priority thereof; or (iii) enforce this Mortgage, as referred to in Subsection (b) (5) of Section 15-1302 of the Act;

(b) payments by Mortgagee of: (i) installments of principal, interest or other obligations when due in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (ii) when due, installments of real estate taxes and assessments, general and special and

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all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Mortgaged Premises or any part thereof; (iii) any other obligations authorized by this Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

(c) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(d) reasonable attorneys' fees and other costs incurred: (i) in connection with the foreclosure of this Mortgage as referred to in Section 1504 (d) (2) and 15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against the Mortgagee for the enforcement of this Mortgage or arising from the interest of the Mortgagee hereunder; or (iii) in the preparation for the commencement or defense of any such foreclosure or other action;

(e) Mortgagee's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b) (1) of Section 15-1508 of the Act;

(f) advances of any amount required to make up a deficiency in deposits for installments of taxes and assessments and insurance premiums as may be authorized by this Mortgage;

(g) expenses deductible from proceeds of sale as referred to in Subsections (a) and (b) of Section 15-1512 of the Act;

(h) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (a) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation of maintaining existing insurance in effect at the time any receiver or mortgagee takes possession of the Mortgaged Premises imposed by Subsection (c) (1) of Section 15-1704 of the Act; (b) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (c) payments required or deemed by Mortgagee to be for the benefit of the Mortgaged Premises under any grant or

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declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Premises; (d) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Premises is a member in any way affecting the Mortgaged Premises; (e) pursuant to any lease or other agreement for occupancy of the Mortgaged Premises.

All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable upon demand and with interest thereon from the date of the advance until paid at the Default Interest Rate. Except in the case of an emergency, Mortgagee shall use its best efforts to give Mortgagor prior written notice of all Protective Advances. Notice of Protective Advances in emergencies shall be given as soon as reasonably practicable.

Pursuant to Section 15-1302(b) (5) of the Act, this Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in:

(i) the amount of indebtedness secured by this Mortgage at any time;

(ii) the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(iii) amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act;

(iv) the application of income in the hands of any receiver or mortgagee in possession; and

(v) the computation of any deficiency judgment pursuant to Subsections (b) (2) and (c) of Sections 15-1508 of the Act.

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31. Application of Proceeds. The proceeds of any foreclosure sale of the Mortgaged Premises shall be distributed in the following order of priority: First, the reasonable expenses of sale; Second, all costs and expenses incident to the foreclosure or other proceedings permitted under the Act or hereunder; Third, to all other items which under the terms hereof constitute indebtedness hereby secured in addition to that evidenced by the Note with interest thereon as herein provided; Fourth, to all interest on the Note; Fifth, to all principal on the Note with any surplus to whomsoever shall be lawfully entitled to same.

32. Mortgagee's Remedies Cumulative - No Waiver. No remedy or right of Mortgagee shall be exclusive but shall be cumulative and in addition to every other remedy or right now or hereafter existing at law or in equity or by statute. No delay in the exercise or omission to exercise, of any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or acquiescence therein, nor shall it affect any subsequent default of the same or different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee. Any suit commenced to enforce this Mortgage shall be commenced, to the extent legally permissible, in a court located in Cook County, Illinois.

33. Mortgagee Party to Suits. If Mortgagee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Premises or the title thereto or the interest of Mortgagee under this Mortgage (including probate and bankruptcy proceedings), or if Mortgagee employs an attorney to collect any or all of the indebtedness hereby secured or to enforce any of the terms hereof or realize hereupon or to protect the lien hereof, or if Mortgagee shall incur any costs or expenses in preparation for the commencement of any foreclosure proceeding or for the defense of any threatened suit or proceeding which might affect the Mortgaged Premises or the security hereof, whether or not any such foreclosure or other suit or proceeding shall be actually commenced, then in any such case, Mortgagor agrees to pay to Mortgagee, immediately and without demand, all reasonable costs, charges, expenses and attorneys' fees incurred by Mortgagee in any such case, and the same shall constitute so much additional indebtedness hereby secured payable upon demand with interest at the Default Interest Rate.

34. Modifications Not To Affect Lien. Mortgagee, without notice to anyone, and without regard to the consideration, if any, paid therefor, or the presence of other liens on the Mortgaged Premises, may in its discretion release any part of the Mortgaged Premises or any person liable for any of the

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indebtedness hereby secured, may extend the time of payment of any of the indebtedness hereby secured and may grant waivers or other indulgences with respect hereto and thereto, without in any way affecting or impairing the liability of any party liable upon any of the indebtedness hereby secured or the priority of the lien of this Mortgage upon all of the Mortgaged Premises not expressly released, and may agree with Mortgagor to modifications to the terms and conditions contained herein or otherwise applicable to any of the indebtedness hereby secured (including modifications in the rates of interest applicable thereto).

35. Notices. All notices or other communications required or permitted hereunder shall be (a) in writing and shall be deemed to be given when either (i) delivered in person, when received or sent by private courier service or by facsimile transmission with confirmation of receipt, or (iii) on the day on which the party to whom such notice is addressed refuses delivery by mail or by private courier service and (b) addressed as follows:

To Mortgagee: Bank One, Chicago, N.A.  
111 North Canal Street  
Suite 1500  
Chicago, Illinois 60606  
Attn: Commercial Real Estate Division  
Fax No. (312) 627-5779

With copy to: Miller, Shaxman, Hamilton, Kurtzon  
& Schlifke  
208 South LaSalle Street  
Suite 1100  
Chicago, Illinois 60604  
Attn: Edward W. Malstrom  
Fax No. (312) 263-3270

To Mortgagor: c/o BriJus Property Company  
One South Wacker Drive  
Chicago, Illinois 60606  
Attention: Steven G. Levin  
Fax No. (312) 759-3315

Frederic Rado  
Suite 28 L  
1540 Broadway  
New York, New York 10036  
Fax No. (212) 782-1071

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With copy to: Kirkland & Ellis  
200 East Randolph Drive  
Chicago, Illinois 60601  
Attention: Stephen G. Tomlinson, Esq.  
Fax No. (312) 861-2200

or to each such party at such other addresses as such party may designate in a written notice to the other parties.

36. Partial Invalidity. All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage shall be held to be invalid or unenforceable, the validity and enforceability of the other terms of this Mortgage shall in no way be affected thereby.

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

38. Default Interest Rate. For purposes of this Mortgage, "Default Interest Rate" shall mean the "Default Interest Rate" as defined in the Note.

39. [Intentionally left blank].

40. Corporate Franchises; Conduct of Business. Mortgagor shall do or cause to be done all things necessary to preserve and keep in full force and effect its (a) corporate existence and its good standing in the States in which it is incorporated and in which the Mortgaged Premises is located and (b) its respective franchises, licenses, permits, certificates, authorizations, qualifications, accreditations, easements, rights of way and other rights, consents and approvals.

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

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

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43. Governing Law. This Mortgage shall be governed by and construed under the laws of the State of Illinois.

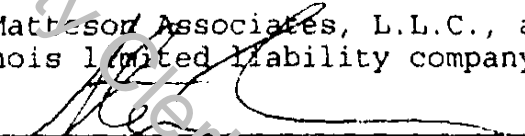
44. Additional Waivers. MORTGAGOR EXPRESSLY AND UNCONDITIONALLY WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY MORTGAGEE ON THIS MORTGAGE, ANY AND EVERY RIGHT IT MAY HAVE TO (I) INJUNCTIVE RELIEF, (II) A TRIAL BY JURY, (III) INTERPOSE ANY COUNTERCLAIM THEREIN, UNLESS REQUIRED TO DO SO IN SUCH SUIT UNDER THE APPLICABLE RULES OF COURT, (IV) HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR PROCEEDING UNLESS REQUIRED TO DO SO IN SUCH SUIT UNDER THE APPLICABLE RULES OF COURT AND (V) ANY RIGHT TO CONTEST OR APPEAL IN ANY PROCEEDING BROUGHT BY OR AGAINST MORTGAGOR UNDER THE UNITED STATES BANKRUPTCY CODE ANY ACTION BY MORTGAGEE TO OBTAIN RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. SECTION 362.

45. Business Loan. Mortgagor represents, covenants, agrees and warrants that all proceeds of the Loan evidenced by the Note will be used for the purposes specified in 815 ILCS 205/4(1)(c), and that the indebtedness secured hereby constitutes a business loan which comes within the purview of 815 ILCS 205/4(1)(c).

46. Partial Release. Mortgagee shall release this Mortgage upon receipt of a payment from Borrower of the lesser of (i) \$7,500,000 or (ii) the entire indebtedness secured hereby.

IN WITNESS WHEREOF, the undersigned have caused these presents to be signed as of the day and year first above written.

RLH Matheson Associates, L.L.C., an Illinois limited liability company

By:   
Steven G. Levin

Its: Manager

By:   
Fredric Rado

Its: Manager

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, CZESIA SPIEWAK, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Steven G. Levin and Frederic Rado, personally known to me to be Managers of RLH Matteson Associates, L.L.C., an Illinois limited liability company (the "L.L.C."), appeared before me this day in person and acknowledged that as the Managers of the L.L.C., they signed and delivered the attached instrument as their free and voluntary act and as the free and voluntary act of such L.L.C. for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 31st day of August, 1995

Czesia Spiewak  
Notary Public

BANK ONE, CHICAGO, NA  
SEP 19 1995

**RECORDING/RELEASE**

My Commission Expires: \_\_\_\_\_  
"OFFICIAL SEAL"  
CZESIA SPIEWAK  
Notary Public, State of Illinois  
My Commission Expires Feb. 22, 1997

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(Office and Hotel)

## Exhibit "A"

### Legal Description

#### PARCEL 1:

LOTS 1, 2, 8 AND 9 IN TOWNCENTER SUBDIVISION, BEING A SUBDIVISION OF THE SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF CORRECTION OF TOWNCENTER SUBDIVISION FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS ON June 24, 1982 AS DOCUMENT 26270570;

ALSO

#### PARCEL 2:

LOT 12 IN TOWNCENTER RESUBDIVISION NO. 1, BEING A RESUBDIVISION OF LOT 3 IN TOWNCENTER SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT OF TOWNCENTER RESUBDIVISION NO. 1 FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS ON FEBRUARY 10, 1983 AS DOCUMENT 26503820;

ALSO

#### PARCEL 3:

PERPETUAL NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF AND APPURTENANT TO, PARCEL 1 AND PARCEL 2 FOR INGRESS, EGRESS, DELIVERY, PASSAGE AND ACCOMMODATION OF PEDESTRIANS, AND THE INSTALLATION, OPERATION, USE, MAINTENANCE, REPAIR, REPLACEMENT, RELOCATION AND REMOVAL OF PRESENT AND FUTURE "UTILITY LINES," CREATED BY

(I) RECIPROCAL EASEMENT AND OPERATION AGREEMENT DATED SEPTEMBER 28, 1981 ("REAOA") FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS (THE PUBLIC OFFICE) ON OCTOBER 9, 1981 AS DOCUMENT 26024548, WHICH REAOA WAS AMENDED AND RESTATED BY THE FIRST RESTATEMENT OF RECIPROCAL EASEMENT AND OPERATION AGREEMENT RECORDED FEBRUARY 10, 1983 AS DOCUMENT 26503823; AND

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(II) ARTICLE I OF THE EASEMENT AND OPERATION AGREEMENT DATED June 30, 1983 AND RECORDED JULY 14, 1983 AS DOCUMENT 26688313; IN, OVER, ALONG, ACROSS AND UNDER THE "COMMON AREAS" OF LOTS 13 AND 14 IN TOWNCENTER RESUBDIVISION NO. 1 AFORESAID AND THE "COMMON AREAS" OF LOTS 4, 5, 6 AND 7 IN TOWNCENTER SUBDIVISION, ACCORDING TO THE PLAT OF CORRECTION OF TOWNCENTER SUBDIVISION, AFORESAID, ALL AS DEFINED IN THE FIRST RESTATEMENT OF RECIPROCAL EASEMENT AND OPERATION AGREEMENT OR AS SHOWN ON THE SITE PLAN ATTACHED TO THE FIRST RESTATEMENT OF RECIPROCAL EASEMENT AND OPERATION AGREEMENT AND MARKED "SCHEDULE C".

Property Address:

PIN Nos.:

500-600 Holiday Plaza Drive  
Matteson, IL 60443

31-21-400-010  
31-21-400-011  
31-21-400-014  
31-21-400-018  
31-21-400-019  
31-21-400-020

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(Hotel and Office)

## EXHIBIT "B"

### PERMITTED EXCEPTIONS

1. GENERAL REAL ESTATE TAXES FOR YEARS 1994 AND SUBSEQUENT YEARS, NOT YET DUE AND PAYABLE. TAX NUMBERS 31-21-400-020, 31-21-400-019, 31-21-400-018, 31-21-400-014, 31-21-400-011 AND 31-21-400-010, VOL. 179
2. ANNUAL MAINTENANCE ASSESSMENT OF RICH DRAINAGE DISTRICT NO. 2 UNDER LAW DOCKET NO. 56CO1577. YEAR 1994 NOT BILLED.
3. EASEMENT IN FAVOR OF COMMONWEALTH EDISON COMPANY FOR POLE LINES, CONDUITS AND MAINTENANCE PURPOSES GRANTED BY DOCUMENT 22728438, RECORDED ON MAY 24, 1974, AND THE TERMS AND CONDITIONS THEREOF.
4. ~~RESTRICTIONS AND RECIPROCAL EASEMENTS FOR UTILITIES CONTAINED IN THE PLAT OF CORRECTION OF TOWNCENTER SUBDIVISION RECORDED JUNE 24, 1982 AS DOCUMENT 26270570, AND AS CONTAINED IN THE PLAT OF TOWNCENTER RESUBDIVISION NO. 1, RECORDED FEBRUARY 10, 1983 AS DOCUMENT 26503820, AND AS CREATED BY RECIPROCAL EASEMENT AND OPERATION AGREEMENT RECORDED OCTOBER 9, 1981 AS DOCUMENT 26024548, AS RESTATED BY FIRST RESTATEMENT OF RECIPROCAL EASEMENT AND OPERATION AGREEMENT RECORDED FEBRUARY 10, 1983 AS DOCUMENT 26503823, AND THE TERMS AND PROVISIONS THEREOF.~~
5. RELATING TO, INTER ALIA, RESTRICTIONS AND RECIPROCAL EASEMENTS FOR UTILITIES, WGRESS AND EGRESS  
DECLARATION OF COVENANTS RECORDED APRIL 25, 1982 AS DOCUMENT 26210938, AND THE TERMS AND PROVISIONS THEREOF
6. EASEMENT IN FAVOR OF NORTHERN ILLINOIS GAS FOR THE INSTALLATION, MAINTENANCE, REPAIR, RELOCATION, REMOVAL AND RENEWAL OF GAS MAINS GRANTED BY DOCUMENT 26350396 ON SEPTEMBER 14, 1982, AND THE TERMS AND CONDITIONS THEREOF.
7. EASEMENT IN FAVOR OF COMMONWEALTH EDISON COMPANY AND ILLINOIS BELL TELEPHONE COMPANY FOR POLE LINES, CONDUITS AND MAINTENANCE PURPOSES GRANTED BY DOCUMENT 26391520, RECORDED ON OCTOBER 26, 1982, AS AMENDED BY DOCUMENT 26503817, AND THE TERMS AND CONDITIONS THEREOF.
8. AGREEMENT RECORDED FEBRUARY 10, 1983 AS DOCUMENT 26503826, AS AMENDED BY AMENDMENT NO. 1 RECORDED JUNE 27, 1983 AS DOCUMENT

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- 26661142, AS EXTENDED BY AGREEMENT RECORDED AS DOCUMENT 89380710, RELATING TO THE REGULATION OF PARKING OF MOTOR VEHICLES AND TRAFFIC, AND THE TERMS AND PROVISIONS THEREOF.
9. AGREEMENT TO MAINTAIN PRIVATE SEWER LINES RECORDED FEBRUARY 10, 1983 AS DOCUMENT 26503827, AND THE TERMS AND PROVISIONS THEREOF.
  10. ORDINANCE OF THE VILLAGE OF MATTESON, COOK COUNTY, ILLINOIS, RECORDED FEBRUARY 28, 1980 AS DOCUMENT 25376036 AND RECORDED DECEMBER 15, 1981 AS DOCUMENT 26085719.
  11. NOTICE OF REQUIREMENTS FOR STORM WATER DETENTION RECORDED AUGUST 19, 1983 AS DOCUMENT 26741158, AND THE TERMS AND PROVISIONS THEREOF.
  12. CONDITIONS, COVENANTS AND RESTRICTIONS CONTAINED IN DOCUMENT 26708091 RECORDED JULY 28, 1983, RELATING TO: PROHIBITION OF CONVEYANCES OF LESS THAN THE WHOLE PART OF THE LAND, ETC., AND THE TERMS AND PROVISIONS THEREOF.
  13. TERMS AND PROVISIONS OF THE EASEMENT AND OPERATION AGREEMENT RECORDED JULY 14, 1983 AS DOCUMENT 26688313.
  14. ACCESS AGREEMENT RECORDED MARCH 29, 1974 AS DOCUMENT 22669292, AND THE TERMS AND PROVISIONS THEREOF.
  15. TERMS, CONDITIONS AND PROVISIONS OF THE DOCUMENT CREATING THE EASEMENT DESCRIBED IN SCHEDULE C, TOGETHER WITH THE RIGHTS OF THE ADJOINING OWNERS IN AND TO THE CONCURRENT USE OF SAID EASEMENT.
  16. ~~CONDITIONS, COVENANTS AND RESTRICTIONS CONTAINED IN THE LEASE MADE BY PIONEER BANK AND TRUST COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 1, 1982 AND KNOWN AS TRUST NUMBER 29287, TO LOEHMANN'S INC., A MEMORANDUM OF WHICH WAS RECORDED OCTOBER 13, 1983 AS DOCUMENT 26370860.~~
  17. COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THE DECLARATION OF RESTRICTIONS RECORDED ON OCTOBER 13, 1982 AS DOCUMENT 26379858 RELATING TO USE OF THE LAND AS A COORDINATED RETAIL AND SERVICES CENTER AND TO TYPES, SIZES AND LOCATION OF BUILDINGS UPON THE LAND, TYPES OF BUSINESSES, ADVERTISING SIGNS,

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EASEMENTS FOR INGRESS AND EGRESS, AND THE TERMS AND PROVISIONS THEREOF.

18. GRANT OF EASEMENT FOR THE INSTALLATION, OPERATION, USE, MAINTENANCE, REPAIR AND RELOCATION OF ANY AND ALL PRESENT AND FUTURE UNDERGROUND UTILITIES, INCLUDING SEWERS, WATER AND GAS MAINS, ELECTRIC POWER LINES, TELEPHONE LINES AND OTHER UTILITY LINES NEEDED TO SERVE THE SHOPPING CENTER, RECORDED JULY 14, 1983 AS DOCUMENT 26688313, AND THE TERMS AND PROVISIONS THEREOF.
19. EASEMENT IN FAVOR OF COMMONWEALTH EDISON COMPANY AND ILLINOIS BELL TELEPHONE COMPANY FOR POLE LINES, CONDUITS AND MAINTENANCE PURPOSES GRANTED BY DOCUMENT 26894691, RECORDED ON DECEMBER 13, 1983, AND THE TERMS AND CONDITIONS THEREOF.
20. RIGHTS OF THE FOLLOWING TENANTS UNDER LEASES: ITT Educational Services, Inc., Gwendolyn V. Kirkland, The Travelers Insurance Company, Independence One Mortgage Corporation, Cremes Unlimited, Inc., Career Horizons Inc., Bare Essentials, Applied Systems, Inc., Berkshire Mortgage Corporation, Anthony Bates, and Chrysler Credit Corporation.
21. THE REQUIREMENT THAT SUBDIVISION STATUTES AND ORDINANCES MUST BE COMPLIED WITH PRIOR TO CONVEYANCE OF ANY PORTION OF THE REAL ESTATE, AND ALL MATTERS RELATED TO OR ARISING UNDER THE SUBDIVISION KNOWN AS THE HOLIDAY RESUBDIVISION.

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