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COOK COUNTY RECORDER

MORTGAGE AND SECURITY AGREEMENT

FROM

LOCK UP/KEDZIE AVENUE VENTURE LIMITED PARTNERSHIP

TO

AMERICAN INTERNATIONAL LIFE ASSURANCE COMPANY OF NEW YORK

AND

AIG LIFE INSURANCE COMPANY

May 21, 1996

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AFTER RECORDING RETURN TO:  
Deborah A. Payne  
Commonwealth Land Title Insurance Company  
30 N. LaSalle, Suite 3440  
Chicago, IL 60602 96-06-0136

This instrument prepared by and  
after recording return to:  
Michael A. Gordon, Esq.  
Arent Fox Kintner Plotkin & Kahn  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036

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## MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (this "Mortgage"), is made this 29th day of May, 1996, by and between Lock Up/Kedzie Avenue Venture Limited Partnership, a limited partnership duly organized and existing under the laws of the State of Illinois (hereinafter referred to as "Borrower"), having its principal address at 550 Frontage Road, Suite 3805, Northfield, Illinois 60093, Attn: Robert A. Soudan, and American International Life Assurance Company of New York, a corporation duly organized and existing under the laws of the State of New York, and AIG Life Insurance Company, a corporation duly organized and existing under the laws of the State of Delaware, each having an address at One Chase Manhattan Plaza, 57th Floor, New York, New York 10005 (hereinafter collectively called the "Lender"),

WITNESSETH, THAT WHEREAS the Borrower and the Affiliates (as hereinafter defined) are justly indebted to the Lender in the principal sum of SIX MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$6,700,000), in lawful money of the United States of America for money loaned (hereinafter called the "Loan") to the Borrower and the Affiliates by the Lender, as evidenced by (a) that certain Promissory Note, of even date herewith (hereinafter called the "Promissory Note") issued by the Borrower and made payable to the order of the Lender at its office or at such other place as may be designated in writing by the Lender, with interest thereon, all at the rate and in the manner set forth in the Promissory Note, in the original principal amount of Two Million Three Hundred Thousand Dollars (\$2,300,000), and (b) the Affiliate Notes (as hereinafter defined), the terms, covenants and conditions of which Promissory Note and Affiliate Notes are specifically incorporated in this Mortgage by reference (the Promissory Note and the Affiliate Notes being hereinafter collectively referred to as the "Notes"); and

WHEREAS the Promissory Note is a valid, binding and legally enforceable obligation of the Borrower and this Mortgage is a

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valid, binding and legally enforceable instrument to secure payment of the principal of, prepayment premium, if any, interest on the Note and all other amounts and payments due under the Note and secured by this Mortgage and the Affiliate Mortgages (as hereinafter defined), including, but not limited to, advances for the payment of taxes, assessments, insurance premiums, or costs incurred for the protection of the Property (as hereinafter defined) and the property covered by the Affiliate Mortgages (hereinafter collectively referred to as the "Indebtedness"), and the observation and performance of the covenants, terms and conditions set forth herein and in the provisions of the Note and in the Affiliate Mortgages, and the Borrower and the Affiliates have duly authorized the execution and delivery of the Note, this Mortgage, and the Affiliate Mortgages;

WHEREAS the Borrower desires to secure to the Lender the payment or repayment of the Indebtedness and compliance with the terms, covenants and conditions, expressed or implied, set forth in the provisions of the Note and of this Mortgage.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the Indebtedness and all other sums payable under the provisions of this Mortgage, the Affiliate Mortgages, or the Note, of the execution and delivery by the Borrower to the Lender of the Promissory Note, and the execution and delivery by the Affiliates of the Affiliate Notes, and of the Lender's acceptance of the Note, of the respective representations, covenants and agreements hereinafter contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Borrower hereby irrevocably grants, bargains and conveys to the Lender, its successors and assigns, in fee simple, that certain parcel of land, situate and lying in the County of Cook, Illinois, which is described in Exhibit A (hereinafter called the "Land");

TOGETHER WITH all right, title and interest of the Borrower in and to, and remedies under (a) any and all leases, subleases, license agreements, concessions, tenancies and other use or occupancy agreements (whether oral or written), or any part thereof, now or hereafter existing, covering or affecting any or all of the Property (as hereinafter defined), all extensions and renewals thereof, and all modifications, amendments and guaranties thereof (each of which is hereinafter called a "Lease"), and (b) any and all rents, income, receipts, revenues, royalties, issues, profits, contract rights, accounts receivable, or general intangibles growing out of or in connection with the Leases, and other payments, payable to the Borrower pursuant to any Lease, including, without limitation, cash or securities deposited under any Lease to secure performance by the tenants of their obligations under the Leases, whether such cash or securities are to be held until the expiration of the term of such Leases or are to be applied to one or more of the

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installments of rent coming due immediately prior to the expiration of such terms (all of which are hereinafter called collectively the "Rents"), subject, however, to the provisions hereof, and

TOGETHER WITH any and all rights, alleys, ways, tenements, hereditaments, easements, passages, waters, water rights, water courses, riparian rights, liberties, licenses, franchises, privileges, appurtenances and advantages, now or hereafter to the same belonging or in any way appertaining, as well as any after-acquired right, title, interest, franchise, license, reversion and remainder, and

TOGETHER WITH all right, title and interest of the Borrower, including any after-acquired right, title or reversion, in and to the beds of the ways, streets, avenues and alleys, open or proposed, located wholly or partially within the boundary of the Land or adjacent thereto, and

TOGETHER WITH all buildings, structures, surface parking and other improvements of every kind and description now or hereafter erected or placed on the Land, all additions, alterations and replacements thereto or thereof, and all materials now owned or hereafter acquired by the Borrower and intended for the operation, construction, reconstruction, alteration and repair thereof, all of which materials shall be deemed to be included within the Property (hereinafter defined) immediately upon the delivery thereof to the Land (all of which are hereinafter called collectively the "Improvements"), and

TOGETHER WITH all of the walks, fences, shrubbery, driveways, fixtures, machinery, apparatus, equipment, fittings, and other goods of every kind and description whatsoever, now owned or hereafter acquired by the Borrower and attached to or contained in and used for any present or future operation or management of the Land or the Improvements, including, without limitation, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, motors, furnaces, compressors and transformers; all generating equipment; all pumps, tanks, ducts, conduits, wires, switches, fans, switchboards, and other electrical equipment and fixtures; all telephone equipment; all piping, tubing, plumbing equipment and fixtures; all heating, refrigeration, air conditioning, cooling, ventilating, sprinkling, water, power and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals and compactors, dishwashers, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other

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furnishings and furniture installed or to be installed or used or usable in any way in the operation of any Improvements or appurtenant facilities erected or to be erected in or upon the Land; and every renewal, replacement or substitution therefor, whether or not the same are now or hereafter attached to the Land in any manner; all except for any right, title or interest therein held by any tenant of any or all of the Land or the Improvements, or by any other person, so long as such tenant or other person is not a party hereto or bound, with respect to such right, title or interest, by the provisions hereof (it being agreed by the parties hereto that all personal property owned by the Borrower and placed by it on the Land shall, so far as permitted by law, be deemed to be affixed to the Land, appropriated to its use, and covered by this Mortgage), and

TOGETHER WITH all of the Borrower's right, title and interest in and to any and all easements and appurtenances, including, without limitation, (i) any drainage ponds or other like drainage area not located on the Property which may be required for water run-off, (ii) any easements necessary to obtain access from the Property to such drainage areas, or to any other location to which the Borrower has a right to drain water or sewage, (iii) any land required to be maintained as undeveloped land by the zoning rules and regulations applicable to the Property, and (iv) any easements and agreements which are or may be established to allow satisfactory ingress to, egress from and operation of the Property, and

TOGETHER WITH any and all judgments, awards of damages (including but not limited to severance and consequential damages), payments, proceeds, settlements or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, in connection with, or in lieu of (a) any condemnation, either temporarily or permanently, (b) any change or alteration of the grade or widening of any street or road, and (c) any other damage, destruction, or injury to, or decrease in value of, the Property (as hereinafter defined) or any part thereof, to the extent of all indebtedness which may be secured by this Mortgage at the date of receipt by the Lender of any such judgment, award of damages, payment, proceeds, settlement or other compensation, including interest thereon, and of the reasonable counsel fees, costs and disbursements, if any, incurred by the Lender in connection with the collection of such judgment, award of damages, payment, proceeds, settlement or other compensation, including interest thereon, and

TOGETHER WITH any and all payments, proceeds, settlements or other compensation heretofore or hereafter made, including any interest thereon, and the right to receive the same, from any and all insurance policies covering the Property or any portion thereof (the Land, the Improvements, fixtures, personal property,

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tenements, hereditaments, appurtenances and other property interests being hereinafter collectively referred to as the "Property"), and

TOGETHER WITH all right, title and interest of the Borrower in and to that certain Management Agreement, dated June 1, 1995, between the Borrower, as owner and Lock-Up Development Corporation, an Illinois corporation, as manager, and any renewal, modifications, or extension thereof (hereinafter called the "Management Agreement"), and

TOGETHER WITH all plans and specifications, surveys, reports, diagrams, drawings, service contracts, accounting records, invoices, change orders, licenses, authorizations, certificates, variances, amounts, approvals and other permits necessary or appropriate to permit the construction, reconstruction, repair or alteration, addition, improvement, use, operation and management of the Property, and

TOGETHER WITH all of the Borrower's cash, bank accounts, notes and other instruments, documents, accounts receivable, contract rights, permits, receipts, sales and promotional literature and forms, advertising materials and the like, trademarks (other than the "Lock Up" trademark), names, logos, copyrights and other items of intangible personal property now or hereafter owned by the Borrower relating to the ownership, operation, development, leasing or management of the Property.

TO HAVE AND TO HOLD the Property and any and all other interests described above unto the Lender, its successors and assigns, in fee simple, subject only to the Permitted Encumbrances (as hereinafter defined).

To secure to the Lender the prompt payment and performance of the Borrower's obligations hereunder, including without limitation (a) the prompt payment of the Indebtedness, and (b) the prompt performance of, observance of and compliance with, by the Borrower, all of the terms, covenants, conditions, stipulations and agreements, express or implied, contained in the Security Documents (as hereinafter defined), and (c) the reimbursement to the Lender, and any purchaser or grantee under any sale made under the provisions of this Mortgage, of all money which may be advanced as provided herein and all expenses (including attorneys' fees) incurred or paid by the Lender on account of any litigation which may arise under this Mortgage, the Note or the Property, or in obtaining possession of the Property after any sale made as hereinafter provided; and

PROVIDED, HOWEVER, that until the occurrence of an Event of Default hereunder (as hereinafter defined), the Borrower shall have the right to remain in quiet and peaceful possession of the Property, and to collect, receive and retain the Rents; and

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PROVIDED, FURTHER, that if the Borrower pays or causes to be paid to the Lender all sums secured by this Mortgage and the Affiliate Mortgages on the dates and in the manner provided in the Note and in this Mortgage and the Affiliate Mortgages, and observes and performs all of the terms and conditions contained in this Mortgage, the Affiliate Mortgages, the Note, and any of the other Security Documents, the Lender shall, at the Borrower's sole expense (a) release and discharge the lien of this Mortgage, (b) cause this Mortgage to be cancelled and marked "satisfied" of record, and (c) transfer and deliver to the Borrower, without warranty, any Property which is then subject to the lien of this Mortgage and is in their possession. Notwithstanding anything to the contrary contained herein, no release of the lien hereof shall be granted to the extent that the Borrower would not be simultaneously entitled to obtain a release of the Property as additional security for the payment of an Affiliate Loan in accordance with the provisions of Section 22.2 hereof.

TO PROTECT THE SECURITY OF THIS MORTGAGE, THE BORROWER HEREBY COVENANTS, AGREES AND WARRANTS AS FOLLOWS:

## Section 1. Definitions; Construction; Representations.

1.1. Definitions. Certain terms used in this Mortgage are defined in this Section 1.1. When used herein, such terms shall have the meanings given to them in this Section 1.1, unless specifically provided otherwise or unless the context clearly indicates otherwise.

1.1.1. "Act of Bankruptcy" means the filing of a petition in bankruptcy under the Bankruptcy Code or the commencement of a proceeding by or against the Borrower as debtor under any other applicable law concerning insolvency, reorganization or bankruptcy.

1.1.2. "Affiliates" means Lock Up Stoughton Limited Partnership, a Massachusetts limited partnership ("Lock Up Stoughton"), Lock Up-Cape Cod Limited Partnership, a Massachusetts limited partnership ("Lock Up-Cape Cod"), Lock Up/VMS Kennedy Township Venture, a Pennsylvania limited partnership ("Lock Up Kennedy"), and Lock Up/VMS Penn Avenue Limited Partnership, a Pennsylvania limited partnership ("Lock Up Penn Avenue").

1.1.3. "Affiliate Indebtedness" means the indebtedness evidenced by the Affiliate Notes.

1.1.4. "Affiliate Loans" means the loans as to which the Affiliate indebtedness is owed to the Lender.

1.1.5. "Affiliate Mortgages" means the following instruments, of even date herewith, executed in favor

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of the Lender: (a) Mortgage and Security Agreement from Lock Up Stoughton; (b) Mortgage and Security Agreement from Lock Up-Cape Cod; (c) Open-End Mortgage and Security Agreement from Lock Up Kennedy, and (d) Open-End Mortgage and Security Agreement from Lock Up Penn Avenue.

1.1.6. "Affiliate Notes" means the following promissory notes of even date herewith, payable to the order of the Lender by (a) Lock Up Stoughton, in the original principal amount of One Million Two Hundred Thousand Dollars (\$1,200,000), (b) Lock Up-Cape Cod, in the original principal amount of One Million Dollars (\$1,000,000), (c) Lock Up Kennedy, in the original principal amount of One Million Fifty Thousand Dollars (\$1,050,000), and (d) Lock Up Penn Avenue, in the original principal amount of One Million One Hundred Fifty Thousand Dollars (\$1,150,000), as the same may be modified, amended or replaced, which promissory notes are, or will be, secured, in part, by certain real property located in Norfolk County, Massachusetts, Barnstable County, Massachusetts, Allegheny County, Pennsylvania, and Allegheny County, Pennsylvania, respectively.

1.1.7. "Assessment" means all taxes, bonds, assessments, levies, water rents, ground rents, sewer rents, excise taxes, benefit charges assessed for water and sewer facilities, public dues, fines, impositions, and any other taxes or charges levied or assessed by any Governmental Authority against the Borrower or upon any or all of the Property, including, by way of example, but not by way of limitation, all taxes to which the Borrower and any other person in which the title to any or all of the Property may hereafter vest or may now or hereafter be liable under any Legal Requirements of any Governmental Authority, which under the provisions of such Legal Requirements may become a lien (including federal tax liens) upon the Property or be first distributable, allowable or payable, before any amount evidenced by the Note, out of the proceeds of any judicial sale of the Property, excluding, however, the Lender's income and franchise taxes.

1.1.8. "Awards" means all awards or payments for direct, consequential or severance damages, and all other compensation, including settlement proceeds paid on account of any Condemnation.

1.1.9. "Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. §101 et seq., and all future acts supplemental thereto or amendatory thereof.

1.1.10. "Borrower" means the person named as the "Borrower" in the first paragraph of this Mortgage, until a successor or assign shall have become such pursuant to the

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applicable provisions of this Mortgage, and thereafter "Borrower" shall mean such successor or assign.

1.1.11. "Casualty" means any act or occurrence of any kind or nature, whether or not insured, which results in damage, loss or destruction to any or all of the Property or any interest therein.

1.1.12. "Casualty Proceeds" means any insurance proceeds payable on account of any Casualty.

1.1.13. "Condemnation" means any taking of title, of use, or of any other property interest for public or private use, or an actual or threatened action, under the exercise of the power of eminent domain by any governmental or quasi-governmental authority affecting any or all of the Property or any interest therein.

1.1.14. "Default Rate" means the Default Rate as defined in the Promissory Note.

1.1.15. "Event of Default" means any one or more of the events or circumstances described in Section 13 of this Mortgage.

1.1.16. "Fiscal Records" means the financial books and records of the Borrower prepared in accordance with generally accepted accounting principles applied on a consistent basis from year to year.

1.1.17. "Governmental Authority" means any federal, state, or local governmental or quasi-governmental subdivision, authority, agency, commission, board, person or other instrumentality thereof asserting or exercising jurisdiction over the Property.

1.1.18. "Legal Requirements" means every federal, state and local statute, law, ordinance, regulation, rule, order, restriction, or other requirement of any court or Governmental Authority applicable to or affecting the Property or the use, condition or occupancy of the Property, whether now or hereafter enacted or adopted.

1.1.19. "Lender" means the persons named as the "Lender" in the first paragraph of this Mortgage, their successors and assigns.

1.1.20. "Mortgage" means this Mortgage as originally executed between the Borrower and the Lender, together with any and all supplements or amendments thereto.

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1.1.21. "Permitted Encumbrances" means as of any particular time (a) the instruments and matters affecting title to the Land enumerated in the policy of title insurance insuring the lien of this Mortgage issued to the Lender by Commonwealth Land Title Insurance Company, (b) this Mortgage, (c) any Leases, so long as the same are executed on the Borrower's standard lease form and are (except for Leases existing as of the date hereof) subject and subordinate to this Mortgage and all of the other Security Documents (as hereinafter defined), and (d) liens for Assessments not delinquent or being contested in good faith by appropriate proceedings.

1.1.22. "Person" means any natural person, corporation, receiver, trust, partnership, joint venture, unincorporated organization, association or other legal or commercial entity.

1.1.23. "Security Documents" means the Note, this Mortgage, the Affiliate Notes, the Affiliate Mortgages, any financing statements, or any other security agreement or instrument evidencing or securing the lien of this Mortgage upon the Property and any and all documents or instruments collateral thereto and executed and delivered or hereafter executed and delivered to secure the Indebtedness or any part thereof, or in connection therewith, together with all amendments, modifications, extensions, renewals, supplements and substitutions thereto.

1.1.24. "State" means the State of Illinois.

## 1.2. Construction.

1.2.1. All references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

1.2.2. The terms "agree" and "agreements" contained herein are intended to include and mean "covenant" and "covenants."

1.3. Representations and Warranties by the Borrower. The Borrower represents and warrants to the Lender:

1.3.1. Due Organization. The Borrower is a limited partnership duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization.

1.3.2. Due Authorization. The Borrower (a) is in compliance with all Legal Requirements applicable to it, and (b) has all requisite power and authority and all necessary licenses

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and permits to own and operate the Property, and to carry on its business as now being conducted and has the necessary partnership power and authority to execute and deliver the Security Documents and to incur and perform the obligations provided for herein and therein (including the borrowing of the Loan), all of which have been duly authorized by all proper and necessary partnership action. No consent or approval of partners or of any other person or public authority or regulatory body is required as a condition to the validity or enforceability of this Mortgage or any of the other Security Documents, or if required the same has been duly obtained.

1.3.3. No Litigation. There is no litigation or proceeding pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower or the Property in any court, or administrative agency or before any Governmental Authority or arbitration board or tribunal which involve the possibility of materially and adversely affecting the Property, business, prospects, profits or condition (financial or otherwise) of the Borrower, or the authority of the Borrower to enter into or the ability of the Borrower to perform its obligations under the Security Documents, or which, in any way, could adversely affect the validity or enforceability of the Security Documents.

1.3.4. Security Documents Are Legal and Authorized. (a) The execution and delivery by the Borrower of those Security Documents executed by the Borrower and compliance by the Borrower with all of the provisions thereof (i) are within the power of the Borrower, (ii) will not conflict with or result in any violation of, breach of any of the provisions of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon the Property, under the provision of, any agreement, partnership agreement or other instrument to which the Borrower is a party or by which it or the Property may be bound, or any applicable license, judgment, decree, or other Legal Requirement applicable to the Borrower or any of its activities or the Property, and (iii) have been properly executed and duly authorized by all necessary partnership action on the part of the Borrower; and (b) those Security Documents executed by the Borrower are valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms.

1.3.5. Governmental Consent. Neither the Borrower nor any of its businesses or the Property, nor any relationship between the Borrower and any other person, nor any circumstances in connection with the execution, delivery and performance by the Borrower of the Security Documents, is such as to require the consent, approval or authorization of, or the filing, registration or qualification with, any Governmental

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Authority on the part of the Borrower, other than those already obtained, made or done.

1.3.6. Title to Property. The Borrower is the owner of good and marketable (see simple legal title to and is lawfully seized and possessed of the Property, free and clear of all liens, encumbrances or restrictions, except for the Permitted Encumbrances. The Borrower does hereby warrant and agree to defend the Property and the title thereto, whether now owned or hereafter acquired, against all claims and demands by any person claiming by, through or under the Borrower.

1.3.7. No Defaults or Restrictions. At the time of the execution and delivery of this Mortgage, no event has occurred and no condition exists with respect to the Borrower that constitutes an Event of Default under this Mortgage or the Security Documents or which, with the lapse of time or with the giving of notice or both, would become an Event of Default under this Mortgage or the Security Documents. The Borrower is not in default with respect to any order of any court, or other Governmental Authority or in violation in any material respect of any agreement, partnership agreement or other instrument to which it is a party or by which it may be bound.

1.3.8. Compliance with Legal Requirements. To the best of its knowledge, the Borrower is not in violation of any Legal Requirement to which it is subject and has not failed to obtain any licenses, permits, franchises or other authorizations of any Governmental Authority necessary to the ownership of the Property or to the conduct of its business. To the best of the Borrower's knowledge, the Property, its operation and use, comply with all Legal Requirements.

1.3.9. Full Disclosure. Neither this Mortgage, nor any Security Document furnished by the Borrower in connection with the Loan, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained herein and therein not misleading. There is no fact which the Borrower has not disclosed to the Lender in writing which materially and adversely affects nor, so far as the Borrower can now foresee, is reasonably likely to affect materially and adversely the business, prospects or condition (financial or otherwise) of the Borrower, or the operation and use of the Property, or performance under the Security Documents.

1.3.10. Free of Hazardous Materials. The Borrower has complied with, and, to the best knowledge and belief of the Borrower and any partner of the Borrower, any current or prior owner or current or prior tenant, subtenant, or other occupant of all or any part of the Property has complied with all federal, state or local laws, ordinances, rules, regulations or

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policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of Hazardous Materials ("Environmental Laws"). For purposes hereof, Hazardous Materials shall mean any flammable substances, explosives, radioactive materials, hazardous wastes, toxic substances, pollutants, pollution, or related materials specified as such in, or regulated under, any of the Environmental Laws including without limitation any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder and any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder. Further, the Borrower and any partner of the Borrower has not, and to the best of their knowledge, no prior owner or current or prior tenant, subtenant or other occupant of all or any portion of the Property has used such Hazardous Materials on, from or affecting the Property in violation of Environmental Laws and, to the best of their knowledge, no Hazardous Materials have been disposed of upon the Property. The Land and the Improvements do not constitute "real property" under the Responsible Property Transfer Act of 1988, as the same may have been amended (the "Act"). This Mortgage does not constitute a transfer of an interest in "real property" under the Act and no "disclosure document" is required to be filed.

1.3.11. Asbestos. To the best knowledge and belief of the Borrower and any general partner of the Borrower, the Property does not contain any asbestos or asbestos containing material in friable form, and there is no current or potential airborne contamination of the Property by asbestos fiber including, without limitation, any potential contamination that would be caused by maintenance or tenant finish activities in the Improvements.

1.3.12. Environmental Indemnification. The Borrower and any general partner of the Borrower shall defend and indemnify the Lender and hold the Lender harmless from and against all loss, liability, damage and expense, including reasonable attorneys' fees, suffered or incurred by the Lender, whether as holder of the Note secured by this Mortgage, as mortgagee in possession, or as successor-in-interest to the Borrower by foreclosure deed or deed in lieu of foreclosure, under or on account of the Environmental Laws or any similar laws or regulations, including the assertion of any lien thereunder, (i) with respect to the presence of any Hazardous Materials or asbestos or the threat thereof affecting the Property, whether or not the same originates or emanates from the Property or any contiguous real estate, including any loss of value of the Property from the appraised value of the Property as of the date of the loss, as a result of the foregoing so long as no such loss, liability, damage and expense is attributable to any hazard

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resulting from actions on the part of the Lender; and (ii) with respect to any other matter affecting the Property within the jurisdiction of the Environmental Protection Agency, any other federal agency, or any state or local agency charged with enforcement of Environmental Laws. The obligations of the Borrower and any general partner of the Borrower under this Section shall arise upon the discovery of the presence of any Hazardous Materials or asbestos, whether or not the Environmental Protection Agency, any other federal agency or any state or local agency charged with enforcement of Environmental Laws has taken or threatened any action in connection with the presence of any such Hazardous Materials or asbestos.

1.3.13. Rights of the Lender. Upon the occurrence of any event resulting in the presence of any Hazardous Materials or asbestos or the threat thereof affecting the Property, whether or not the same originates or emanates from the Property or any contiguous real estate, and/or if the Borrower shall fail to comply with any of the requirements of the Environmental Laws, the Lender may, at its election, but without the obligation to do so: (i) give such notices and/or cause such work to be performed at the Property; and/or (ii) take any and all other actions as the Lender shall deem necessary or advisable in order to abate the hazard, remove the Hazardous Materials or asbestos to cure the Borrower's noncompliance. Any amounts so paid by the Lender pursuant to this Section, together with interest thereon at the Default Rate from the date of payment by the Lender, shall be immediately due and payable by the Borrower to the Lender and until paid shall be added to and become a part of the Indebtedness hereunder and shall be secured by this Mortgage.

1.3.14. Survival. The provisions of Sections 1.3.12 and 1.3.13 shall survive the repayment of the Indebtedness and the performance of the Borrower's obligations hereunder.

1.3.15. Parking. There are and will always be a sufficient number of parking spaces on the Property in order to comply with all Legal Requirements.

Section 2. Payment of Principal (Prepayment Premium, if any) and Interest. The Borrower shall duly and punctually pay to the Lender the principal of, prepayment premium, if any, and interest on the Promissory Note, as and when the same shall become due and payable in the manner provided in the Promissory Note.

Section 3. Payment of Additional Sums. The Borrower shall duly and punctually repay to the Lender, as the case may be, according to the terms of this Mortgage, any additional sums advanced or expended by the Lender for the Borrower's account,

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together with interest on such sums as provided in the Promissory Note.

Section 4. Performance of Security Documents. The Borrower shall observe, perform and discharge all covenants, conditions and obligations of the Borrower contained in the provisions of the Security Documents in accordance with their respective terms.

Section 5. Insurance. During the term of the Loan, the Borrower shall obtain and maintain, or cause to be obtained and maintained, without interruption, the insurance coverages stipulated hereunder with respect to the Property.

## 5.1. Types of Insurance.

5.1.1. Property and Related Insurance. The Property shall be insured for the benefit of the Lender on a Replacement Cost basis, but in no event for an amount less than \$2,300,000, which is the estimate of the full replacement cost of the Property. The policy shall provide that the amount determined to be the replacement cost shall not be reduced and the release of the insurance proceeds after a loss shall not be contingent upon the building of the Improvements upon the Land, and the insured shall not be unreasonably restricted from applying such proceeds to the building of the Improvements at such other location as the insured shall elect. Full replacement cost is defined as the cost of replacing the Improvements, together with appurtenances and betterments, in compliance with the prevailing building codes and the Personal Property without deduction for physical depreciation thereof. The policy will also contain an Agreed Amount Endorsement.

5.1.2. Rent Loss/Business Interruption. The Borrower shall maintain rent loss/business interruption insurance sufficient to prevent the Lender from being a coinsurer under the terms of the policy and in an amount equal to seven (7) months' projected gross income from the Property.

5.1.3. Boiler and Machinery Insurance. If applicable, the Borrower shall maintain boiler and machinery insurance covering physical damage to the Property and to the major components of any central heating, air conditioning or ventilation systems and such other equipment as the Lender may require. The policy shall be in an amount not less than \$500,000.

5.1.4. Builder's Risk. During the period of any construction, repair, restoration or replacement of the Improvements or Property, the Borrower shall obtain and maintain a completed value "All Risk" Builder's extended coverage policy (non-reporting form) in the amount of one hundred percent (100%) of the replacement cost of the Property.

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## 5.1.5. Liability.

(a) The Borrower shall obtain and maintain Comprehensive Public Liability insurance on the broadest forms issued by the respective insurer and written on an "occurrence policy form" against all claims for bodily injury, death, property damage, including personal injury and contractual liability (deleting any exclusion restricting coverage for contractual obligations for claims occurring on, in or about the Property and adjoining premises) in an amount not less than \$5,000,000. If liability coverage for the Property is included under the Borrower's blanket policy written on an aggregate form, then the annual aggregate limit of insurance must not be less than \$10,000,000. The policy shall be endorsed to include the Lender as an additional insured subject to the benefits stipulated under Section 5.3.4 hereof. Liability insurance of any other kind must be approved in writing by the Lender.

(b) During any period of construction, repair, restoration or replacement of Improvements on the Land, the Borrower shall cause the general contractor to require its subcontractors of any tier to provide confirmation of adequate comprehensive public liability and completed operations coverage and name the Lender as an additional insured, and, upon demand by the Lender, provide evidence satisfactory to the Lender that the Borrower has complied with this covenant.

5.1.6. Flood Insurance. If at any time the Property is in an area that has been identified by the Federal Insurance Administration as having special flood and mudslide hazards, and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Borrower shall purchase and maintain a flood insurance policy satisfactory to the Lender. In the event that the Property is not in an area having special flood and mudslide hazards, the Borrower shall deliver to the Lender on or prior to the date hereof and thereafter upon request, a certificate or letter in a form satisfactory to the Lender stating that the Property is not in such a flood or mudslide hazard area.

5.1.7. Worker's Compensation. During any period of construction, repair, restoration or replacement of Improvements on the Land, the Borrower shall (a) cause the general contractor (including the Borrower, if the Borrower acts as a contractor and/or subcontractor of any tier) to obtain and maintain all such worker's compensation or similar insurance to the fullest extent required under the laws of the State, which insurance shall cover all employees of the general contractor of the Borrower, (b) cause the general contractor to require its subcontractors of any tier to provide confirmation that worker's compensation or similar insurance to the fullest extent required under the laws of the State is maintained for their respective

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employees, and (c) upon demand by the Lender, provide evidence satisfactory to the Lender that the Borrower has complied with this covenant.

5.1.8. Other Insurance. In addition to the above, the Borrower shall also maintain all insurance required to be maintained by the Borrower as landlord under the Leases, if any, and, when and to the extent required by the Lender, any other risks or hazards which now or hereafter are customarily insured against by persons operating properties of like size and type in the locality of the Property in such amounts and for such periods as the Lender may from time to time require and approve.

5.2. Blanket Policies. Notwithstanding anything to the contrary contained in subsections 5.1.2, 5.1.3, 5.1.4, 5.1.6, 5.1.7 and 5.1.8, if any of the insurance required to be maintained by the Borrower pursuant to such subsections is included under blanket policies carried by the Borrower, such policies shall include warranties (unless otherwise approved in writing by the Lender) of the right to reinstate policy limits of not less than the amount specified in the applicable subsection, if any.

5.3. Specific Requirements With Respect to Insurance. The following provisions shall apply with respect to the insurance coverage required by this Section 5.

5.3.1. Insurance Companies. All insurance required shall be carried with responsible insurance companies selected by the Borrower and approved by the Lender in its reasonable discretion, and may be effected by endorsement of blanket insurance policies, provided, however, that all policies of insurance shall be written by companies of recognized standing which are authorized to do business in the State having a rating of at least A+ VIII in Best's Key Rating Guide (or other insurance company approved by the Lender in writing), and provided each such policy shall not have more than a \$25,000 deductible for any single casualty.

5.3.2. Evidence of Insurance. The Borrower shall deliver to the Lender, promptly upon the execution and delivery of this Mortgage and thereafter before the expiration date of each such policy, original policies (or renewals or extensions of the insurance afforded thereby) or duplicates thereof, or binders evidencing such insurance, or endorsed certificates thereof in form and content satisfactory to the Lender including, without limitation, a certification that the full amount of insurance required hereby will continually be available to the Lender and that the specific coverages requested are not contributory nor excess over any other valid and collectible insurance, together with receipts satisfactory to the Lender evidencing payment of the current premiums therefor and the Borrower shall deliver to

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the Lender, at least thirty (30) days prior to the expiration or cancellation of, or material change in, any such insurance, additional policies or duplicates thereof, or binders evidencing the renewal of such insurance, or a certificate thereof accompanied by a certified copy of such renewal or extension with a receipt evidencing payment of the premium therefor. All binders, original policies or certified copies of policies, endorsements, copies of certificates, and cancellation notices are to be sent to the Lender at the following address: Corporate Risk and Insurance Department, 23rd Floor, 70 Pine Street, New York, New York 10270.

5.3.3. Mortgagee and Loss Payee Clauses. The property insurance policies as required under subsections 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.1.6, 5.1.7 and 5.1.8 shall have attached thereto a standard non-contributing, non-reporting mortgagee clause in favor of and entitling the Lender a first priority to collect directly from the insurers, the proceeds payable under such insurance as its interest may appear, and stipulating that this entitlement will in no way be adversely affected by any act, error or omission of the Borrower which may void any or all coverages provided. The policies will also contain a standard waiver of subrogation endorsement.

5.3.4. Cancellation. The Borrower will immediately notify the Lender of any cancellation of or material change in any insurance policy, and each such insurance policy to be provided hereunder shall contain an agreement by the insurer that it will not modify or cancel such policy except upon at least thirty (30) calendar days' prior written notice to the Lender, and that any loss otherwise payable thereunder shall be payable notwithstanding any act or negligence of the Lender or the Borrower which might, absent such agreement, result in a forfeiture of all or a part of such insurance payment.

5.3.5. Payment of Premiums; Failure of the Borrower to Effect Insurance. The Borrower shall be solely responsible for, and promptly pay when due, any and all premiums on all such insurance. On each yearly anniversary of the date hereof, the Borrower shall deliver to the Lender, a certificate, dated as of such date, to the effect that there is then in force all such insurance which is then required to be maintained by the Borrower. Should the Borrower fail to effect, maintain or renew any of the insurance required hereunder in the required amounts, or to pay the premiums therefor, or to deliver to the Lender any evidence of such insurance or payment therefor as required hereunder, then in any of such events the Lender, at its option, but without obligation so to do, may procure such insurance, and any sums expended by it to procure any such insurance shall be payable by the Borrower with interest, on demand, at the Default Rate; however, it is expressly understood that procurement by the Lender of any of such insurance shall not be deemed to waive or

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release the default of the Borrower, or the right of the Lender, at its option, to exercise the remedies hereinafter set forth upon the occurrence of an Event of Default. The Lender shall not be responsible for obtaining or maintaining any insurance required under the provisions of this Section 5, and shall not, by reason of accepting, rejecting, approving or obtaining any such insurance, incur any liability for the existence, nonexistence, form or legal sufficiency thereof, the solvency of any insurer or the payment of any losses, and the Borrower hereby expressly assumes full responsibility therefor and liability, if any, thereunder.

5.3.6. Sale Under the Mortgage. In the event of a sale of all or any part of the Property pursuant to the provisions of this Mortgage, or if the title to any or all of the Property is transferred in extinguishment of the indebtedness, the Lender shall succeed to all the rights and interest of the Borrower, including any right of the Borrower to unearned premiums, in and to all such policies of insurance.

5.3.7. Separate Insurance. The Borrower shall not take out separate insurance concurrent in form or contributing in the event of loss with that required hereunder.

5.3.8. Contravention of Insurance. The Borrower will not do or permit anything to be done on or about the Property that will affect, impair or contravene any policies of insurance that may be carried on the Property, or any part thereof, or the use thereof, against loss, damage or destruction by fire, casualty, public liability, or otherwise.

5.3.9. Reinsurance. For all policies for which the insurer has purchased reinsurance, the Borrower shall obtain a "cut-through" clause allowing recovery directly from the reinsurer in the event of the insurer's insolvency or cessation of insurance operations.

5.4. Notice of Transfer or Casualty. Upon a change in ownership of the Property, the Borrower shall immediately notify in writing all insurers of the Property (provided, that nothing herein shall be construed to permit such change in ownership if otherwise prohibited under the provisions hereof) and, if a Casualty occurs, the Borrower will give immediate written notice to the Lender of the Casualty and the Lender may, but is not obligated to, make proof of such Casualty if not made promptly by the Borrower.

5.5. The Lender's Rights. The Borrower hereby authorizes the Lender, at the Lender's option, to collect, adjust and compromise, and agrees to make available to the Lender within five (5) days of the Borrower's receipt thereof, any Casualty Proceeds claimed under any insurance the Borrower is required to

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maintain under subsection 5.1 of this Mortgage and, after deducting the costs of such collection, adjustment and compromise, at the Lender's option: (a) to apply the Casualty Proceeds as a credit towards the Indebtedness in such manner as the Lender deems appropriate, provided that if such proceeds are applied by the Lender to reduce the outstanding balance of principal under the Loan, such application will cause a pro rata reduction in debt service payments to maintain the interest rate set forth in the Promissory Note, or (b) to apply the Casualty Proceeds to the restoration of the Property (in which event the Lender shall not be obligated to see to the proper application of the Casualty Proceeds nor shall the amount so released or used be deemed a payment on the Indebtedness), or (c) to deliver the Casualty Proceeds to the owner of the Property.

Notwithstanding the foregoing, if no Event of Default or event which, with the passage of time or giving of notice, or both, would constitute an Event of Default is then in existence, and if (i) the Borrower requests in writing within sixty (60) days from the date of the Casualty that the Lender make the Casualty Proceeds available for restoration, (ii) the Borrower can demonstrate to the Lender's satisfaction that the Borrower has the financial ability to continue to pay the Indebtedness during the reconstruction, (iii) the insurance proceeds are less than or equal to twenty percent (20%) of the then current Loan balance, (iv) the Casualty occurs before the first day of the seventy-second (72nd) month following the date hereof, (v) such proceeds shall be paid to the Lender, (vi) the Borrower, from its own funds, shall deposit with the Lender any shortfall between the Casualty Proceeds and the amount required to rebuild the Improvements, and (vii) the Lender and its architect or engineer shall approve the plans and specifications for rebuilding the Improvements, the Casualty Proceeds paid to the Lender shall be held in trust for the purpose and repair and restoration of the Property. If the Casualty Proceeds are greater than twenty percent (20%) of the then current Loan balance, or if the Casualty occurs on or after the first day of the seventy-second (72nd) month following the date hereof, the proceeds shall be applied towards the reduction of the principal balance of the Loan or towards repair and restoration, as the Lender shall elect in its sole and absolute discretion. If the Lender elects to allow the Improvements to be rebuilt under the above conditions, then the Casualty Proceeds shall be paid to the Lender and shall be held in trust for the purpose of repair and restoration of the Property. If the conditions set forth above for application of funds for repair and restoration are not fully satisfied, or if an Event of Default or event which, with the passage of time or giving of notice, or both, would constitute an Event of Default is then in existence, the Lender shall have the option of applying the Casualty Proceeds to the curing of the Event of Default or to the reduction of the principal balance of the Loan, or both.

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If the conditions set forth in the immediately-preceding paragraph are met, then the Casualty Proceeds shall be deposited by the Lender in an interest bearing account (interest on which shall inure to the benefit of the Borrower according to the provisions hereof) selected by the Lender (hereinafter referred to as the "Restoration Account") and shall be disbursed from time to time (but not more often than once per month) by the Lender to the Borrower to pay for the cost of such restoration based on the percentage of completion of such restoration, subject to the following conditions:

(a) Leases covering at least 75% of the gross leasable area of the Property shall continue in full force and effect (subject to rent abatement during restoration as may be provided in such Leases) or, if terminated, the same must be replaced with tenants under Leases, which are of equal creditworthiness;

(b) The Casualty Proceeds for abatement of rental income required under Section 5.1.1 shall be available to the Borrower, in such amounts as the Lender considers sufficient, to pay the debt service on the Promissory Note, all Assessments, insurance premiums and other sums due and payable by the Borrower pursuant to the Security Documents throughout the period of the restoration, or if such Casualty Proceeds are insufficient to pay all of such costs during the period of the restoration of the Property, the Borrower shall provide the Lender with evidence satisfactory to the Lender of the Borrower's financial ability and willingness to make all of such payments on a current basis;

(c) the contractor restoring the Property (other than any contractor which is an affiliate of the Borrower) shall have obtained and delivered to the Lender payment and performance bonds covering the contractor's faithful performance of its obligations under the construction contract with the Borrower for such restoration and payment of all obligations arising thereunder, in amounts acceptable to the Lender;

(d) ten percent (10%) of the amount of each disbursement shall be held by the Lender pending completion of the restoration, and such retainage shall not be paid over to the Borrower until (i) all contractors and subcontractors have been paid in full for such restoration, (ii) the Borrower shall have delivered to the Lender copies of duly executed final waivers of liens (satisfactory in form and substance to the Lender) from all contractors, subcontractors and other persons or entities eligible to file mechanics' liens, (iii) the Borrower shall have delivered to the Lender certificates of occupancy for the areas that have been restored, and (iv) the Borrower shall have delivered to the Lender an architect's certificate (satisfactory in form and substance to the Lender) certifying, among other things, that the restoration has been completed in a good and workmanlike manner in accordance with all Legal Requirements and the plans

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and specifications approved by the Lender. The balance of such proceeds remaining after payment of all costs of any restoration shall be applied as provided in the first paragraph of Section 5.5.

## Section 6. Payment of Assessments; Payments by the Lender.

### 6.1. Payment by the Borrower.

6.1.1. The Borrower shall (a) prior to the due date thereof, duly pay or discharge, or cause to be paid or discharged all Assessments; (b) upon demand pay any ad valorem or excise tax or other public charge (other than any tax in the nature of an income tax) imposed or levied upon the Security Documents, including any interest and penalties incurred in connection therewith; and (c) within twenty (20) days following the date such Assessments may be paid without penalty, submit to the Lender a receipt or cancelled check evidencing timely payment thereof. To better secure this covenant, the Borrower shall deposit with the Lender, concurrently with the payment of the installments of the principal of (prepayment premium, if any) and interest on the Promissory Note, an amount equal to one-twelfth of the annual Assessments on the Property, as reasonably estimated by the Borrower, together with an amount equal to one-twelfth of the annual insurance premiums next due, and the Lender shall hold all such sums. If necessary, the Lender shall make an adjustment according to the actual charge for such Assessments and premiums and, if the deposits made by the Borrower are insufficient to pay such charges in full, the Borrower shall deposit with the Lender the amount of such deficiency before such Assessments or premiums become due. The Lender shall credit any excess deposits against the next installments falling due. All deposits shall be retained by the Lender without interest and free of trust except to the extent, if any, that applicable law shall require otherwise.

6.1.2. The Borrower shall have the right to contest, in good faith, the amount, applicability or validity of any Assessment by appropriate judicial proceedings conducted promptly and at the Borrower's sole expense, provided (i) the Borrower shall have first given the Lender such security as it may request, in its good faith judgment, to insure such payment (in the event of a determination of such contest adversely to the Borrower) and to secure and indemnify the Lender against any cost, expense, loss or damage in connection with such contest or such postponement of payment; (ii) the Borrower shall not postpone payment if the Lender would thereby be subject to potential fine or penalty or prosecution for a crime, or the Property or any part thereof might thereby be condemned, foreclosed upon, sold, forfeited or vacated, or the value of the Property might thereby, in the good faith judgment of the Lender, be impaired; and (iii) such proceedings shall not relieve the

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Borrower of its covenant hereunder to pay such Assessments at the time and in the manner herein provided, or to extend the time for such payment, unless such judicial proceedings operate to prevent or suspend the collection of the Assessments so contested and the sale of the Property for or on account of the non-payment thereof.

6.2. Tax Service Reports. At the option of the Lender, the Borrower shall furnish the Lender with a tax service contract for the term of the Loan that shall provide the Lender with reports prepared by a tax reporting agency acceptable to the Lender. The Borrower shall pay all fees and expenses incurred in connection with annual tax service contracts, and, if the Lender elects to conduct such tax searches itself or through agents it employs for such purpose, the Borrower shall promptly reimburse the Lender for the fees and expenses incurred in connection therewith upon written demand by the Lender.

6.3. Tax on Indebtedness. The principal of, pre-payment premium, if any, and interest accrued on the Promissory Note shall become immediately due and payable sixty (60) days after written notice to the Borrower, if, after the date of this Mortgage (a) any Legal Requirement is enacted or promulgated and becomes effective, (i) changing in any way the laws for the taxation of mortgages or deeds of trust or debts secured by mortgages or deeds of trust for federal, state or local purposes, or the manner of the collection of any such Assessments, so as to affect this Mortgage, or (ii) requiring internal revenue or other documentary stamps to be purchased for or placed on this Mortgage or the Promissory Note, or (b) a court of competent jurisdiction renders a decision that any undertaking by the Borrower under the provisions of this Section is legally inoperative; provided, however, that such option and the Lender's right to accelerate the payment of the Indebtedness shall be unavailing and the Promissory Note and this Mortgage shall remain in effect as though such Legal Requirement had not been enacted or promulgated or such decision had not been rendered if, notwithstanding such Legal Requirement or decision, the Borrower lawfully pays when due and payable all such Assessments, including all interest and penalties accrued thereon, to or for the Lender.

6.4. Payment by the Lender. Whether or not an Event of Default exists, if, in the Lender's sole, reasonable judgment, any payment is necessary or desirable to protect the security interest intended to be created by this Mortgage, the Lender is authorized, in the Borrower's place, (a) to pay any Assessment, sale, forfeiture, tax lien, or title or claim thereof made against the Property, and to make such payment according to any bill, statement or estimate procured from the appropriate Governmental Authority without inquiring into the accuracy of such bill, statement or estimate or into the validity of such Assessment, sale, forfeiture, tax lien, or title or claim

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thereof; or (b) to make any payment necessary to remove any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim or charge, and to be the sole judge of the legality or validity thereof; or (c) to pay the expense of any repair or replacement of any of the Property, and to be the sole judge of its state of repair and of the necessity for incurring the expense of any such repair or replacement; or (d) to make any other payment for any other purpose herein and hereby authorized, but not enumerated in this subsection.

Section 7. Further Assurances. Within fifteen (15) days after the Lender requests the Borrower to do so, the Borrower shall execute, acknowledge, deliver and cause to be recorded and rerecorded or filed and refiled, all further instruments, deeds, financing statements, renewals, continuation statements, transfers, assignments, or other documents that are necessary, in the Lender's sole opinion, (a) to correct any defect, error or omission which may be discovered in the contents of any of the Security Documents or in the execution or acknowledgement thereof, (b) to create, perfect, preserve, continue and protect the lien and security interest of this Mortgage on the Property, whether now owned or hereafter acquired by the Borrower, (c) to secure the rights and remedies of the Lender hereunder or under the provisions of the Promissory Note, or (d) to better assure, assign and confirm to the Lender the Leases and Rents. The Borrower shall pay to the Lender on demand all expenses, charges and taxes reasonably incurred by the Lender in preparing, executing, recording, rerecording, filing or refiling of any such document. Upon any failure by the Borrower to do so, the Lender may make, execute and record any and all such instruments, certificates and documents for and in the name of the Borrower, and at the sole expense of the Borrower, and the Borrower hereby irrevocably appoints the Lender the agent and attorney-in-fact of the Borrower to do so, this appointment being coupled with an interest. The Lender may, at its option, advance the expenses incurred in making, executing and recording any and all such instruments, certificates and documents, and such sums advanced, with interest, will be repaid to the Lender by the Borrower as provided in Section 12 hereof.

## Section 8. Maintenance and Use of Property.

8.1. Obligations and Prohibitions. The Borrower shall (a) keep and maintain the Property in good condition, repair and working order and supplied with all necessary equipment; (b) effect such repairs of the Property as the Lender may require; (c) from time to time make all needed and proper replacements to the Property so that the Property will at all times be in good condition, fit and proper for the purposes for which it was originally erected or installed; (d) not permit, commit or suffer any waste of the Property; (e) not sell, abandon, assign, lease, transfer, encumber (except for Permitted Encumbrances) or

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otherwise dispose of any or all of the Property or any interest therein, except as otherwise permitted in this Mortgage, without, in each instance, obtaining the Lender's prior written consent thereto; (f) except for the replacement of fixtures, personal property and nonstructural elements of the Improvements made for the purpose of enhancing the economic viability of the Property, and by fixtures, personal property and nonstructural elements which are of at least like quality, not permit the removal, demolition or material alteration of any Improvement covered by the lien of this Mortgage, without, in each instance, obtaining the Lender's prior written consent to such alteration, and any such approved alteration shall be and become a part of the Property and subject to the lien and security interest of this Mortgage unless otherwise agreed to in writing by the Lender; (g) promptly repair, restore, replace or rebuild any part of the Property now or hereafter subject to the lien of this Mortgage which may be damaged or destroyed by any Casualty whatsoever or which may be affected by any Condemnation; (h) obey and comply with all Legal Requirements whether or not any such Legal Requirement shall necessitate structural changes or improvement to the Property including, but not limited to, those Legal Requirements relating to the discharge and removal of Hazardous Materials and shall pay immediately when due the cost of removal of any such Hazardous Materials; (i) not install or permit the installation of any friable asbestos or any substance containing asbestos and deemed hazardous by Legal Requirements respecting such material; (j) observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, by way of example rather than of limitation, all zoning variances, special exceptions and non-conforming uses), privileges, franchises and concessions which are applicable to the Property or are granted to or contracted for by the Borrower for any existing or contemplated use of the Property; (k) obey and carry out every covenant, agreement, restriction and encumbrance contained in any instrument recorded among the land records in which this Mortgage is recorded or known to the Borrower, which may from time to time be in force and apply to or affect the Property or the Borrower's interest therein, and not use or permit the use of any or all of the Property in contravention thereof; and (l) permit the Lender, and its agents or employees to enter upon and inspect the Property at any reasonable time during normal business hours.

3.2. Management of the Property. The Property shall constantly be operated and managed by the Borrower, or by a managing agent, approved in writing by the Lender, pursuant to a Management Agreement, approved in writing by the Lender.

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## Section 9. Liens and Encumbrances.

9.1. Prohibition. The Borrower shall (a) not, without, in each instance, the prior written consent of the Lender, create, assume or incur or suffer to be created, assumed or incurred or to exist (i) any lien, encumbrance or charge against the Property or any interest of the Borrower in the Property (except for Permitted Encumbrances), by or pursuant to any mortgage, deed of trust, security agreement or other instrument, as security for the repayment of any debt or the performance of any obligation or undertaking by the Borrower or any other person; or (ii) any other lien, encumbrance or security interest; and (b) keep and maintain the Property free from the claims of all persons supplying labor or materials in connection with the construction or reconstruction of any Improvements on the Property, regardless of by whom such labor or materials may have been contracted.

9.2. Transfers. The Borrower shall not, without obtaining the prior written consent of the Lender, which consent shall be exercised in the sole discretion of the Lender, transfer, convey, pledge, or otherwise hypothecate the Property or any interest in the Property or the Borrower, or issue any additional partnership interests in the Borrower. Notwithstanding the foregoing, transfers of interest within the Borrower shall not require the consent of the Lender to the extent arising from the death or disability of the Borrower or any of its partners or any officers or shareholders of such partners, or in the event of any transfer of limited partnership interests in the Borrower, provided, in such latter case, that one or more of Alfred G. McConnell, Robert A. Soudan, and Charles W. Sample retains effective legal control of the Borrower.

## Section 10. Assignment of Leases and Rents.

10.1.1. Assignment. As further and additional security for the due performance and observance of the covenants and conditions to be performed and observed by the Borrower under the provisions of the Note and this Mortgage, and by the Affiliates under the Affiliate Mortgages, the Borrower hereby assigns and transfers to the Lender (a) all the Borrower's right, title and interest in and to all Leases, and (b) the immediate and continuing right to collect and receive all of the Rents payable to the Borrower pursuant to each Lease; provided, that the Borrower shall have a license, terminable by the Lender upon the occurrence of an Event of Default, to collect any or all of the Rents when due, to hold them as a trust fund for the sole benefit of the Lender, and before using the Rents for any other purpose, to apply them to pay (1) any Assessment having priority over the lien created by this Mortgage, (2) the premiums for insurance which the Borrower is obligated to pay pursuant to the

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terms of this Mortgage, (3) the principal of (prepayment premium, if any), interest on the Indebtedness and any other sums then due and secured by this Mortgage, and (4) any other expense or cost which the Borrower is obligated to pay under the terms of this Mortgage. Upon the occurrence of an Event of Default, the license granted to the Borrower hereunder shall be automatically and immediately revoked. Upon the revocation of such license, the Lender shall notify all tenants under the Leases that the Lender will thereafter collect all Rents directly and not through the Borrower. The foregoing general assignment of Leases and Rents shall have priority over any future specific assignment of any of the Leases and the Rents to any person other than the Lender.

10.1.2. Approval. The Borrower agrees that it will not enter into any leases without the prior written consent of the Lender unless such leases utilize the standard lease form approved by the Lender. The Borrower further covenants and agrees to assign and transfer to the Lender any and all future Leases and to execute and deliver, at the request of the Lender, all such further assurances and assignments with respect thereto as the Lender shall from time to time require.

10.1.3. Subordination. The Lender may require that any and/or all of the Leases hereafter entered into with respect to the Property be made subject, subordinate, junior and inferior to the lien of the Mortgage, or be made superior and prior to the Mortgage, whichever the Lender elects in writing. Any agreement to pay leasing commissions (a) shall provide that the obligation to pay such commissions will not be enforceable against any party other than the party who entered into such agreement, (b) shall be subordinate to the Mortgage, and (c) shall not be enforceable against the Lender. The Lender shall be furnished with evidence of the foregoing satisfactory to it in form, scope and substance.

## Section 11. Condemnation.

11.1. Right to Contest. The Lender may, at its option, in its own name (a) appear or proceed in any Condemnation proceeding, and (b) make any compromise or settlement thereof. The Borrower shall give the Lender immediate notice of the initiation of any Condemnation, and a copy of every paper served in any Condemnation. Upon request, the Borrower shall make, execute and deliver to the Lender, free, clear and discharged of any encumbrance of any kind whatsoever, such further assignments and every other instrument deemed necessary, in the Lender's discretion, validly and sufficiently to assign each such Award to the Lender (including the assignment of any Award from the United States Government at any time after the allowance of any claim therefor, the ascertainment of the amount thereof and the

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issuance of the warrant for payment thereof) for any permanent or temporary Condemnation.

11.2. Application of Award. The Borrower hereby agrees that all Awards paid by reason of a Condemnation, whether the rights to such Award or under such Condemnation accrued before or after the date of this Mortgage, are hereby assigned and shall be paid directly to the Lender, and the Lender shall apply the Award as follows, in the order of priority indicated: (a) to reimburse the Lender for all costs and expenses, including attorneys' fees incurred in connection with the collection of the Award; (b) to the payment of accrued and unpaid interest on the Promissory Note; (c) to the prepayment of the last maturing installments of unpaid principal on the Promissory Note; (d) to the payment of the balance of the unpaid Indebtedness; and (e) the balance, if any, of the Award to the Borrower. If the Property is sold at any foreclosure proceeding brought under this Mortgage before the Lender's receipt of any such Award, the Lender shall have the right to receive out of such Award the difference between the proceeds derived from such sale and the amount of the Indebtedness secured hereby and all interest and other amounts accruing hereunder, whether or not a deficiency judgment on this Mortgage has been sought, recovered or denied, plus any attorneys' fees, costs and disbursements incurred by the Lender in collecting such Award.

## Section 12. Payment of the Lender's Costs.

12.1. If the Lender incurs or expends any sums, including attorneys' fees, in any action at law or in equity or in any other proceeding, to sustain the lien of this Mortgage or its priority, to protect or enforce any of its rights hereunder, to perform any of the Borrower's covenants hereunder, or to recover any of the Indebtedness, all such sums so advanced or paid by the Lender, together with interest thereon at the Default Rate, shall be (a) paid to the Lender by the Borrower immediately upon its receipt of notice and demand therefor, (b) a lien upon the Property before any right or title to, interest in, or claim upon the Property which is subordinate to the lien of this Mortgage, and (c) secured by this Mortgage and evidenced by the Promissory Note. In any action or proceeding to foreclose this Mortgage or to recover or collect the Indebtedness secured hereby, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

12.2. The Borrower shall save the Lender harmless from all expenses (including, by way of example rather than of limitation, those of attorneys' fees and of any title search, continuation or abstract, or preparation of survey), incurred by reason of any action, suit, proceeding, hearing, motion or application before any court or administrative body in and to

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which the Lender may be or become a party by reason hereof (including, by way of example rather than of limitation, any bankruptcy, administration or other proceeding in which proof of claim is by law required to be filed or in which it becomes necessary to defend or uphold the terms of and the lien created by this Mortgage), and all money expended by the Lender in that regard, together with interest thereon from date of such payment at the Default Rate, shall constitute additional Indebtedness secured hereby and shall be immediately and without notice due and payable by the Borrower to the Lender.

Section 13. Events of Default. The occurrence of any one or more of the following events shall be deemed an "Event of Default" for purposes of the provisions of this Mortgage and the other Security Documents:

13.1. If the Borrower fails to pay any installment of the principal of (prepayment premium, if any) or interest on the Note, or if the Borrower fails to pay any other sum evidenced by the Note or secured hereby on the date on which the same becomes due and payable and such failure continues for five (5) days after the date on which the same becomes due and payable; or

13.2. If the Borrower fails to observe or perform any of the other terms, covenants or conditions on the Borrower's part contained in this Mortgage (except a term, covenant or condition in whose observation or whose performance is elsewhere dealt with in this Section) and such failure continues for a period of thirty (30) days after written notice thereof from the Lender; or

13.3. If (a) the Borrower fails to observe or perform any other term, covenant or condition contained in any other Security Document and such failure continues beyond the permissible grace period, if any, specified in any such Security Document or (b) an Event of Default occurs under any of the other Security Documents; or

13.4. If the Borrower or any Affiliate fails to pay or perform any obligation contained in any other mortgage, deed of trust, security agreement or other instrument that creates a lien or encumbrance upon the title to the Property and such failure continues beyond the permissible grace period, if any, specified in any such instrument; or

13.5. If any representation or warranty made by the Borrower in any of the Security Documents or any statement or representation made by or on behalf of the Borrower in any certificate, report or opinion (including legal opinions), financial statement or other instrument proves to be false or misleading in any material respect as of the effective date of such representation or warranty; or

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13.6. If an Act of Bankruptcy occurs with respect to the Borrower or any general partner of the Borrower and any petition or proceeding in connection therewith is not dismissed, vacated, discharged, stayed or denied within sixty (60) days; or

13.7. If the Borrower or any general partner of the Borrower shall (a) become generally unable to pay its debts as they become due, or (b) be dissolved as a result of any adversary suit or proceeding; or

13.8. If (a) any execution or attachment is levied against any or all of the Property and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after it is levied or filed, or (b) an order, judgment or decree is entered by any court of competent jurisdiction on the application of a creditor adjudicating the Borrower or any general partner of the Borrower appointing a receiver, trustee or liquidator of the Borrower or any general partner of the Borrower, of any or all of the Property, or of all or substantially all of the other assets of the Borrower or any general partner of the Borrower, and such order, judgment or decree continues unstayed and in effect for a period of sixty (60) days or is not discharged within ten (10) days after the expiration of any stay thereof; or

13.9. If any mechanics' liens are established against the Property and are not caused to be discharged, fully bonded against, or insured over by title endorsement by the Borrower within thirty (30) days after it receives notice of the establishment thereof; or

13.10. If the Borrower fails to comply with any requirement of any Governmental Authority having jurisdiction over the Property or the Borrower within thirty (30) days after notice in writing of such requirement shall have been given to the Borrower by that Governmental Authority; or if any proceeding is commenced or action taken by that Governmental Authority or a private party to enforce any remedy for a violation of any Governmental Authority requirement or any restrictive covenant affecting the Property or any part thereof, and such violation is not corrected within thirty (30) days after such commencement or the taking of such actions (which such thirty (30)-day time period shall be extended to ninety (90) days if the Borrower has commenced in good faith to cure such violation and is proceeding with due diligence and continuity to completion of such cure, and the lien of this Mortgage would not be impaired by virtue of such extension); or

13.11. Except as otherwise expressly provided in Section 9.2 hereof, if the Borrower sells, transfers, encumbers, leases or otherwise disposes of, or permits the sale, transfer, encumbrance, lease or other disposal of, in any transaction or

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series of transactions, all or any portion of the Property without the prior written consent of the Lender; or

13.12. If the Borrower is dissolved or terminated either pursuant to the provisions of its partnership agreement or certificate of limited partnership, if any, or by operation of law, whether voluntarily or otherwise; or

13.13. If, without in each instance obtaining the prior written consent of the Lender, any general partner in the Borrower sells, assigns, mortgages, pledges, hypothecates, transfers or otherwise encumbers or permits to be encumbered any or all of his or their respective interest in the assets of the Borrower (other than transfers due to the death or disability of such partner) or withdraws voluntarily or involuntarily (by operation of law or otherwise) from the Borrower; or

13.14. If (a) a default occurs under the Management Agreement which is not cured within the period provided within the Management Agreement and which will give the manager the right either to (i) terminate the Management Agreement, or (ii) offset or claim against income generated by the Property other than the fees otherwise payable pursuant to the Management Agreement, or (b) the Management Agreement is otherwise terminated, except by reason of the default of the manager thereunder; or

13.15. Any change in any zoning ordinance or any other public restriction is enacted, limiting or defining the uses which may be made of the Property or any part thereof, such that the Borrower's use of the Property as contemplated on the date hereof would be in violation of such restriction or zoning change, unless a variance or other zoning ordinance or restriction permitting the continued use of the Property for such use by the Borrower and any subsequent purchasers of the Property is obtained prior to the effective date of such change or if the continued use of the Property by the Borrower and any subsequent purchasers of the Property would otherwise continue to be a valid, non-conforming use; or

13.16. The occurrence of an Event of Default under any of the instruments evidencing or securing the Affiliate Indebtedness; or

13.17. The occurrence of any material and adverse change in the financial condition or business affairs of the Borrower, as determined in good faith in the reasonable discretion of the Lender, or the Lender shall reasonably and in good faith otherwise deem itself to be insecure.

Section 14. Acceleration and Other Remedies. Upon the occurrence of any Event of Default (regardless of the pendency of

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any proceeding which has or might have the effect of preventing Borrower from complying with the terms of this instrument and of the adequacy of the security for the Note), and in addition to such other rights as the Lender may have under applicable law, the Lender may, at its option, exercise any one or more of the following remedies:

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

(b) Uniform Commercial Code. The Lender shall, with respect to any part of the Property constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the Uniform Commercial Code, have all the rights, options and remedies of a secured party under the Uniform Commercial Code as adopted in the State where the Property is situated (the "Code"), including, without limitation, the right to the possession of any such property, or any part thereof, and the right to enter without legal process any premises where any such property may be found. Any requirements of the Code for reasonable notification shall be met by mailing written notice sent by overnight service or the like to the Borrower at least ten (10) days prior to the sale or other event for which such notice is required. The expenses of retaking, selling, and otherwise disposing of said property, including, without limitation, reasonable attorneys' fees and legal expenses incurred in connection therewith, shall constitute so much additional Indebtedness hereby secured and shall be payable to the Lender upon demand with interest thereon at the Default Rate;

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

(d) Lawsuits. Without limitation of subparagraph (c) above, the Lender may proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the

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execution of any power herein granted, in any court or courts of competent jurisdiction;

(e) Appointment of Receiver. The Lender shall, as a matter of right, without notice and without giving bond to the Borrower or anyone claiming by, under or through it, and without regard to the solvency or insolvency of the Borrower or the then value of the Property, to the extent permitted by applicable law, be entitled to have a receiver appointed for all or any part of the Property and the Rents, and the proceeds, issues and profits thereof, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and the Borrower 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 Property or any part thereof by force, summary proceedings, ejectment or otherwise, and may remove the Borrower or other persons and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect to the Property or any part thereof, whether during the pendency of any foreclosure or until any right of redemption shall expire or otherwise, and, without limitation of the foregoing, any such receiver shall have any and all rights and powers as the Lender would have, upon entering and taking possession of the Property, under subparagraph (f) below;

(f) Taking Possession, Collecting Rents, Etc. The Lender shall have the right, at its option, to enter the Property and take possession thereof in its name or in the name of its nominee (and the Borrower agrees to surrender the Property to the Lender promptly upon demand therefor; the Lender may, but shall not be obligated to, perform any one or more of the covenants, agreements, terms and conditions hereunder and under the Note which the Lender deems proper to protect the security hereof; the Lender may manage and operate the Property or any part thereof itself or through agents appointed by the Lender; the Lender may enter leases and subleases of the Property upon such terms and with such tenants and subtenants as the Lender deems advisable; the Lender may modify or amend existing Leases upon such terms as the Lender deems advisable; the Lender may make repairs and alterations and do any acts which the Lender deems proper to protect or enhance the value of the Property; and the Lender may sue for or otherwise collect or enforce all Rents, rights of contract and other proceeds of and from the Property, including, without limitation, those past due and unpaid, may deduct from such income from the Property all costs of entry, of collection, of

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administration and reasonable management, consultants and attorneys' fees, and apply the remainder, if any, first, to the payment of all attorneys' fees, costs, charges and other sums paid, expended or incurred by the Lender pursuant to covenants, agreements, terms, conditions and warranties contained herein or in the Note; then to any late charges due and payable under the Note; then to the payment of all accrued interest on the Note; and the balance, if any, in any order or amount as the Lender shall determine, in its sole and absolute discretion. Such exercise by the Lender of the remedy provided for hereunder shall not affect the right of the Lender to maintain and continue any action heretofore instituted, or to bring any action thereafter, to enforce the payment of the Note or the terms and conditions of the Note, this Mortgage or any other document, instrument or agreement. All costs incurred in the exercise of the remedies provided in this subparagraph (f) or any other remedies provided pursuant to this Mortgage shall be secured by this Mortgage and shall be paid, together with interest at the Default Rate, by the Borrower to the Lender upon demand. The Borrower hereby knowingly, intelligently and voluntarily waives all right to possession of the Property from and after the date of any Event of Default hereunder, upon demand for possession by the Lender, and the Borrower agrees not to assert any objection or defense to the Lender's request or petition to a court for possession. The rights hereby conferred upon the Lender have been agreed upon prior to any default by the Borrower hereunder and prior to the Lender becoming a mortgagee hereunder or a "mortgagee in possession." The Borrower acknowledges that this provision is material to this transaction and the Lender would not make the Loan but for this subparagraph;

(g) Other Remedies. The Lender may exercise all rights and remedies contained in any other instrument, document, agreement or other writing heretofore, concurrently herewith or in the future executed by the Borrower or any other person or entity in favor of the Lender in connection with the transactions resulting in the Indebtedness hereby secured or any part thereof, including, without limitation, the right from time to time to sue for any sums, whether interest, principal or any installment of either or both, taxes, penalties, or any other sums required to be paid under the terms of the Note or this Mortgage, as the same become due, without regard to whether all of the Indebtedness hereby secured shall be due on demand, and without prejudice to the right of the Lender thereafter to enforce any appropriate remedy against the Borrower, including, without limitation, an action of foreclosure, or any other action, for a default or Event of Default by the Borrower existing at the time such earlier action was commenced;

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(h) Rights at Law. The Lender may, at its option, exercise any and all other rights and remedies against the Borrower and the Property as are permitted under applicable law;

provided, however, that, subject to Section 19 below, the Lender, in its sole and absolute discretion, whether before or after exercise of any of the foregoing remedies, may by a written instrument waive any Event of Default, in which event, subject to the contrary terms of any such waiver instrument, the rights of the Borrower and the Lender hereunder shall be reinstated as if no Event of Default had occurred hereunder.

Section 15. Adverse Notices. If the Borrower shall receive any notice or instrument which might materially adversely affect the Property or the lien of this Mortgage thereon, the Borrower shall forthwith furnish a copy of such notice or other instrument to the Lender. The notices referred to shall include, but not be limited to, notices from any tenant or lessee claiming a default by the Borrower under any Lease which could result in damages exceeding Ten Thousand Dollars (\$10,000), unless covered by insurance; any notice by any public authority concerning any special tax or assessment; any notice of any alleged violation of any building, zoning, fire or other law or regulation affecting the Property or any part thereof; or notice of any actual or threatened condemnation or other taking of the Property, or any part thereof, by any public authority.

Section 16. Waiver of Right to Redeem from Sale; Waiver of Appraisalment, Reinstatement, Valuation, Etc. The Borrower shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement of any rights or remedies of the Lender under this Mortgage, but hereby waives the benefit of such laws and the benefit of any homestead or other exemptions which it may now or hereafter from time to time have with respect to the Property or the Indebtedness hereby secured. The Borrower for itself and all creditors, mortgagees, trustees, lienholders and other persons or entities who may claim through or under it waives any and all right to have the property and estates comprising the Property, or any part thereof, marshalled upon any foreclosure or other disposition (whether or not the entire Property be sold as a unit, and whether or not any parcels thereof be sold as a unit or separately) of any kind or nature of the Property, or any part thereof, or interest therein, and agrees that any court having jurisdiction to foreclose or otherwise enforce the liens granted and security interests created by this Mortgage may order the Property sold as an entirety. On behalf of the Borrower, and each and every person acquiring any interest in, or title to the Property described herein subsequent to the date of this Mortgage, and on behalf of

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all other persons to the maximum extent permitted by applicable law, the Borrower hereby waives any and all rights (x) of redemption from any foreclosure, or other disposition of any kind or nature of the Property, or any part thereof, or interest therein, under or pursuant to rights herein granted to the Lender, and (y) to reinstatement of the Indebtedness hereby secured, including, without limitation, any right to reverse any acceleration of such Indebtedness pursuant to 735 ILCS Section 5/15-1602. The Borrower further waives and releases (a) all errors, defects, and imperfections in any proceedings instituted by the Lender under the Note, this Mortgage or any of the other Security Instruments, (b) all benefits that might accrue to the Borrower by virtue of any present or future laws exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy, or sale under execution, or providing for any stay of execution, exemption from civil process, or extension of time for payment, and (c) all notices not specifically required by the Note, this Mortgage or any of the other Security Documents, of default, or of the Lender's exercise, or election to exercise, any option under this Mortgage. All waivers by the Borrower in this Mortgage have been made voluntarily, intelligently and knowingly by the Borrower, after the Borrower has been afforded an opportunity to be informed by counsel of the Borrower's choice as to possible alternative rights. The Borrower's execution of this Mortgage shall be conclusive evidence of the making of such waivers and that such waivers have been voluntarily, intelligently and knowingly made.

Section 17. Costs and Expenses of Foreclosure. Without limitation of any other right of the Lender hereunder relating to reimbursement of costs and expenses incurred by the Lender, 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 the Lender for reasonable attorneys' fees (including, without limitation, attorneys' fees in litigation and administrative and bankruptcy proceedings and any appeals thereof) appraiser's fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as to items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, environmental assessments and studies, guarantee policies, and similar data and assurances with respect to title as the Lender may deem to be reasonably necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Property, all of which expenditures shall become so much additional Indebtedness hereby secured and be immediately due and payable with interest thereon at the Default Rate from the date of expenditure until paid.

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Section 18. Application of Proceeds. The proceeds of any foreclosure sale of the Property or of any sale of property pursuant to Section 14 hereof shall be distributed in the following order of priority:

First, on account of all costs and expenses incident to the foreclosure or other proceedings or other sale of property including, without limitation, all such items as are mentioned in Sections 14 and 17 hereof;

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

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

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

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

Section 19. The Lender's Remedies Cumulative; No Waiver.

19.1. No Limitation of Rights. No right or remedy conferred in this Mortgage upon or reserved to the Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given under this Mortgage or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy. Should any right or remedy granted herein be held to be unlawful, the Lender shall be entitled to every other right and remedy provided in this Mortgage and by law or in equity.

19.2. Waiver. Any failure by the Lender to insist upon the Borrower's strict performance of any of its obligations hereunder shall not be deemed to be a waiver of the Lender's right to such performance and no waiver, amendment, release or modification of this Mortgage shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by the Lender. Notwithstanding any such failure, the Lender shall have the right thereafter to insist

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upon the Borrower's strict performance of any and all of its obligations hereunder. Neither the Borrower nor any other person now or hereafter obligated for the payment of any or all of the Indebtedness secured by this Mortgage shall be relieved of such obligation by reason of (a) the Lender's or any other person's failure to comply with any request of the Borrower or to take any action to foreclose this Mortgage or otherwise enforce any of the provisions of the Security Documents, (b) the release, regardless of consideration, of any or all of the Property, or (c) the agreement or stipulation, by any subsequent owner of any or all of the Property and the Lender, extending the time of payment or modifying the terms of the Security Documents without the prior written consent of the Borrower or such other person, and in the event of any such agreement or stipulation, the Borrower and each such other person shall continue to be liable to make such payments according to the terms of any such agreement of extension or modification unless expressly released and discharged in writing by the Lender. In case any proceedings taken by the Lender on account of any default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Lender then and in every such case, the Lender and the Borrower shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Lender shall continue as though no such proceeding has been taken.

Section 20. Effect of Payment. Any payment made according to the provisions of this Mortgage by any subsequent owner of any or all of the Property, by any other person whose interest in the Property might be prejudiced by the failure to make such payment, or by any stockholder, officer or director of a corporation which at any time is liable for such payment or owns or has an interest in the Property or in the Borrower, shall be deemed, as between the Lender and all persons who at any time may be liable or may own any or all of the Property or the Borrower, to have been made on behalf of all such persons.

Section 21. Fiscal Records. The Borrower shall keep and maintain at all times true and complete Fiscal Records, so as to show accurately and in detail the earnings and expenses of the Property (separate and apart from those of any other property or otherwise), and shall preserve the Fiscal Records for at least three (3) fiscal years after the close of the fiscal year to which they relate. The Borrower shall permit the Lender or its representatives to examine the Fiscal Records and all supporting vouchers and data at any time after reasonable prior notice during normal business hours, at the Borrower's offices as hereinabove identified or at such other location as the parties may mutually agree upon, and to make copies there from. As soon as reasonably possible, and in any event not later than ninety (90) days after the close of each of the Borrower's fiscal years, the Borrower shall furnish to the Lender a financial statement

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(to include balance sheet, profit and loss statement, sources and uses of funds statements and cash flow projections), in form and detail satisfactory to the Lender, showing the complete results of the operations of and only of the Property for the Borrower's immediately preceding fiscal year, certified as true and correct by an independent certified public accountant (who shall have been approved in advance by the Lender) and prepared after audit in accordance with generally accepted accounting principles applied on a consistent basis from year to year and shall include a statement that, in making the audit necessary for the certification of such financial statements and such report, such accountant has obtained no knowledge of any Event of Default, or of any event which, with notice or lapse of time, or both, would constitute an Event of Default or, if in the opinion of such accountant, any such Event of Default or other event shall exist, shall include a statement as to the nature and status of such event. The Borrower shall also furnish to the Lender, at the same time as it furnishes such financial statement, a rental activities report certified as true and correct by a general partner of the Borrower, in form and detail satisfactory to the Lender, which includes the number and size of units leased and vacant and the revenues then in effect, the space or unit occupied by each tenant, the gross income derived from each such tenant, the term of each such Lease and the security deposit held under such Lease. If any such statement is not received within the period hereinabove set forth for forwarding it to the Lender, the Lender shall be entitled to receive an audit report for the Property and such operations, prepared at the Borrower's expense by a certified public accountant selected by the Lender. Notwithstanding the foregoing, for so long as title to the Property remains with the Borrower and there is no Event of Default hereunder or any state of facts which, with the passage of time or giving of notice, or both, would constitute an Event of Default hereunder, the financial statements may be signed by the Borrower's chief financial officer or authorized general partner in form and substance satisfactory to the Lender in lieu of the certification and opinion from a certified public accountant.

## Section 22. Other Security; Cross-collateral.

### 22.1 Other Security.

22.1.1 The Lender may resort to any other security held by the Lender in such order and manner as the Lender may elect, provided, however, that the Lender may resort to the sale of any other security held by the Lender to the extent that the sale of any such other security is, in the reasonable judgment of the Lender, necessary for the payment of the Indebtedness or the performance of the obligations of the Borrower under the Note or the Security Documents and no such action by the Lender shall operate to modify or terminate any of

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the rights, powers or remedies contained in the Note or the Security Documents.

22.1.2 Notwithstanding anything contained herein to the contrary, the Lender shall be under no duty to the Borrower, any Affiliate or others, including, without limitation, the holder of any junior, senior or subordinate mortgage on the Property or any part thereof or on any other security held by the Lender (without hereby implying the Lender's consent to such junior, senior or subordinate mortgage), to exercise or exhaust all or any of the rights, powers and remedies available to the Lender, whether under the Note, this Mortgage or any other Security Document prior to the sale of the Property.

## 22.2 Cross-collateral.

22.2.1 The Borrower and the Lender hereby intend that the Property shall serve as additional security for the repayment of each of the Affiliate Loans, and that all of the property serving as security for the repayment of each of the Affiliate Loans is additional security for the repayment of the Promissory Note secured by this Mortgage; and whether or not the Lender accelerates the Indebtedness secured by this Mortgage or any Affiliate Indebtedness, and whether or not any Affiliate Loan is otherwise in default, the Lender may exercise any and all rights and remedies provided in this Mortgage in any of the instruments evidencing or securing the Affiliate Loans.

22.2.2 Under no circumstances shall the Borrower be entitled to obtain a release of the real and personal property securing an Affiliate Loan as security for the repayment of the Promissory Note unless the entirety of the Indebtedness (including, but not limited to, the Affiliate Indebtedness) has been paid in full.

Section 23. Future Advances. This Mortgage is given to secure not only existing Indebtedness, but also such future advances, whether such advances are obligatory or are to be made at the option of the Lender, or otherwise, and whether such advances are made before, during or after the pendency of any proceedings to foreclose the lien of this Mortgage or otherwise enforce the rights of the Lender hereunder, as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of Indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid principal balance so secured at one time shall not exceed Thirteen Million Four Hundred Thousand and no/100 Dollars (\$13,400,000), plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the property encumbered by this Mortgage, with interest on such disbursements at the rate provided in the Note. The provisions of this

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paragraph shall not be construed to imply any obligation on the Lender to make any future advances, it being the intention of the parties that any future advances shall be solely at the discretion and option of the Lender. Any reference to the "Note" in this Mortgage shall be construed to include any future advances made pursuant to this Section 23.

Section 24. Security Agreement. Notwithstanding the agreement and declaration hereinabove expressed that certain articles of personal property form a part of the realty covered by this Mortgage and are appropriated to its use, to the extent that such agreement and declaration may be ineffective and that any of such articles of personal property may constitute goods, this Mortgage shall also constitute a "Security Agreement" within the meaning of the Illinois Uniform Commercial Code and pursuant thereto, and in order better to secure the repayment of the Indebtedness and the performance and observation of the obligations intended to be secured by this Mortgage, the Borrower does hereby create and grant to the Lender, a security interest in and to such part of the personal property not deemed or permitted by law to be fixtures, and the proceeds (cash and non-cash) thereof, including the proceeds of any and all insurance policies in connection therewith. The Lender shall have all of the rights with respect to such personal property afforded to it as a secured party by the provisions of the Illinois Uniform Commercial Code, in addition to, but not in limitation of, the other rights afforded the Lender by the provisions of this Mortgage.

Section 25. Commercial Loan. The Borrower hereby stipulates and warrants that the Loan evidenced hereby is a commercial loan and that such Loan is being made solely to acquire or carry on a business or commercial enterprise.

Section 26. Estoppel Certificates. The Borrower shall, within fifteen (15) days after the Borrower's receipt of written request to such effect from the Lender, certify to the Lender or to any party designated by the Lender, by a writing duly acknowledged, the amount of principal and interest then owing under the Note and whether any offset or defense exists against the Indebtedness evidenced thereby.

Section 27. Notices. All notices, demands or requests required or permitted by this Mortgage to be given by or to the Borrower or the Lender (a) shall be in writing, and (b) until otherwise specified in a written notice by the respective parties or any of them, shall be sent to the parties at their following respective addresses:

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27.1. If to the Borrower:

Lock Up/Kedzie Avenue Venture Limited  
Partnership  
550 Frontage Road  
Suite 3805  
Northfield, Illinois 60093  
Attention: Robert A. Soudan

with a copy to:

Bell, Boyd & Lloyd  
Three First National Plaza  
70 West Madison Street  
Suite 3300  
Chicago, Illinois 60602-4207  
Attention: Sanford R. Gail, Esq.

27.2. If to the Lender:

American International Life Assurance  
Company of New York  
One Chase Manhattan Plaza  
57th Floor  
New York, New York 10005  
Attention: Vice President

and

AIG Life Insurance Company  
One Chase Manhattan Plaza  
57th Floor  
New York, New York 10005  
Attention: Vice President

with a copy to:

AIG Real Estate Investment &  
Management Co., Inc.  
One Chase Manhattan Plaza  
57th Floor  
New York, New York 10005  
Attention: President

and to:

Arent Fox Kintner Plotkin & Kahn  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Attention: Michael A. Gordon, Esq.

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Each such notice, demand or request shall be deemed to have been properly served for all purposes if personally delivered or deposited into the United States Mail registered or certified mail, and return receipt requested, or by Federal Express or other similar overnight delivery service, postage prepaid, to its addressee at its address as set forth hereinabove in this Section. Each such notice, demand or request so mailed by the Borrower or the Lender shall be deemed to have been received by its addressee on the next business day after the day of mailing.

## Section 28. General.

28.1. Amendment. This Mortgage may be amended or supplemented only by a written agreement executed and, if necessary, acknowledged by the party against whom enforcement of such amendment or supplement is sought.

28.2. Applicable Law. The Property being located in the State, this Mortgage and the rights and Indebtedness secured hereby shall, without regard to the place of contract or the place of payment of any sum paid hereunder, be governed by and construed by application of the laws of the State.

28.3. Covenants to Run With Land. The grants, terms, covenants, provisions and conditions hereof shall run with the land and shall be binding upon the Borrower, its permitted successors and assigns, and any subsequent owner of the Property, and shall inure to the benefit of the Lender, its successors and assigns.

28.4. Time of Essence. Time shall be of the essence of this Mortgage.

28.5. Headings. The Section and subsection headings herein are for convenience only and shall not affect the construction hereof.

28.6. Exhibits. Each writing or plat referred to in this Mortgage as being attached hereto as an exhibit or otherwise designated in this Mortgage as an exhibit hereto is hereby made a part of this Mortgage.

28.7. Severability. Nothing in the provisions of this Mortgage and no transaction related hereto shall operate or be construed to require the Borrower to make any payment or do any thing contrary to any applicable Legal Requirement. No determination by any court or Governmental Authority that any provision in this Mortgage is invalid, illegal or unenforceable in any instance shall affect the validity, legality or enforceability of (a) any other provision thereof, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest

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extent allowed by, and shall be construed wherever possible as being consistent with, applicable Legal Requirements.

28.8. Joint and Several Liability. If there exists more than one Borrower, all liabilities under this Mortgage shall be joint and several with respect to the Borrowers.

Section 29. Limitation of Liability. Anything contained in any provision of this Mortgage to the contrary notwithstanding, if any foreclosure proceeding is brought under the provisions of this Mortgage or otherwise to enforce such provisions or those of the Note, the Lender shall not be entitled to take any action to procure any money judgment in personam or any deficiency decree against the Borrower or any general partner of the Borrower, it being understood and agreed by the Lender's acceptance of the delivery of this Mortgage that just recourse hereunder and under the Note shall be limited to the enforcement of the lien created by this Mortgage and to the other collateral held by the Lender; provided, that nothing in the provisions of this Section shall be deemed to alter or impair the enforceability of the rights and remedies of the Lender or under any of such provisions, against the Property covered by this Mortgage, against any other property which may from time to time be given to the Lender as security for the performance of the Borrower's obligations hereunder or under the provisions of the Note or any other Security Document.

Notwithstanding the foregoing, the provisions of this Section 29 shall be null and void and of no force and effect and the Borrower and any general partner of the Borrower shall be fully liable for, and subject to, judgments and deficiency decrees arising from or to the extent of any loss suffered by the Lender as a result of (a) the Borrower misapplying any Awards or Casualty Proceeds, (b) any act of fraud or breach of any representation or warranty of the Borrower or any general partner of the Borrower contained in this Mortgage or any of the Security Documents or any other agreement, certificate or instrument delivered pursuant to or in connection therewith, (c) the Borrower collecting Rents in advance in violation of any covenant under the Security Documents or failing to apply the Rents in the manner and for the purposes provided for herein and therein, (d) the Borrower misapplying any security deposits attributable to the Property, (e) except during any time that the Lender has taken possession of the Property, the gross revenues from the Property when and as collected are sufficient to pay any portion of the Indebtedness, operating and maintenance expenses, insurance premiums, deposits into a reserve for replacements, or other sums required by the Security Documents next due, and the Borrower fails to make such payments or deposits when due, (f) the Borrower failing to comply with the provisions of Section 1.3.12 and any other provision hereof relating to Hazardous Materials, or materials which pursuant to applicable laws require special handling in collection, storage, treatment or disposal,

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or (g) any diminution in value of the Property or other collateral or security for the Loan evidenced hereby, arising from the waste (either actual or permissive) of the Borrower. Further, nothing herein contained shall be deemed to limit, vary, modify or amend any obligation owed to the Lender under that certain Hazardous Materials Indemnity Agreement, of even date herewith, from the Borrower and its general partners in favor of the Lender, or any other indemnification agreement from the Borrower in favor of the Lender.

[SIGNATURE PAGES FOLLOW]

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IN WITNESS WHEREOF, the Borrower has executed and sealed this Mortgage, or have caused it to be executed and sealed on their behalf by their duly authorized representatives, the day and year first above written.

Lock Up/Kedzie Avenue Venture  
Limited Partnership,  
a limited partnership organized  
and existing under the laws of the  
State of Illinois

By: Lockup Development  
Corporation, an Illinois  
corporation  
General Partner

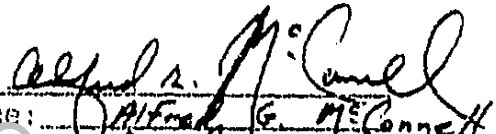
By



Name: CHARLES F. SMYCE  
Title: Vice President

By: Kedzie Avenue Multi-Tenant  
Warehouse Corp., an Illinois  
corporation  
General Partner

By



Name: ALFRED G. McConnet  
Title: President

[ACKNOWLEDGEMENTS CONTAINED ON FOLLOWING PAGE]

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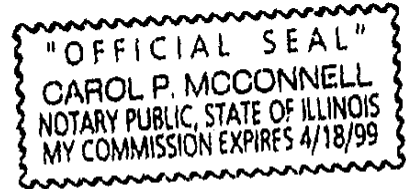
STATE OF ILLINOIS, COUNTY OF COOK, TO WIT:

I HEREBY CERTIFY, that on this 29th day of May, 1996, before me, the undersigned Notary Public of the State of Illinois, personally appeared Charles F. Sample, who acknowledged himself to be the Vice President of Lockup Development Corporation, a general partner of Lock Up/Kedzie Avenue Venture Limited Partnership, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized act of said corporation.

AS WITNESS MY hand and Notarial Seal.

Carol P. McConnell  
Notary Public

Commission Expires: 4/18/99



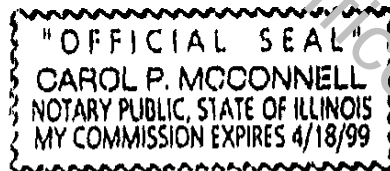
STATE OF ILLINOIS, COUNTY OF COOK, TO WIT:

I HEREBY CERTIFY, that on this 29th day of May, 1996, before me, the undersigned Notary Public of the State of Illinois, personally appeared Alfred G. McLaughlin, who acknowledged himself to be the President of Kedzie Avenue Multi-Tenant Warehouse Corp., a general partner of Lock Up/Kedzie Avenue Venture Limited Partnership, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized act of said corporation.

AS WITNESS MY hand and Notarial Seal.

Carol P. McConnell  
Notary Public

Commission Expires: 4/18/99



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EXHIBIT A

Kedzie

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## LEGAL DESCRIPTION

### PARCEL 1:

That part of the Southeast quarter (1/4) of the Southeast quarter (1/4) of Section 23, Township 40 North, Range 13 East of the Third Principal Meridian, bounded as described as follows:

Beginning at the Point of Intersection of the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23 with the West line of North Kedzie Avenue; thence South along the West line of North Kedzie Avenue 150 feet; thence West parallel with the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23, a distance of 400 feet; thence North parallel with said West line of North Kedzie Avenue, a distance of 150 feet to the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23; thence East along the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23, a distance of 400 feet to the Point of Beginning;

### PARCEL 2:

That part of the Southeast quarter (1/4) of the Southeast quarter (1/4) of Section 23, Township 40 North, Range 13 East of the Third Principal Meridian, bounded and described as follows:

Commencing at a Point of Intersection of the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23, with the West line of North Kedzie Avenue, said Point of Commencement being also the Northeast corner of the land conveyed by the Chicago and North Western Railway Company to Prekill Lumber Company, by Quit Claim Deed dated February 13, 1946; thence West along the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23 a distance of 400 feet to the Northwest corner of the land so conveyed by said Deed on February 13, 1946, being also the Point of Beginning of the land herein to be conveyed; thence South parallel with the West line of North Kedzie Avenue and along the West line of the land so conveyed, by said Deed of February 13, 1946, a distance of 150 feet to the Southwest corner thereof; thence West parallel with the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23, a distance of 142.86 feet; thence North parallel with the West line of North Kedzie Avenue, a distance of 150 feet to the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23; thence East along the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23; a distance of 142.86 feet to the Point of Beginning;

### PARCEL 3:

That part of the Southeast quarter (1/4) of the Southeast quarter (1/4) of Section 23, Township 40 North, Range 13 East of the Third Principal Meridian, bounded and described as follows:

Beginning at a Point on the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section, 542.86 feet West of, as measured along the North line of said quarter quarter Section from the West line of North Kedzie Avenue; thence South along a line parallel with the West line of said Avenue, a distance of 150 feet, more or less, to a point 9.5 feet Northerly of, as measured radially from the center line of the Chicago and North Western Railway Company Spur Track I. C. C. Number 338, as now located and established; thence Westerly along a line parallel with the center line of said Spur Track, I. C. C. Number 338 to a point 9.5 feet Northerly of, as measured radially from the center line of Spur Track I. C. C. 270 of said Railway Company, as now located and established; thence continuing Westerly along a line parallel with the center line of said Spur Track I. C. C. Number 270 to a point 827.86 feet West of, as measured along a line parallel with the North line of said quarter quarter Section from the West line of said Avenue; thence Northwesterly along a line drawn at right angles to the center line of Spur Tract

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I. C. C. Number 324 of said railway company, as now located and established to the North line of said quarter quarter Section; thence East along the North line of said quarter quarter Section to the Point of Beginning, except all that part of the above described property lying Northwesterly of a line drawn parallel with and distant 17 feet Southeastly of, as measured at right angles from the center line of the most Southeastly tract of two tracts of the Commonwealth Edison Company, as now located and established, said most Southeastly tract of 2 tracts being the prolongation of said Spur Tract, I. C. C. Number 324 of said railway company.

## PARCEL 4:

That part of the Southeast quarter (1/4) of the Southeast quarter (1/4) of Section 23, Township 40 North, Range 13 East of the Third Principal Meridian, bounded and described as follows:

Beginning at a point 9.5 feet South of, as measured at right angles from the center line of Spur Track I. C. C. Number 338 of the Chicago and North Western Railway Company, as now located and established and 400 feet West of, as measured along a line parallel with the North line of said quarter quarter Section from the West line of North Kedzie Avenue; thence South along a line parallel with the West line of said Avenue, a distance of 175 feet, more or less, to a point 9.5 feet Northeastly of, as measured at right angles from the center line of Spur Track, I. C. C. Number 339 of said railway company, as now located and established; thence Northwestly along a line parallel with the center line of said Spur Track I. C. C. Number 339 to a point 9.5 feet Northeastly of, as measured radially from the center line of Spur Track I. C. C. Number 270 of said railway company, as now located and established; thence continuing Northwestly along a line parallel with the center line of said Spur Track I. C. C. Number 270 to a point 9.5 feet Southerly of, as measured radially from the center line of Spur Track I. C. C. Number 330 of said railway company, as now located and established; thence Easterly along a line parallel with the center line of said Spur Track I. C. C. Number 338, a distance of 288 feet, more or less, to Point of Beginning, all in Cook County, Illinois

## PARCEL 5:

That part of the Southeast quarter (1/4) of the Southeast quarter (1/4) of Section 23, Township 40 North, Range 13 East of the Third Principal Meridian, bounded and described as follows:

Beginning at Point 9.5 feet Northeastly of, as measured at right angles from the centerline of Spur Track I. C. C. Number 339 of the Chicago and Northwestern Railway Company, as now located and established and 400 feet West of, as measured along a line parallel with the North line of said quarter quarter Section from the West line of North Kedzie Avenue; thence Northwestly along a line parallel with the center line of said Spur Tract I. C. C. Number 270 of said Railway Company, as now located and established; thence continuing Northwestly along a line parallel with the center line of said Spur Track I. C. C. Number 270 to a point 9.5 feet Southerly of, as measured radially from the center line of Spur Tract I. C. C. Number 338 of said Railway Company, as now located and established; thence Easterly along a line parallel with the center line of said Spur Tract I. C. C. Number 338, a distance of 288 feet, more or less, to a point on a line 400 feet West of, as measured along a line parallel with the aforesaid North line of said quarter quarter Section, from the West line of North Kedzie Avenue; thence North along a line parallel with said West line of North Kedzie Avenue having an assumed bearing of North 0° East, a distance of 20 feet more or less to a point distance 150 feet Southerly, as measured along a line parallel with and 400 feet Westerly of the West line of North Kedzie Avenue, from the North line of said Southeast quarter (1/4) of the Southeast quarter (1/4) of Section 23; thence West parallel with the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said

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Section 23, a distance of 142.86 feet; thence Northerly parallel with said West line of North Kedzie Avenue, a distance of 0.70 of a foot to a point 9.5 feet Northerly, as measured radially, from the center line of said Spur Track I. C. C. Number 338, as now located and established; thence Westerly along a line parallel with the center line of said Spur Track I. C. C. Number 338 to a point 9.5 feet Northerly of, as measured radially from the center line of Spur Track I. C. C. 270 of said Railway Company, as now located and established; thence continuing Westerly along a line parallel with the center line of said Spur Track I. C. C. Number 270 to a point 827.86 feet West of, as measured along a line parallel with the North line of said quarter quarter Section from the West line of said Avenue; thence South 13° 15' 05" East along a line drawn at right angles to the center line of Spur Track I. C. C. Number 324 of said Railway Company, as now located and established, a distance of 22.68 feet to a point on the Northerly line of the property as conveyed by Deeds from the Grantor, Chicago and Northwestern Transportation Company, a Delaware Corporation to the Grantee, Prairie Material Sales Incorporated, recorded November 17, 1977 as Document Numbers 24199385 and 24199384; thence Southeasterly along the arc of a curve convex to the Northeast, having a radius 775.36 feet and a chord bearing South 65° 09' 24" East, a distance of 248.76 feet; thence South 55° 57' 56" East, a distance of 56.00 feet; thence Southeasterly along the arc of a circle convex to the Southwest, tangent to the last described course, and having a radius of 513.353 feet, a distance of 30.08 feet; thence Southeasterly along the arc of a circle convex to the Northeast, having a radius of 908.52 feet and a bearing South 56° 02' 16" East, a distance of 140.02 feet; thence South 62° 46' 47" East a distance of 11.07 feet to a point distant 400 feet Westerly, measured at right angles, from the West line of said North Kedzie Avenue; thence Northerly parallel with said West line of North Kedzie Avenue a distance of 22 feet, more or less, to the Point of Beginning in Cook County, Illinois.

PARCEL 6:

That part of the Southeast quarter (1/4) of the Southeast quarter (1/4) of Section 23, Township 40 North, Range 13, East of the Third Principal Meridian, bounded and described as follows:

Commencing at a point on the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section, 542.86 feet West of, as measured along the North line of said quarter quarter Section from the West line of North Kedzie Avenue; thence South along a line parallel with the West line of said Avenue, a distance of 150 feet, more or less, to a point 9.5 feet Northerly of, as measured radially from the center line of the Chicago and Northwestern Railway Company Spur Track I. C. C. Number 338, as now located and established; thence Westerly along a line parallel with the center line of said Spur Track I. C. C. Number 338 to a point 9.5 feet Northerly of, as measured radially from the center line of Spur Track I. C. C. 270 of said Railway Company, as now located and established; thence continuing Westerly along a line parallel with the center line of said Spur Track I. C. C. Number 270 to a point 827.86 feet West of, as measured along a line parallel with the North line of said quarter quarter Section from the West line of said Avenue; thence Northwesterly along a line drawn at right angles to the center line of Spur Track I. C. C. Number 324 of said Railway Company, as located and established per Plat of Survey by Chicago and Survey Company dated November 9, 1987, now removed to a point 17 feet Southeasterly of and at right angles to said center line of Spur Track I. C. C. Number 324, hereinafter referred to as the Point of Beginning of the following described parcel of land; thence continuing North 13° 15' 05" West along the last described course to a point in a line 10 feet Southeasterly of, as measured parallel with and at right angles to said center line of Spur Track I. C. C. Number 324; thence North 76° 44' 55" East on said parallel line, a distance of 269.03 feet to the North line of the Southeast quarter (1/4) of the Southeast quarter (1/4) of said Section 23; thence South 89° 51' 00" East along said North line, a distance of 30.20 feet to a point 542.86 feet West of, as measured along the North line of said quarter quarter Section from the West line of North Kedzie Avenue; thence South 76° 44' 55" West, parallel with and 17 feet Southeasterly of as measured at right angles to aforesaid center line of Spur Track I. C. C. Number 324, a distance of 298.41 feet to the Point of Beginning in Cook County, Illinois.

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