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Melrose Park, IL
PIN: 15-04-203-002,
& 15-04-203-005

96509724

Prepared By and
To Be Mailed To:

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1014 TIC #-96-509724
COOK COUNTY RECORDER

EN 9600233 Cook Co, Ill.

MORTGAGE

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THIS MORTGAGE ("Mortgage"), dated as of June 24, 1996, is made to and in favor of LAKESIDE BANK, an Illinois banking corporation (the "Lender"), 55 West Wacker Drive, Chicago, Illinois 60601, by and from the following parties (singly and collectively, the "Borrower"), as tenants in common: SOFFEL MELROSE, L.L.C., an Illinois limited liability company (the "Company"), and JOHN E. SHAFFER ("Shaffer").

The Lender is the owner and holder of a promissory note (the "Note") of even date herewith, at interest and payable as stated therein, evidencing the indebtedness of the Borrower and others to the Lender under a commercial loan in the principal amount of \$950,000 (the "Loan"), and with a scheduled maturity of July 1, 2001 (the "Maturity Date").

For Value Received, and to secure the due and timely payment and performance of the indebtedness and obligations owed to the Lender with respect to the Loan and under the Note and any modifications, extensions, renewals or replacements thereof, and under the "Loan Documents", as that term is used and defined in the Note:

THE BORROWER HEREBY CONVEYS AND MORTGAGES AND WARRANTS to the Lender the parcel(s) of real estate described in attached Exhibit A (the "real estate") and all of the Borrower's existing and hereafter acquired right, title and interest therein including any after-acquired title or reversions or remainders, and the following properties and interests with respect to the real estate: (a) all buildings and other improvements (the "improvements"), and all materials for the construction or repair thereof, now or hereafter erected, placed or located thereon; (b) all fixtures of any kind now or hereafter located thereon; (c) all easements, rights-of-way and rights used in connection therewith or with a means of access thereto, and appurtenances thereto,

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including without limitation any abutting road, street, highway or alley opened or hereafter vacated; (d) all existing and future leases, rents, issues, proceeds and profits thereof, with full and complete authority and right in the Lender in case of a default hereunder to demand, collect, receive and receipt for same; and (e) all furniture, furnishings, equipment and all other tangible personal property of any kind or character now or hereafter located thereon and owned by the Borrower (including without limitation security devices, lighting fixtures, heating and cooling equipment, sprinkler systems, machinery and appliances), and used or useful in connection therewith or the leasing thereof or the operation of any business conducted thereon, and all additions, accessions, substitutions, replacements and proceeds of or to any of the items designated in this clause (e), all of which are collectively referred to hereinafter as the "**Personalty**", and, notwithstanding such reference, each of which shall be deemed to be and remain and form a part of the parcel to which it relates and to be covered by the lien hereof, and as to any of such items which do not form a part and parcel of the real estate, or do not constitute a "fixture" as such term is defined by the Illinois Uniform Commercial Code ("UCC"), the Borrower hereby grants the Lender a security interest therein and this Mortgage is hereby deemed to also be a UCC "security agreement", with the Lender as the "secured party" hereunder. As used hereinafter and unless context requires otherwise, the term "**Mortgaged Premises**" shall mean and include the real estate and the aforesaid properties and interests

Incorporation of Documents. The Note and the Loan Documents are hereby incorporated herein by reference.

THE BORROWER HEREBY REPRESENTS AND WARRANTS TO AND COVENANTS AND AGREES WITH THE LENDER AS FOLLOWS:

1. **Payment and Performance.** All indebtedness and obligations owed to the Lender hereunder and under the Note and the Loan Documents shall be duly and timely paid and performed.

2. **Title to the Mortgaged Premises.** The Borrower owns and holds a fee simple title to the Mortgaged Premises free and clear of all liens, encumbrances and other adverse title or survey matters other than the "**Permitted Exceptions**" described in Paragraph 21 below, and has legal power and the authority to mortgage and convey the Mortgaged Premises and to execute and deliver this Mortgage.

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3. Priority, Maintenance and Further Assurances of Lender's Lien; After-acquired Property.

A. This Mortgage is now and will at all times hereafter be maintained as a first and paramount lien on the Mortgaged Premises. The Borrower will not directly or indirectly create, or permit or suffer to stand against the Mortgaged Premises or any part thereof (including without limitation rents, issues and profits), any lien, security interest, encumbrance or charge (including without limitation any tax or mechanic's lien) which is or could become superior to or on a parity with the lien of this Mortgage; if and when any of the foregoing is filed or claimed against the Mortgaged Premises, the Borrower shall promptly cause the same to be discharged or released of record, or "insured over" by a title insurer reasonably acceptable to the Lender, or, at Borrower's option and if appropriate, contested by means of a "Permitted Contest" described in Paragraph 4 below.

B. If any action or proceeding (including without limitation actions for condemnation or building [or other] code violations) is threatened or instituted to recover possession of the Mortgaged Premises or to accomplish any other purpose which could adversely affect this Mortgage, or the Mortgaged Premises or the Borrower's title thereto, the Borrower will immediately upon its receipt thereof deliver to the Lender true copies of all notices, process, pleadings or other papers regarding such action or proceeding.

C. In no event shall the Borrower do, or permit to be done or omit to do or permit the omission of, any act or thing the doing of which, or omission to do which, would impair the security of this Mortgage. The Borrower shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction or agreement materially changing the uses which may be made of the Mortgaged Premises or any part thereof without the Lender's prior written consent.

D. All property of every kind acquired by the Borrower after the date hereof and which by the terms hereof is required or intended to be subjected to the lien hereof shall, automatically upon such acquisition and without the requirement of any further documentation or action, become subject to the lien and security of this Mortgage. Nevertheless, and in any event, the Borrower at its own expense will do such further acts and execute, acknowledge and deliver such further conveyances, mortgages, security agreements, financing statements and assurances (including without limitation "estoppel certificates") as the Lender shall reasonably require from time to time

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to accomplish the purpose, or to effect an assignment or transfer, of this Mortgage.

4. **Permitted Contests.** The Borrower may, at its own expense and upon advance written notice to the Lender, by means of an appropriate legal or administrative proceeding that is commenced and diligently prosecuted in good faith (a "Permitted Contest"), contest the amount, validity or application of any of the "Impositions" described in Paragraph 5 below, or any lien or other instrument of record adversely affecting the Mortgaged Premises, **provided that** (a) neither the Mortgaged Premises or interest therein would be in any danger of being sold, forfeited or lost during the pendency of such Contest, (b) neither the Borrower nor the Lender would be in any danger of any civil or criminal liability for failure to comply therewith, and (c) the Borrower shall have set aside on its books adequate reserves with respect thereto and shall have furnished such security as may be required in the proceedings or as may be reasonably required by the Lender.

5. **Tax and Insurance Payments and Reserves.** The Borrower shall timely pay all general and special taxes, assessments and any other charges (collectively, the "Impositions") levied, assessed, placed or made on or against the Mortgaged Premises (subject to its rights to assert a Permitted Contest), and all "insurance premiums" described in Paragraph 9 below, and shall immediately thereafter deliver to the Lender satisfactory evidence that the same have been paid.

A. Unless the Lender agrees otherwise in writing, the Borrower shall pay the Lender monthly such sums (the "Deposits") as the Lender shall from time to time require for the purpose of accumulating at least thirty (30) days in advance of each of the respective due dates thereof amounts sufficient for the full payment of the insurance premiums and the Impositions as they fall due. The Deposits are hereby pledged for the further security of this Mortgage, shall earn no interest and may, at the Lender's option, be applied toward the reduction of any past due indebtedness secured hereby, and no third party shall have any rights therein or as to the application thereof.

B. The Lender shall have no duty or responsibility to apply the Deposits toward, or to inquire as to the validity or accuracy of, any Impositions or insurance premiums; however, if the Borrower is not then in default under this Mortgage, and upon its request and presentation of the proper bills or invoices therefor, the Lender shall cause the same to be paid from and to the extent of the Deposits then on hand.

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6. **Maintenance and Operation of the Mortgaged Premises.**

A. The Borrower shall keep the Mortgaged Premises in good condition, repair and working order and make all repairs, renewals and replacements as and when necessary. The Borrower shall not cause, permit or suffer any impairment or diminishment of the value of or the commission of waste to the Mortgaged Premises, or, without the Lender's prior written consent, change the structural character of or remove or add to any improvements now or hereafter permitted on the Mortgaged Premises. The Borrower in its reasonable discretion and without the Lender's consent may from time to time make nonstructural changes in or to the Mortgaged Premises, provided the changes are suitable thereto and do not impair or diminish the value thereof, and may remove and dispose of any items of the aforesaid Personalty (with the right to retain any proceeds resulting therefrom) which become obsolete, wornout, or no longer useful in the operation of the Mortgaged Premises or any business conducted thereon, provided the Borrower promptly replaces such items and that title to such replacements is held by the Borrower free and clear of all liens and encumbrances.

B. The Mortgaged Premises and the uses and operations thereof are now and shall at all times hereafter be in full compliance with all applicable laws, rules, codes and regulations of all local, state and federal authorities having jurisdiction with respect thereto, and including without limitation the "Environmental Laws" described in Paragraph 27 below, and the provisions of and regulations related to the "Americans with Disabilities" Act and the "Environmental Barriers" Act.

7. **Lender's Inspection.** The Lender or its agents and representatives may from time to time and upon reasonable advance notice to the Borrower, conduct such inspections of the Mortgaged Premises as the Lender at any time deems appropriate.

8. **Books and Records, etc.** The Borrower shall cause to be kept and maintained at all times books of record and account, and the data in support thereof, pertaining to the Mortgaged Premises and the use and operation thereof (collectively, the "**Books**"), containing full, true and correct entries, and which shall at all reasonable times be open to the inspection of the Lender or its designee.

The Borrower shall cause the following to be prepared and delivered to the Lender, all in reasonable detail and certified by the Borrower's accounting officer as being complete and correct: (a) operating statements for the Mortgaged Premises and personal financial statements for each of the makers of the Note, and (b) leasing status reports and rent rolls for the Mortgaged Premises, no

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later than: (i) thirty (30) days, as to (a), or ninety (90) days, as to (b), after the end of each calendar year; and (ii) ten (10) days after the Lender's written demand therefor following any default under this Mortgage.

9. Insurance.

A. The Borrower shall maintain, and timely pay all premiums therefor ("**insurance premiums**"), the following insurance coverages with respect to the Mortgaged Premises and under, in and with such amounts, form, terms, and companies as are reasonably required or approved by the Lender from time to time:

(1) Casualty insurance against loss of or damage to the improvements by fire and such other risks as are customarily insured against in the area in which the Mortgaged Premises are located, and including without limitation risks insured against under extended coverage policies with "all risks" and "difference in conditions" endorsements, in each case in amounts at all times sufficient to prevent the Lender from becoming a coinsurer under the terms of the applicable policies but, in any event, in amounts not less than the greater of (a) the principal balance remaining outstanding from time to time of the indebtedness secured hereby, or (b) 100% of the full insurable value of the Mortgaged Premises as determined from time to time; as used herein, the term "full insurable value" means actual replacement cost (exclusive of costs of excavation, foundation and footings) without deduction for physical depreciation;

(2) Commercial general public liability insurance against any and all claims (and the costs and expenses of defending the same) for personal injury, death and property damage occurring upon or in or about the Mortgaged Premises or resulting from any activity thereat; in any event, the single limit of such insurance shall be in an amount not less than \$2,000,000;

(3) Flood insurance, as and when available and if the area of the Mortgaged Premises has been designated as a special flood hazard area by the Federal Insurance Administration or successor agency;

(4) Such other insurance as the Lender may reasonably require from time to time and, in any event, if and when any construction work for any part of the Mortgaged Premises commences, coverages for Builder's Risk, Worker's Compensation and Contractual Liability.

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B. Any insurance obtained by the Borrower on the Mortgaged Premises in addition to the foregoing shall be for the benefit of the Lender and the Borrower as their interests may appear, and shall be subject to the provisions of this Mortgage.

C. All policies of such insurance shall include a provision requiring that the coverages evidenced thereby shall not become terminated (whether because of cancellation, expiration of stated term, failure to renew, or otherwise) or materially modified without thirty (30) days prior written notice to the Lender. None of such insurance may be provided for under any "blanket policy" earned by the Borrower, unless the Lender is furnished with satisfactory proof that such policy complies in all respects with the provisions of this Paragraph, and that the coverage provided thereunder shall not be reduced or diminished by the use thereof and is at least equal to the coverage which would be provided under a separate policy covering only the Mortgaged Premises.

D. The Borrower shall deliver to the Lender the originals (or certified copies with a "material change" endorsement) of all insurance policies, or certificates of coverage under blanket policies, including renewal or replacement policies and, in the case of insurance about to expire, shall deliver renewal or replacement policies or certificates in case of blanket policies, not less than thirty (30) days prior to their respective dates of expiration.

E. In all policies of the character described in clauses (1) and (3) of subparagraph A above, the Lender shall be named as the mortgagee in a standard mortgage clause, and as an additional payee where appropriate, and such insurance shall be for the benefit of the Borrower and the Lender as their interests may appear. Any loss or damage ("loss") to the Mortgaged Premises not exceeding \$100,000 may be adjusted by the Borrower alone; any loss which exceeds that amount shall be adjusted by both the Borrower and the Lender; in any event, the insurance proceeds for all losses shall be paid to the Lender alone, and not to the Borrower and the Lender jointly. All such proceeds shall be applied in accordance with Paragraph 10 below, and any amounts not so applied shall be paid to the Borrower. In all insurance policies of the character described in clause (2) of subparagraph A above, the Lender shall be named as an additional insured thereunder.

10. Damage or Destruction.

A. In the event of any damage to or the destruction of the Mortgaged Premises or any part thereof from any cause whatsoever other than a "Taking" as defined and provided for in Paragraph 11 below, the Borrower shall immediately give written notice thereof to the Lender and, subject to the provisions of subparagraph 10D below, shall promptly commence and diligently

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complete the restoration, repair, replacement or rebuilding of the Mortgaged Premises (collectively, "**Restoration**") to substantially the same value, condition and character as existed immediately prior to such damage or destruction, or with such changes, alterations and additions as may be agreed to by the Lender.

B. Subject to the provisions of subparagraph 10E below, all net insurance proceeds received by the Lender pursuant to Paragraph 9 above shall be made available for the Restoration. If at any time such proceeds shall be insufficient to pay the entire cost of the Restoration, the Borrower shall pay from its own funds all sums due the contractor making such Restoration until the amount of said deficiency has been satisfied; thereafter, the Lender shall make subsequent payments from the insurance proceeds to the Borrower or its contractor, whichever is appropriate. All payments hereunder shall be made only upon the certification of a supervising architect appointed by the Borrower and satisfactory to the Lender that payments, to the extent approved by such architect, are owed to such contractor for the Restoration, that the Mortgaged Premises are free of all liens of record for work, labor or materials, and that the work conforms to the legal requirements therefor.

C. After completion of the Restoration, any excess insurance proceeds shall be paid over to the Borrower.

D. The Borrower shall have the option in case of damage or destruction to all, or substantially all, of the Mortgaged Premises, to prepay the remaining balance of the Note together with accrued interest thereon with the same prepayment premium, if any, as provided in the Note; in that event, any insurance proceeds received and held by the Lender pursuant to Paragraph 9 above, shall be applied by the Lender to the portion of the remaining balance due hereunder. To exercise this option the Borrower shall give written notice to the Lender of its intent to do so within ninety (90) days of any such damage or destruction.

E. If any "**Event of Default**" (as hereinafter defined) then exists, any insurance proceeds received by the Lender or to which it is entitled may be retained by the Lender and, at its option, applied in payment of any indebtedness secured hereby. Any amount remaining, following such application, shall be paid over to the Borrower.

F. In any event and notwithstanding any such damage or destruction, the Borrower shall continue to timely pay all installments falling due under the Note.

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11. Condemnation.

A. As used herein, "Taking" shall mean a taking of all or part of the Mortgaged Premises under the power of condemnation or eminent domain. The Lender may but shall not be required to appear and participate in any proceeding or action for any Taking. The Borrower shall not adjust or compromise any claim for award or other proceeds of a Taking without first giving at least thirty (30) days' advance written notice to the Lender of the proposed basis thereof and without first receiving the Lender's written consent thereto which shall not be unreasonably withheld. Any such award or other proceeds, after allowance for expenses incurred in connection therewith, are hereinafter referred to as the "Condemnation Proceeds".

B. In the event of a Taking of all (or substantially all, hereinafter, "all") of the Mortgaged Premises, or a Taking of less than all of the Mortgaged Premises and if the same are not susceptible to restoration, the Condemnation Proceeds shall be paid to the Lender and applied, at its option, to payment of the mortgage indebtedness, in which event no prepayment premium (if any) shall become due.

C. Subject to subparagraph 11D below, in the event of a Taking of less than all of the Mortgaged Premises which leaves the same susceptible and suitable to restoration, the Condemnation Proceeds shall be applied as follows: if \$100,000 or less, the Condemnation Proceeds shall be paid to and applied by the Borrower to the repair or restoration, to the extent practicable, for any resulting damage to the Mortgaged Premises; if more than the aforesaid amount, the Condemnation Proceeds shall be paid to the Lender in escrow and be applied to reimburse the Borrower for such repair or restoration in conformity with and subject to the conditions specified in Paragraph 10 above regarding damage or destruction. In either event and whether or not the Condemnation Proceeds applicable thereto shall be sufficient for the purpose, the Borrower shall promptly repair or restore the Mortgaged Premises as nearly as practicable to substantially the same value, condition and character as existed immediately prior to the Taking, with such changes and alterations as may be made at the Borrower's election in conformity with and subject to Paragraph 6 above and as may be required by such Taking.

D. If any Event of Default then exists, any Condemnation Proceeds in the hands of the Lender or to which it is entitled may be retained by the Lender and, at its option, applied in payment of any indebtedness secured hereby. Any amount remaining, following such application, shall be paid over to the Borrower.

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12. **Prohibited Transfer or Financing.** The Borrower shall not, without the prior written consent of the Lender and whether voluntarily or by operation of law (except when resulting from the death of any interested party), cause, attempt or agree to cause, suffer or permit any of the following (hereinafter, a "**Prohibited Transfer**") to occur with respect to all or any portion of (a) the Mortgaged Premises (including, without limitation, the aforesaid rents, issues, proceeds and profits) or the legal or equitable title thereto, (b) the beneficial interest in any trust, the trustee of which is (or with the Lender's prior consent becomes and for so long as it remains) the owner of legal title to the aforesaid real estate, and (c) the interest of each (i) general partner or joint venturer of any partnership or joint venture which, (ii) owner of more than 25% of the outstanding stock of any corporation which, or (iii) holder of a voting equity or voting profit-sharing interest in any other entity which, is (or with the Lender's prior consent becomes and for so long as it remains) the owner of said legal title or beneficial interest:

a sale, installment sale, conveyance, assignment, collateral assignment, mortgage, pledge, hypothecation or other encumbrance or transfer, and including any leasing or similar transaction under terms that are equivalent to a real estate sale subject to this mortgage.

13. **Events of Default.** Any of the following acts, events or conditions shall constitute an "Event of Default" hereunder:

A. A default in the full and timely payment of any amount (1) falling due under the Note which remains uncured for the applicable "cure" period, if any provided for therein, or (2) falling due hereunder or that is required by the terms hereof to be paid (including without limitation any Imposition) which remains uncured for a period of thirty (30) days after the Lender gives the Borrower written notice thereof, except that there shall be no cure period for any such default that in the Lender's reasonable judgment constitutes an immediate threat to the Mortgaged Premises or the lien hereof, and the Lender shall be entitled to cure or take such other action regarding the same as it deems reasonable,

B. A Prohibited Transfer described in Paragraph 12 above;

C. Any other occurrence that is expressly defined or designated in the Note or in any other Paragraph hereof as an "Event of Default";

D. Any other occurrence that constitutes a default in the due and timely performance or observance of any other obligation, covenant or agreement contained in this Mortgage and which

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remains uncured or continues for a period of thirty (30) days after the Lender gives the Borrower written notice thereof.

14. **Lender's Remedies upon an Event of Default; Borrower's Waivers.**

A. Upon the occurrence of any Event of Default, the Lender may at its election and without any notice to or demand upon the Borrower exercise any one or more of the following remedies:

(1) Accelerate the maturity of the indebtedness secured hereby, in which event the unpaid principal and accrued interest under the Note and all other sums due thereunder or hereunder or secured hereby, including amounts payable under the Loan Documents, shall become immediately (and, whether or not such Event of Default is subsequently remedied by the Borrower, shall thereafter remain) due and payable in full and, until paid, shall bear interest at a per annum rate equal to the Default Rate. Whether or not the Lender exercises the foregoing right of (or thereafter rescinds any such) acceleration, all costs, expenses and reasonable attorney's fees incurred by or on behalf of the Lender with respect to any Event of Default shall be due and payable by the Borrower upon demand and with interest thereafter at the Default Rate, and shall constitute additional indebtedness secured hereby,

(2) Enter upon and take possession of the Mortgaged Premises or any part thereof, and exclude the Borrower and all other persons and any and all property therefrom, and may hold, operate, manage, and lease the same and receive all earnings, income, rents, issues, and proceeds accruing with respect thereto. The Lender shall be under no liability for or by reason of such entry, taking of possession, removal, holding, operation or management, except that any amounts so received shall be applied as hereinafter provided in this Paragraph. While in possession of the Mortgaged Premises, the Lender shall have the following powers: (a) to collect the rents and manage, lease, alter and repair the Mortgaged Premises, obtain insurance and in general have all powers and rights customarily incident to absolute ownership, and (b) to pay out of the rents so collected, and in such order as the Lender may determine, the management and repair charges, taxes, insurance, commissions, fees and all other expenses and, after creating reasonable reserves, apply any balance on account of the indebtedness secured hereby; and

The Lender may remain in such possession of the Mortgaged Premises after the

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commencement of any foreclosure proceedings. The Lender shall incur no liability for, nor shall the Borrower assert any claim, setoff or recoupment as a result of, any action taken while the Lender is in such possession, except only for the Lender's own gross negligence or willful misconduct. If no foreclosure proceedings are commenced, the Lender may remain in such possession as long as an Event of Default is not remedied in full;

(3) Commence foreclosure proceedings as to the lien of the Mortgage, in accordance with applicable law;

(4) Apply for the appointment of the Lender or another as the receiver for the Mortgaged Premises, whether or not foreclosure proceedings have been commenced, or, if commenced, apply for the appointment of the Lender as "mortgagee in possession". The Borrower hereby consents (and covenants not to object) to any such appointment, and acknowledges that the same may be made without regard to the then value of the Mortgaged Premises or the then solvency or insolvency of the Borrower; and

(5) Exercise any and all other rights, powers and remedies now or hereafter existing under the Loan Documents or at law or in equity.

B. The proceeds of any foreclosure sale, or UCC or other sale, of the Mortgaged Premises or part thereof or any interest therein, and all amounts received by the Lender by reason of any holding, operation or management of the Mortgaged Premises or any part thereof, together with any other monies at the time held by the Lender, shall be applied in the following order of priority:

(1) To all costs and expenses of the sale of the Mortgaged Premises or any part thereof or any interest therein, or entering upon, taking possession of, removal from, holding, operating and managing the Mortgaged Premises or any part thereof, as the case may be, together with (a) the costs and expenses of any receiver of the Mortgaged Premises or any part thereof appointed pursuant hereto and (b) any taxes, assessments or other charges, prior to the lien of this Mortgage, which the Lender may consider necessary or desirable to pay; then

(2) To any indebtedness secured hereby and at the time due and payable, other than the indebtedness with respect to the Note at the time outstanding; then

(3) To all amounts of principal, premium (if any) and interest at the time due and payable on the Note at the time outstanding (whether at maturity or on a date fixed for any

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installment payment or any prepayment or by declaration or acceleration or otherwise), including interest at the Default Rate on any overdue principal and premium and (to the extent permitted under applicable law) on any overdue interest; and, in case such monies shall be insufficient to pay in full the amount so due and unpaid upon the Note, then, first to the payment of all amounts of interest at the time due and payable on the Note, and second, to the payment of all amounts of principal and premium (if any) at the time due and payable on the Note; and then

(4) The balance, if any, to the person or entity then entitled thereto pursuant to applicable state law.

C. **THE BORROWER HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION UNDER ANY JUDGMENT OF FORECLOSURE OF THIS MORTGAGE, AND ANY REDEMPTION RIGHTS GRANTED BY THE "ILLINOIS MORTGAGE FORECLOSURE LAW" ("IMFL"), ON BEHALF OF THE BORROWER, AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PREMISES SUBSEQUENT TO THE DATE OF THIS MORTGAGE.**

Further, the Borrower hereby: waives the benefit of all appraisement, valuation, stay or extension laws, and any reinstatement rights (e.g., as under Section 15-1602 of the IMFL), now or hereafter in force, and all rights of marshaling in the event of any sale hereunder of the Mortgaged Premises or any part thereof or any interest therein; and releases and waives all rights and benefits under and by virtue of the homestead exemption laws of the State of Illinois.

15. **Rights are Cumulative.** Each right, power and remedy of the Lender now or hereafter existing under the Loan Documents or at law or in equity shall be cumulative and concurrent and in addition to every right, power and remedy provided for in this Mortgage, and the exercise of a right, power or remedy shall not preclude the simultaneous or later exercise of any other right, power or remedy; unless otherwise expressly provided herein, notice by the Lender of any such exercise is not required to be given.

16. **No Waiver by Lender.** No delay or failure by the Lender to insist upon the strict performance of any provision hereof or of the Note or to exercise any right, power or remedy provided for herein or therein as a consequence of any default hereunder or thereunder, and no acceptance of any payment of the principal, interest or prepayment premium, if any, on the Note

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during the continuance of any such default, shall constitute a waiver of any such provision, such default or such right, power or remedy or shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver of any default hereunder shall affect or alter this Mortgage, which shall continue in full force and effect with respect to any other then existing or subsequent default.

17. **Expense of Litigation and Preparation therefor.** If any litigation or proceedings (including without limitation collection, foreclosure, probate or bankruptcy proceedings) with respect to the Lender's rights, security interests or liens (collectively, "Rights") in, to or under this Mortgage, the Note, the Loan Documents or the Mortgaged Premises, are threatened or commenced and under which the Lender is or would be a proper party or participant, all costs, expenses and reasonable attorneys' fees incurred by or on behalf of the Lender in the prosecution, defense or protection of its Rights, or in preparation therefor, shall be due and payable by the Borrower upon demand and with interest thereafter at the Default Rate, and constitute additional indebtedness secured hereby.

18. **Compromise of Actions** Any action, proceeding or claim made or brought by the Lender pursuant to or under this Mortgage, or otherwise, may be compromised, withdrawn or otherwise dealt with by the Lender without any notice to or approval of the Borrower, except as otherwise expressly provided herein.

19. **Lender's Performance of Borrower's Obligations.** In the event of the Borrower's failure to do so, the Lender may but is not expected or required to pay or perform any act or payment required hereunder and may do so in any form or manner it deems expedient, including without limitation payment of real estate taxes, insurance premiums or prior encumbrances. All payments made and expenses incurred in connection herewith, and any other sums advanced by the Lender to protect the Mortgaged Premises and the lien hereof, shall be due and payable by the Borrower upon demand and with interest thereafter at the Default Rate, and shall constitute additional indebtedness secured hereby.

20. **Loan Expenses.** Whether or not any of the proceeds of the Loan have been disbursed, all reasonable costs, expenses and fees incurred by the Lender in connection with the commencement, processing or closing of the Loan transaction (including without limitation title, UCC searches, appraisal, survey and inspection [e.g., environmental audit] charges, Loan fees or "points", and reasonable attorney's fees and costs of Lender's loan counsel), other than those

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expressly assumed by the Lender, shall be due and payable by the Borrower upon demand and with interest thereafter at the Default Rate, and shall constitute additional indebtedness secured hereby.

21. **Definitions of "Borrower", "Lender", and "Permitted Exceptions"**.

Wherever used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein: (a) the term "**Borrower**" shall, be deemed to mean and include (i) each maker and any present or subsequent guarantor of the Note, (ii) any subsequent owner of the subject real estate, including the trustee of a land trust, (iii) each beneficiary of such land trust, and (iv) each general partner or joint venturer of any partnership or joint venture, or owner of more than 25% of the outstanding stock of any corporation, which is or becomes such subsequent owner or such beneficiary; (b) the term "**Lender**" shall, in addition to the aforesaid Lender, be deemed to mean and include any subsequent holder(s) of the Note; (c) the term "**Permitted Exceptions**" appearing in Paragraph 2 above shall have the meaning assigned thereto in that certain "Loan Agreement" which constitutes one of the aforesaid Loan Documents (the "**Loan Agreement**"). (See Paragraph 30 M below regarding (a) above.)

22. **Indemnification.** The Borrower will protect, indemnify, defend and hold harmless the Lender from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against the Lender, as a result of (a) ownership of the Mortgaged Premises or any interest therein or receipt of any rent or other sum therefrom, (b) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Premises or any part thereof or on adjoining sidewalks, curbs, vaults, vault space, adjacent parking areas or streets or ways (collectively, "**adjacent areas**"). (c) any use, nonuse or condition of the Mortgaged Premises or any part thereof or said adjacent areas, (d) any failure on the part of the Borrower to perform or comply with any of the terms of this Mortgage, or (e) the performance of any labor or services or the furnishing of any materials or other property with respect to the Mortgaged Premises or any part thereof. Any amounts payable to the Lender under this Paragraph shall be due within ten (10) days after written demand and with interest thereafter at the Default Rate, and shall constitute additional indebtedness secured hereby. The obligations of the Borrower under this Paragraph shall survive any release, satisfaction, termination or extinguishment of this Mortgage and/or the lien hereof, and notwithstanding the "defeasance" provisions of Paragraph 23 below.

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23. **Defeasance.** As and when the Borrower has made full payment of all sums due under the Note in accordance with the terms thereof, and all other sums payable hereunder, and has complied with all other terms hereof and the terms of the Note and the Loan Documents, this Mortgage and the estate and the rights hereby created in favor of the Lender, and (except as to its duty to indemnify the Lender under Paragraphs 22 and 27 hereof) the liabilities hereby imposed upon the Borrower, shall cease, terminate and become released, and thereupon the Lender, upon the written request and at the expense of the Borrower, shall execute and deliver to the Borrower such instruments as shall be required to evidence of record the satisfaction of this Mortgage and the lien hereof, and any sums at the time held by the Lender for the account of the Borrower pursuant hereto shall be paid over as the Borrower may direct.

24. **Taxes on Mortgage or Note.** In the event of the passage of any law which, for the purposes of taxation, deducts from the value of the Mortgaged Premises any lien thereon and which, in turn, imposes a tax, whether directly or indirectly, on this Mortgage or on the Note, the Borrower shall immediately pay same when due; but if the Borrower is prohibited by law from paying such tax, or reimbursing the Lender for the payment thereof, then, at the option of the Lender and upon sixty (60) days notice thereof such event shall be treated as if it were an additional "Event of Default" under Paragraph 13 above, except that no prepayment premium (if any) shall become due, by reason thereof.

25. **Disclaimer by Lender.** The Lender shall not be liable to any party for services performed or obligations due in connection with the Loan. The Lender shall not be liable for any debts or claims accruing in favor of any parties against the Borrower or against the Mortgaged Premises. The Borrower is not nor shall be an agent of the Lender for any purposes, and the Lender is not a venture partner with the Borrower in any manner whatsoever. Approvals granted by the Lender for any matters covered under this Mortgage shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be deemed solely for the benefit of the Borrower.

26. **Maximum Indebtedness Secured Hereby.** This Mortgage does and shall secure the proceeds of the Loan and all other amounts due the Lender hereunder and under the Note and the Loan Documents as well as any nonobligatory future advances made by the Lender to or for the Borrower; however, at no time shall the total indebtedness secured hereby (excluding accrued interest, advances that are obligatory upon or made by the Lender to preserve or restore the

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Mortgaged Premises, or to preserve the lien or priority of, or to enforce, this Mortgage) exceed an amount equal to 500% of the original principal amount of the Loan.

27. **Environmental Matters.** The Borrower further represents to and covenants and agrees with the Lender as follows:

A The Borrower will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Mortgaged Premises, or transport to or from the Mortgaged Premises any "**Hazardous Substance**" (as defined herein) in violation of any "**Environmental Law**" (as defined herein), or authorize any person or entity to do so;

B The Borrower shall keep and maintain the Mortgaged Premises in compliance with, and shall not cause or permit the Mortgaged Premises to be in violation of any "**Environmental Law**", or authorize any person or entity to do so;

C The Borrower shall give written notice to the Lender immediately upon Borrower's discovery of any of the following:

(1) any proceeding or inquiry by a governmental authority, whether local, state or federal, with respect to the presence of any Hazardous Substance on the Mortgage Premises or the migration thereof from or to other property;

(2) all claims made or threatened by any third party against the Borrower or the Mortgaged Premises relating to any loss or injury resulting from any Hazardous Substance, and

(3) any release on any real property adjoining or in the vicinity of the Mortgaged Premises that could cause the Mortgaged Premises or any part thereof to become contaminated with any Hazardous Substance;

D The Lender shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Environmental Law and the Borrower hereby agrees to pay any reasonable attorneys' fees thereby incurred by the Lender in connection therewith;

E The Borrower will protect, indemnify, defend and hold harmless the Lender, its directors, officers, employees, agents, contractors, attorneys, other representatives, successors and assigns from and against any and all loss, damage, cost, expense or liability, including by way of illustration and not limitation, reasonable attorneys' fees and court costs, directly arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release,

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discharge, disposal, or presence of any Hazardous Substance on, under or about the Mortgaged Premises in violation of Environmental Laws, including, without limitation, (1) all foreseeable damages and (2) the costs of any required or necessary repair, cleanup or remediation of the Mortgaged Premises required by Environmental Laws and the preparation and implementation of any closure, remedial or other required plans required by Environmental Laws. The obligations of the Borrower under this Paragraph shall survive any release, satisfaction, termination or extinguishment of this Mortgage and/or the lien hereof, and notwithstanding the "defeasance" provisions hereof.

F. In the event that any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature whatsoever (the "**Remedial Work**") is necessary under any Environmental Law as mandated by any judicial or administrative order, because of, or in connection with, the presence, suspected presence, release or suspected release of a Hazardous Substance in or into the air, soil, ground water, surface water or soil vapor at, on, about, under or within the Mortgaged Premises, or any portion thereof, the Borrower shall within a reasonable time after written demand for performance thereof by the Lender or order, commence and thereafter diligently prosecute to completion all such Remedial Work, failing which without a justification based in law the Lender may but shall not be required to cause the Remedial Work to be performed, and all costs and expenses thereof incurred in connection therewith shall become part of the indebtedness secured hereby. All Remedial Work shall be performed by one or more contractors, approved in advance in writing by the Lender, and under the supervision of a consulting engineer approved in advance in writing by the Lender. All costs and expenses of such Remedial Work shall be paid by the Borrower, including, without limitation, the charges of such contractor and the consulting engineer, and the Lender's reasonable attorneys' fees and costs incurred in connection with the monitoring or review of such Remedial Work.

G. As used herein, the following terms shall have the following meanings:

(1) "**Environmental Law**" means any applicable local, state or federal law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environmental conditions on, under or about the Mortgaged Premises, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("**CERCLA**") as amended, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act of 1976 ("**RCRA**") as amended, 42 U.S.C. Section 6901 et seq., and the Illinois Environmental Protection Act ("**IEPA**")

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(415 ILCS 5/1 et seq.);

(2) "Hazardous Substance" means:

- (a) Those substances included within the definition of the term "hazardous substances" in CERCLA and IEPA;
- (b) Those substances listed in the United States Department of Transportation Table (49 CFR 172.010 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto);
- (c) Any material, waste or substance which is (i) petroleum; (ii) asbestos; (iii) polychlorinated biphenyls; (iv) designated as a "hazardous substance" in or pursuant to the Clean Water Act, 33 U.S.C. Section 1251 et seq.; (v) flammable explosives; or (vi) radioactive material.

H. The Mortgaged Premises do not constitute "Real Property" as that term is defined in the Illinois Responsible Property Transfer Act ("IRPTA") (765 ILCS 90/1 et seq.) and, therefore, the IRPTA disclosure requirements do not apply to this Mortgage.

28. **Debt Service Coverage Ratio**. At all times during the term of the Loan, Borrower shall maintain a "Debt Service Coverage Ratio" of at least 1.10. As used herein, "Debt Service Coverage Ratio" means the quotient derived by dividing the "Net Operating Income" (as hereinafter defined) of the Mortgaged Premises by the "Debt Service Payment" (as hereinafter defined) due under this Note. As used herein, "Net Operating Income" for any period of time means and includes: (a) all of Borrower's operating gross receipts derived during that period from any and all sources and in any way, manner or respect relating to and/or arising from the Mortgaged Premises and/or the operation thereof (including, without limitation, rental and leasehold income, expense reimbursements, service income, parking income, concession income and other operating income), adjusted by deducting (b) normal and customary operating and maintenance expenses attributable to the Mortgaged Premises (including, without limitation, costs of ordinary and necessary repair and maintenance, costs of cleaning and janitorial service and supplies, management fees, leasing commissions, costs of utilities, real estate taxes and insurance premiums, and payments of principal or interest other than the Debt Service Payment, but excluding depreciation, partnership or corporate distributions, capital expenditures, state, local or federal income taxes and the Debt Service Payment). As used herein, the term "Debt Service Payment" for any period of

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time means interest and principal payable to Lender pursuant to the terms of the Note, other than principal and interest due at maturity or upon an acceleration thereof. At Lender's request, Borrower shall furnish such evidence, including, without limitation, certified reports, statements and photocopies of leases, in form and substance reasonably satisfactory to Lender, as Lender shall require to verify Borrower's compliance with the foregoing requirement. Borrower's failure to supply any such requested information within fifteen (15) days of the date of the Lender's request for such material, or Borrower's failure to maintain (or to adequately secure or assure the Lender as to any difference from time to time between the existing and) the required Debt Service Coverage Ratio, shall constitute an "Event of Default" hereunder.

29. **Property Manager.** Any property management agreement for the Mortgaged Premises, whether now in effect or entered into hereafter by the Borrower with a property manager, shall contain a "no lien" provision whereby the property manager waives and releases, to the extent permitted by law, any and all lien rights, if any, that it or anyone claiming through or under it may have pursuant to applicable law. Such property management agreement or a short form thereof shall, at Lender's request, be recorded with the Office of the Recorder of Deeds for each county in which the Mortgaged Premises are located. In addition, Borrower shall cause the property manager to enter into a subordination agreement with the Lender, in recordable form, whereby the property manager subordinates, to the extent permitted by law, its present and future lien rights and those of any party claiming by, through or under it, to the lien of this Mortgage. Borrower's failure to require the "no lien" provision or the subordination agreement described herein shall constitute an Event of Default hereunder.

30. **Additional Agreements of Borrower.**

A. Upon the Lender's written request, the Borrower shall confirm in writing to the Lender, or its designee, the amount(s) then due and balance(s) then outstanding under this Mortgage, the Note and the Loan Documents.

B. If the time for payment of part or all of the indebtedness secured hereby be extended at any time or times, if the Note be renewed, modified or replaced, or if any security for the Note be released, the Borrower and all other parties now or hereafter liable for payment of part or all of such indebtedness or interested in the Mortgaged Premises shall be held to consent to such extensions, renewals, modifications, replacements and releases, and their liability and the lien hereof and the Lender's rights hereunder and thereunder shall continue in full force, the right of recourse

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against all such parties being reserved by the Lender.

C. This Mortgage shall be binding upon the Borrower and its successors and assigns, and all persons claiming under or through the Borrower or any such successor or assign, and shall inure to the benefit of and be enforceable by the Lender and its successors and assigns.

D. The headings in this Mortgage are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

E. If any provision of this Mortgage or the application thereof to any person, party or circumstance shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Mortgage nor any other provision hereof, nor shall it affect the application of any provision hereof to other persons, parties or circumstances.

F. This Mortgage is executed and delivered at Chicago, Illinois and shall be governed by and construed in accordance with the laws of the State of Illinois. Actions for all disputes and claims hereunder shall, at the Lender's option, be commenced in or transferred to such Department (and such Division or District thereof) of the Circuit Court of Cook County as the Lender may select. The Borrower hereby waives any right now or in the future to remove any such action to the Courts of the United States of America.

G. The Borrower represents that the Loan is an exempted transaction under the federal Truth-in-Lending Act (15 U.S.C. Section 1601 et seq.) and constitutes a business loan under the provisions of Section 4 of the Illinois Interest Act (815 ILCS 205/4).

H. In the event of a conflict between any provisions of this Mortgage and any provisions of the Note, the provisions designated by the Lender, in its sole discretion, shall prevail.

I. The Lender is hereby subrogated to any mortgage (or other) lien which is discharged, in whole or in part, by the proceeds of the Loan.

J. This Mortgage may not be amended, modified, or terminated except pursuant to written agreement between the Lender and the Borrower.

K. The Company has been duly authorized and directed by its Members to execute and deliver this Mortgage.

L. In the event the Lender becomes entitled to foreclose this Mortgage, it may do so by proceeding against any one or more parcels or portions of the real estate in separate foreclosure actions, each for the full amount of the indebtedness secured hereby. No separate foreclosure

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action, unless recovery of the full amount of such indebtedness is realized thereunder, shall bar or preclude any other foreclosure action, and the Lender may be the purchaser at any resulting foreclosure sale by means of a "credit" bid.

M. It is understood that the limited liability of the "Principals" under, and as that term is used in, the Note shall not be affected by (and whether or not the Principals are deemed as included within) the definition of "Borrower" in Paragraph 21 above.

N. This Mortgage is a part purchase money mortgage, in that the proceeds of the Loan are being disbursed toward the acquisition of the Mortgaged Premises.

Notices. Any notice, demand or other communication intended to be given pursuant to the terms hereof (hereafter, "notice") shall be in writing and shall be delivered by personal service (including private courier service with charges prepaid), or mailed to the following addresses or such other address within the United States as the party to receive such notice hereafter designates to the other parties by written notice:

If to the Borrower: c/o **HSA, Inc.**
180 North Wacker Drive
Suite 500
Chicago, IL 60606
ATTN: John E. Shaffer

If to the Lender: **LAKESIDE BANK**
55 West Wacker Drive
Chicago, Illinois 60601
Attn: Commercial Loan Dept.

Any such notice shall be deemed given as of the date of its delivery if delivered by personal service, or, if sent by certified or registered mail with postage prepaid and return receipt requested, as of the second business day following the date of its mailing. If the party to receive such notice fails or refuses to accept delivery thereof, or if the bearer thereof is unable to complete such delivery because of an address change for which no notice was given, such notice shall be deemed given as of the date its delivery is first attempted. Personal service upon the Lender shall be valid only if made upon one of the its officers.

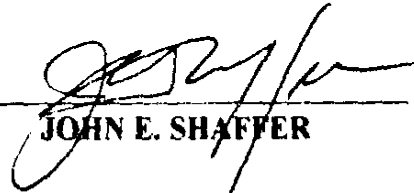
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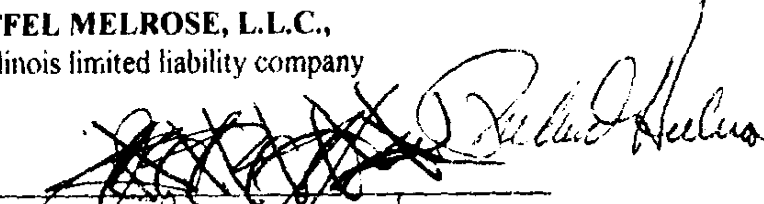
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IN WITNESS WHEREOF, the Borrower has caused this Mortgage to be duly executed.

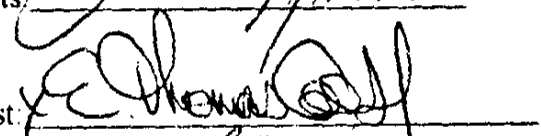
SOFFEL MELROSE, L.L.C.,
an Illinois limited liability company



JOHN E. SHAFFER

By: 

Its: Richard Hines

Attest: 

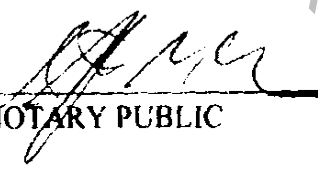
Its: Soledad Gomez

STATE OF ILLINOIS)
COUNTY OF COOK)

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The foregoing Instrument was acknowledged before me
by Richard Hines, the Soledad Gomez of, and
by Richard Hines, the Soledad Gomez of,
SOFFEL MELROSE, L.L.C., an Illinois limited liability company, on behalf of the company,
on this 24th day of June, 1996.

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NOTARY PUBLIC

.....
"OFFICIAL SEAL"
STEPHEN M. ALDERMAN
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires Nov. 23, 1996
.....

The foregoing Instrument was acknowledged before me
by **JOHN E. SHAFFER** on this 24th day of June, 1996.



NOTARY PUBLIC

.....
"OFFICIAL SEAL"
STEPHEN M. ALDERMAN
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires Nov. 23, 1996
.....

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EXHIBIT A

Legal Description

THAT PART OF THE NORTHEAST 1/4 SOUTH OF INDIAN BOUNDARY LINE OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING BETWEEN THE NORTH LINE OF WILLIAM HEITMAN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SAID SECTION 4 (RECORDED JANUARY 24, 1910 AS DOCUMENT 4499749 IN BOOK 106 OF PLATS, PAGE 12) AND A LINE 348.24 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF SAID HEITMAN'S SUBDIVISION AND BOUNDED ON THE WEST BY THE CENTER LINE OF 32ND AVENUE IN SAID SUBDIVISION EXTENDED NORTH AND ON THE EAST BY A LINE 15 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF THE ORIGINAL 100 FEET RIGHT OF WAY OF INDIANA HARBOR BELT RAILROAD (EXCEPT THE EAST 541 FEET OF THE SOUTH 242 FEET THEREOF) IN COOK COUNTY, ILLINOIS.

PIN: 15-04-203-002 AND 15-04-203-005, VOLUME 155.

COMMONLY KNOWN AS: 3131 Soffel Avenue, Melrose Park, Illinois.

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