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Loan No. 515879

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 . COOK COUNTY RECORDER

AMALGAMATED BANK OF CHICAGO, NOT PERSONALLY  
BUT AS TRUSTEE

to

FORTIS BENEFIT INSURANCE COMPANY

MORTGAGE AND SECURITY AGREEMENT  
(Fee)

95 20 183

Dated: June 22, 1996

Location: 12121-25 South Western Avenue, Blue Island, Illinois

THIS INSTRUMENT PREPARED BY  
AND UPON RECORDATION RETURN TO:

Michael J. Hornbrook, Esq.  
 Coffold Ungaretti & Harris  
 3500 Three First National Plaza  
 Chicago, Illinois 60602-4283

BOX 333-CTI

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## MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT made the 22<sup>nd</sup> day of June, 1996, between AMALGAMATED BANK OF CHICAGO, not personally but as Trustee under Trust Agreement dated January 21, 1986 and known as Trust No. 5131 (said bank in its capacity as Trustee being herein referred to as the "Mortgagor" and said trust agreement being herein referred to as the "Trust Agreement"), and FORTIS BENEFITS INSURANCE COMPANY, a Minnesota corporation having an office and place of business located at 500 Bielenberg Drive, Woodbury, Minnesota 55125 (the "Mortgagee").

### WITNESSETH:

WHEREAS, the Mortgagor is the owner of a fee estate in the premises described in Exhibit A attached hereto and made a part hereof (the "Premises");

WHEREAS, George Novogrodler (the "Responsible Party") has the sole power of direction over the Mortgagor;

WHEREAS, the Mortgagee requires this Mortgage to be made, executed and delivered and the Mortgagor desires to make, execute and deliver this Mortgage in consideration of the loan by the Mortgagee described below;

NOW THEREFORE, to secure the payment in full of an indebtedness in the principal sum of Five Hundred Thirty-Five Thousand One Hundred Twenty-Three and 63/100 Dollars (\$535,123.63), lawful money of the United States of America, to be paid with interest (said indebtedness, interest, late charges, prepayment premiums and all other sums which may or shall become due hereunder being hereinafter collectively referred to as the "Debt") according to a certain mortgage note dated the date hereof given by the Mortgagor to the Mortgagee (the "Note"), and any renewals, extensions, modifications or replacements of the Note, the Mortgagor has mortgaged, given, granted, bargained, sold, aliened, enfeoffed, conveyed, confirmed and assigned, and by these presents does mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm and assign unto the Mortgagee forever all right, title and interest of the Mortgagor now owned, or hereafter acquired, in and to the following property, rights and interests (such property, rights and interests being hereinafter collectively referred to as the "Mortgaged Property");

- (a) the Premises;
- (b) all buildings and other structures and improvements now or hereafter located on the Premises (the "Improvements");
- (c) all of the estate, right, title, claim or demand of any nature whatsoever of the Mortgagor, either in law or in equity, in possession or expectancy, in and to the Mortgaged Property or any part thereof;

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(d) all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances, revision or revisions, remainder or remainders of any nature whatsoever, in any way belonging, relating or pertaining to the Mortgaged Property (including, without limitation, any and all development rights, air rights or similar or comparable rights of any nature whatsoever now or hereafter appurtenant to the Premises or now or hereafter transferred to the Premises) and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises to the center line thereof;

(e) all machinery, apparatus, equipment, fittings, fixtures and other property of every kind and nature whatsoever and all additions thereto and renewals and replacements thereof, and all substitutions therefor now owned or hereafter acquired by the Mortgagor, or in which the Mortgagor has or shall have an interest, now or hereafter located upon or in, or attached to, any portion of the Mortgaged Property, or appurtenances thereto, and used or usable in connection with the present or future operation and occupancy of the Mortgaged Property and all building equipment, materials and supplies of any nature whatsoever owned by the Mortgagor, or in which the Mortgagor has or shall have an interest, now or hereafter located upon the Mortgaged Property (collectively, the "Equipment") (other than fixtures, equipment, machinery or other property of tenants under any lease of or rental agreement for space in the Mortgaged Property), including the interest of the Mortgagor in all of the aforesaid which are subject to lease agreements or other service contracts (but excluding the interest of the lessor or owner of such items), and including all extensions, additions, improvements, betterments, after-acquired property, renewals, replacements and substitutions, or proceeds from a sale of any of the foregoing, and the right, title and interest of the Mortgagor in and to any of the Equipment which may be subject to any security agreements (as defined in the Uniform Commercial Code of the State in which the Mortgaged Property is located; the "Uniform Commercial Code"), superior in lien to the lien of this Mortgage and all proceeds and products of any of the above, and all inventory, accounts, chattel paper, documents, equipment, fixtures, farm products, consumer goods and general intangibles constituting proceeds acquired with cash proceeds of any of the property described hereinabove, all of which are hereby declared and shall be deemed to be fixtures and accessions to, and a part of, the Mortgaged Property as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage;

(f) all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the Mortgaged Property, whether from the exercise of the right of eminent domain (including any transfer made in lieu of the exercise of said right), or for any other injury to or decrease in the value of the Mortgaged Property;

(g) all leases and other agreements affecting the use or occupancy of the Mortgaged Property or any part thereof now or hereafter entered into (the "Leases") and absolutely and presently the right to receive and apply the income, rents, issues, cash collateral, revenues, royalties, benefits and profits of the Mortgaged Property from time to time accruing, including, without limitation, all payments under Leases or tenancies, proceeds of insurance, tenant security deposits

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and escrow funds (the "Rents") to the payment of the Debt; reserving only the right, power and authority given to the Mortgagor as a licensor to collect and apply the same prior to the occurrence of an Event of Default hereunder and so long as the same are not subjected to garnishment, levy, attachment or lien;

(h) all proceeds of and any unearned premiums on any insurance policies covering the Mortgaged Property (whether or not such policies are specifically required hereunder and/or the requirement for such policies had been theretofore waived or deferred by Lender), including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Mortgaged Property;

(i) the right, in the name and on behalf of the Mortgagor, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of the Mortgagee in the Mortgaged Property; and

(j) all and singular the rights, members and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the Mortgaged Property hereinabove mentioned or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Mortgagor.

**TO HAVE AND TO HOLD** the above granted and described Mortgaged Property unto and to the proper use and benefit of the Mortgagee, and the successors and assigns of the Mortgagee, forever.

**AND** the Mortgagor covenants and agrees with and represents and warrants to the Mortgagee as follows:

## ARTICLE I - COLLATERAL

1. Payment of Debt. The Mortgagor will pay the Debt at the time and in the manner provided for its payment in the Note and in this Mortgage.

2. Warranty of Title; Other Representations and Warranties.

(a) The Mortgagor represents to and covenants with the Mortgagee that the title to the Premises, the Improvements, the Equipment and the balance of the Mortgaged Property, are free and clear of all liens, charges, interests and encumbrances whatsoever, except for the title exceptions delineated on Exhibit B attached hereto and made a part hereof, and the Mortgagor further represents to and covenants with the Mortgagee that this Mortgage is and shall remain a first priority lien on the Mortgaged Property.

(b) The Mortgagor also represents to and covenants with the Mortgagee that: (i) the Mortgagor and Responsible Party are now, and after giving effect to this Mortgage, will be in a solvent condition, (ii) there has been no material adverse change in the financial condition of the Mortgagor, Responsible Party or any guarantor of the Debt or the performance by the Mortgagor of

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any of the terms of this Mortgage since the date of the Mortgagor's application for the loan secured hereby, (iii) neither the Mortgagor nor the Responsible Party are in default under any note, loan or security agreement to which it is a party, (iv) the execution and delivery of this Mortgage by the Mortgagor does not constitute a "fraudulent conveyance" within the meaning of Title 11 of the United States Code as now constituted or under any other applicable statute, (v) no bankruptcy or insolvency proceedings are pending or contemplated by or against the Mortgagor or the Responsible Party, and (vi) there are no existing, pending, or to the best of the knowledge of Mortgagor and Responsible Party, threatened actions or proceedings affecting any portion of the Mortgaged Property except for possible negligence actions or proceedings which are fully covered by insurance.

(c) The Mortgagor (and the undersigned representative of the Mortgagor, if any) represents to and covenants with the Mortgagee that: (i) the Mortgagor has full power, authority and legal right to execute this Mortgage, and to mortgage, give, grant, bargain, sell, alien, enclose, convey, confirm and assign the Mortgaged Property pursuant to the terms hereof and to keep and observe all of the terms of this Mortgage on the Mortgagor's part to be performed, (ii) if the Mortgagor is a corporation, the Mortgagor is a duly organized and presently existing corporation and this Mortgage has been executed by authority of its Board of Directors and with the requisite consent of the holders of the outstanding shares of its capital stock entitled to vote thereon, if such consent is required under the provisions of the certificate of incorporation of the Mortgagor, and (iii) if the Mortgagor is a partnership, the Mortgagor is a duly authorized and validly existing partnership and this Mortgage has been executed by a duly authorized general partner.

(d) The Mortgagor further represents to and covenants with the Mortgagee that: (i) the Mortgagor does not own and will not own any encumbered asset or property other than (aa) the Mortgaged Property, and (bb) incidental personal property necessary for the ownership or operation of the Mortgaged Property; (ii) the Mortgagor will not engage in any business other than ownership, management and operation of the Mortgaged Property and the Mortgagor will conduct and operate its business as presently conducted and operated; (iii) the Mortgagor has not incurred and will not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (aa) the Debt, and (bb) trade and operational debt incurred in the ordinary course of business with trade creditors and in amounts that are normal and reasonable under the circumstances (no indebtedness other than the Debt may be secured by the Mortgaged Property); (iv) the Mortgagor has not made and will not make any loans or advances to any third party; (v) the Mortgagor is, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity; and (vi) the Mortgagor will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations.

### 3. Insurance.

(a) The Mortgagor will keep the Improvements and the Equipment insured with (i) "all risks" extended coverage against loss or damage by fire, vandalism, malicious mischief and such other hazards as the Mortgagee shall from time to time require, in amounts approved by the Mortgagee, which amounts shall in no event be less than 100% of the full replacement cost of the

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Improvements and the Equipment, with an agreed amount endorsement and replacement cost endorsement and shall be sufficient to meet all applicable co-insurance requirements, (ii) boiler and machinery insurance covering physical damage to the Improvements and Equipment and any other major components of any central HVAC system and such other equipment as the Mortgagee may require, (iii) business income insurance sufficient to cover one (1) year's gross receipts from the Mortgaged Property, and (iv) comprehensive general liability insurance against claims for personal injury and property damage. The Mortgagor will also maintain such other forms of insurance coverage with respect to the Mortgaged Property as the Mortgagee shall from time to time require in amounts approved by the Mortgagee (including, but not limited to, insurance for seismic risks). If the Premises are improved, and any portion thereof is located in the then applicable 100 year flood plain or in a Federally designated "special flood hazard area", in addition to the other policies of insurance required under this Paragraph and/or any other policies of insurance obtained by Mortgagor, whether or not required hereunder, including, without limitation, any insurance Mortgagor elects to obtain notwithstanding a prior waiver or deferral of such requirement by Mortgagee (the "Policies"), a flood insurance policy acceptable in all respects to the Mortgagee shall be delivered by the Mortgagor to the Mortgagee. If no portion of the Premises is located in the then applicable 100 year flood plain or in a Federally designated "special flood hazard area" such fact shall be substantiated by a certificate in form satisfactory to the Mortgagee from a licensed surveyor, appraiser or professional engineer or other qualified person satisfactory to the Mortgagee in accordance with applicable regulations.

(b) The Mortgagor shall at all times comply with and shall cause the Improvements and Equipment and the use, occupancy, operation, maintenance, alteration, repair and restoration thereof to comply with the terms, conditions, stipulations and requirements of the Policies. All Policies shall be issued by insurers having a minimum policy holders rating of "A" per the latest rating publication of Property and Casualty Insurers by A.M. Best Company and who are lawfully doing business in the State in which the Mortgaged Property is located and are otherwise acceptable in all respects to the Mortgagee. All Policies shall, with respect to the Premises and the Improvements, contain the standard mortgagee non-contribution clause endorsement or an equivalent endorsement and, with respect to the Equipment, contain a lender's loss payable clause endorsement or an equivalent endorsement, all naming the Mortgagee as the person to which all payments made by the insurer thereunder shall be paid, naming the Mortgagee as an additional insured on required liability policies and otherwise in form and substance satisfactory in all respects to the Mortgagee. The Mortgagor hereby assigns the proceeds of the Policies to the Mortgagee and direct and authorize hereby each insurance company to make payment for loss directly to the Mortgagee, as its interest may appear. All Policies shall provide that the coverages evidenced thereby shall not be terminated or materially modified without thirty (30) days prior written notice to the Mortgagee. Blanket insurance policies shall not be acceptable for the purposes of this Paragraph unless otherwise approved to the contrary by the Mortgagee. The Mortgagor shall pay the premiums for the Policies as the same become due and payable. At the request of the Mortgagee, the Mortgagor will deliver the Policies to the Mortgagee. Not later than thirty (30) days prior to the expiration date of each of the Policies, the Mortgagor will deliver to the Mortgagee a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment of premium satisfactory to the Mortgagee. If at any time the Mortgagee is not in receipt of written evidence that all insurance required hereunder is in full force and effect, the Mortgagee shall have

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the right, without notice to the Mortgagor, to take such action as the Mortgagee deems necessary to protect its interest in the Mortgaged Property, including, without limitation, the obtaining of such insurance coverage as the Mortgagee in its sole discretion deems appropriate, and all expenses incurred by the Mortgagee in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by the Mortgagor to the Mortgagee upon demand and until paid shall be secured by this Mortgage in accordance with Paragraph 7 of Article II hereof.

(c) If the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, the Mortgagor shall give prompt notice thereof to the Mortgagee. The Mortgagee shall make the net amount of all insurance proceeds received by the Mortgagee pursuant to the provisions of this Mortgage as a result of such damage or destruction after deduction of its reasonable costs and expenses, if any, in collecting the same (the "Net Proceeds") available for the repair and restoration of the Improvements, provided that (i) no Event of Default shall exist under the Note or this Mortgage, (ii) the Mortgagor shall proceed with the repair and restoration of the Improvements as nearly as possible to the condition the Improvements were in immediately prior to such fire or other casualty promptly after the insurance claims are settled, (iii) the Mortgagee shall be satisfied that upon the completion of such repair and restoration the net cash flow from the Mortgaged Property will be sufficient to cover debt service on the Loan, as such term is defined in the Note, as determined by the Mortgagee in its sole discretion, (iv) the loan-to-value ratio of the restored Improvements in the Mortgagee's sole discretion is not more than seventy-five percent (75%), (v) Net Proceeds, together with additional funds provided by the Mortgagor if necessary, are sufficient to reconstruct or restore the Improvements according to plans and specifications approved by the Mortgagee or its Inspecting Engineer (as hereinafter defined) which plans and specifications shall comply with local building codes and all other applicable laws, ordinances, rules and regulations, and (vi) net proceeds disbursed are not more than one hundred percent (100%) of the cost actually incurred. Upon satisfaction of the provisions of the preceding sentence of this Paragraph, the Net Proceeds will be disbursed by the Mortgagee to the Mortgagor to pay for the costs of repair and restoration of the Improvements in the manner hereinafter set forth or pursuant to an alternative mechanism selected by the Mortgagee in its sole discretion. The Net Proceeds shall be held by the Mortgagee in escrow until expended in connection with the repair and restoration of the Improvements, it being agreed that any Net Proceeds so held by the Mortgagee may be commingled with the general funds of the Mortgagee, shall not bear interest, and shall constitute additional security for the payment of the Debt. The Net Proceeds shall be paid by the Mortgagee to, or as directed by, the Mortgagor from time to time during the course of the repair and restoration, upon receipt of evidence satisfactory to the Mortgagee that (i) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested payment) in connection with the repair and restoration have been paid for in full, (ii) there exists no notice of intention, mechanics or other liens and encumbrances on the Mortgaged Property arising out of the repair and restoration, and (iii) the balance of the Net Proceeds plus the balance of any deficiency deposits made by the Mortgagor pursuant to the provisions of this Paragraph hereinafter set forth shall be sufficient to pay in full the balance of the cost of the repair and restoration. The repair and restoration shall be done and completed by the Mortgagor in an expeditious and diligent fashion and in compliance with all applicable laws, rules and regulations, and all plans and specifications required in connection with the repair and restoration shall be subject to review and approval in all respects by an independent inspecting engineer selected by the Mortgagee (the

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"Inspecting Engineer"). All costs and expenses incurred by the Mortgagee in connection with making the Net Proceeds available for the repair and restoration, including, without limitation, an administrative fee of \$500 for each advance, counsel fees, traveling expenses and the Inspecting Engineer's fees incurred by the Mortgagee, shall be paid by the Mortgagor. In no event shall Mortgagee be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred for work in place as part of the repair and restoration, as certified by the Inspecting Engineer, minus 10% of such costs (the "Retainage"). The Mortgagee shall not be obligated to make disbursements of the Net Proceeds more than once every thirty (30) days. The Retainage shall not be released until the Inspecting Engineer certifies that the repair and restoration have been completed in accordance with the provisions of this Paragraph, and the Mortgagee receives evidence satisfactory to the Mortgagee that the costs of the repair and restoration have been paid in full or will be paid in full out of the Retainage. The excess, if any, of the Net Proceeds after the repair and restoration of the Improvements as nearly as possible to their former condition and the payment in full of all costs incurred in connection therewith shall be applied by the Mortgagee in reduction of the Debt in such priority and proportions as the Mortgagee in its discretion shall deem proper or, at the discretion of the Mortgagee, the same may be paid, in whole or in part, to the Mortgagor for such purposes as the Mortgagee shall designate. If at any time the Net Proceeds, or the undisbursed balance thereof, shall not, in the opinion of the Mortgagee, be sufficient to pay in full the balance of the costs which will be incurred in connection with the completion of the repair and restoration, the Mortgagor shall deposit the deficiency with the Mortgagee before any further disbursement of the Net Proceeds shall be made, which deficiency deposit may be commingled with the general funds of the Mortgagee, shall not bear interest and shall be disbursed for costs actually incurred in connection with the repair and restoration on the same conditions applicable to the Net Proceeds. Any such deficiency deposit until disbursed pursuant to this Paragraph shall constitute additional security for the payment of the Debt. The balance, if any, of any such deficiency deposit remaining after the Inspecting Engineer certifies that the repair and restoration have been completed in accordance with the provisions of this Paragraph and the receipt by the Mortgagee of evidence satisfactory to the Mortgagee that all costs incurred in connection with the repair and restoration have been paid in full, shall be returned by the Mortgagee to the Mortgagor. All costs of the repair and restoration in excess of the Net Proceeds shall be paid for by the Mortgagor. All insurance proceeds received by the Mortgagee and not required to be disbursed for the repair and restoration pursuant to the provisions of this Paragraph hereinabove set forth may be retained and applied by the Mortgagee toward the payment of the Debt whether or not then due and payable in such priority and proportions as the Mortgagee in its discretion shall deem proper or, at the discretion of the Mortgagee, the same may be paid, either in whole or in part, to the Mortgagor for such purposes as the Mortgagee shall designate. If the Mortgagee shall receive and retain such insurance proceeds, the lien of this Mortgage shall be reduced only by the amount thereof received and retained by the Mortgagee and actually applied by the Mortgagee in reduction of the Debt.

4. Payment of Taxes, etc. The Mortgagor shall pay all taxes, assessments, water rates, sewer rents and other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Premises, now or hereafter levied or assessed against the Mortgaged Property (collectively, the "Taxes") prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof, and, in default thereof, the

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Mortgagee may, in its sole discretion, but shall not be obligated to, pay same (all such payments to be secured hereby in accordance with Paragraph 7 of Article II hereof), and the Mortgagor shall reimburse the Mortgagee upon demand for such expenditures. The Mortgagor shall deliver to the Mortgagee, within thirty (30) days of payment and otherwise upon request, receipts, bills, canceled checks and other evidence satisfactory to the Mortgagee evidencing the payment of the Taxes prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof.

5. Escrow Fund. (a) The Mortgagor will pay to the Mortgagee on the first day of each calendar month one-twelfth of an amount (the "Escrow Fund") which would be sufficient to pay, on the first day of the month preceding the month in which they become due, the Taxes and the premiums on all Policies (the "Premiums") payable, or estimated by the Mortgagee to be payable, during the ensuing twelve (12) months. The Mortgagee will apply the Escrow Fund to the payment of Taxes and the Premiums which are required to be paid by the Mortgagor pursuant to the provisions of this Mortgage. If the amount of the Escrow Fund shall exceed the amount of the Taxes and the Premiums payable by the Mortgagor pursuant to the provisions of this Mortgage, the Mortgagee shall, in its discretion, (i) return any excess to the Mortgagor, or (ii) credit such excess against future payments to be made to the Escrow Fund. In allocating such excess, the Mortgagee may deal with the person shown on the records of the Mortgagee to be the owner of the Mortgaged Property. If the Escrow Fund is not sufficient to pay the Taxes and/or the Premiums, as the same become payable, the Mortgagor shall pay to the Mortgagee, upon request, an amount which the Mortgagee shall estimate as sufficient to make up the deficiency. Until expended or applied as above provided, any amounts in the Escrow Fund may be commingled with the general funds of the Mortgagee, shall constitute additional security for the Debt and shall not bear interest. The collection of such deposits by the Mortgagee shall not relieve the Mortgagor of any of the obligations of the Mortgagor under any provision of this Mortgage; and under no circumstances shall the Mortgagee be liable for failure to make any payment on behalf of the Mortgagor, including, without limitation, payments of Taxes, assessments or Premiums.

(b) To the extent permitted by applicable law, if a Default occurs under any of the provisions of this Mortgage, the Mortgagee shall have the right to apply the balance of any funds deposited with it, or its designee, accumulated to pay Taxes and Premiums, either as a credit against the Debt or to the payment of any other charges payable hereunder, without any other obligation to account therefor to the Mortgagor.

6. Condemnation. Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise, the Mortgagor shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and this Mortgage and the Debt shall not be reduced until any award or payment therefor shall have been actually received and applied by the Mortgagee to the discharge of the Debt. The Mortgagee may apply the entire amount of any such award or payment to the discharge of the Debt whether or not then due and payable in such order, priority and proportions as the Mortgagee in its discretion shall deem proper. The Mortgagee shall not be obligated to see to the proper application of any award or payment paid over to the Mortgagor, and if the Mortgagee receives and retains such award or payment and applies it to the Debt, the lien of this Mortgage shall be affected only by a reduction of the amount of said lien by

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the amount of such award or payment so received and retained by the Mortgagee. If the Mortgaged Property is sold, through foreclosure or otherwise, prior to the receipt by the Mortgagee of such award or payment, the Mortgagee shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive such award or payment, or a portion thereof sufficient to pay the Debt, whichever is less, and the Mortgagor shall pay over to the Mortgagee said award or payment as, if and when the Mortgagor receives same, to the extent of any deficiency found to be due upon such sale, with interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, and of the attorneys' fees, costs and disbursements incurred by the Mortgagee in connection with the collection of such award or payment. It is the express intent and agreement of the parties that in the event of any such taking, the Mortgagee shall receive interest at the rate set forth in the Note (the "Note Rate") up to and including the date of actual payment in full of the Debt, provided that if the rate set forth in the Note is higher than the statutory rate, and the Mortgagor (or any assignee or successor in interest thereof) shall be responsible to pay to the Mortgagee an amount equal to the entire difference between the amount of interest received by the Mortgagee from the condemning authority (or to which the Mortgagee is entitled under the condemnation interest statute) and the Note Rate from the date of vesting of title in such condemnation to the date of actual payment, except where the statutory rate on the condemnation award is higher than the Note Rate, in which event the Mortgagee shall be entitled to the statutory rate. The Mortgagor shall file and prosecute its claim or claims for any such award or payment in good faith and with due diligence and cause the same to be collected and paid over to the Mortgagee. The Mortgagor hereby irrevocably authorizes and empowers the Mortgagee, in the name of the Mortgagor or otherwise, to collect and receipt for any such award or payment and to file and prosecute such claim or claims. Although it is hereby expressly agreed that the same shall not be necessary in any event, the Mortgagor shall, upon demand of the Mortgagee, make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning any such award or payment to the Mortgagee, free and clear of any encumbrances of any kind or nature whatsoever.

7. Leases and Rents. The Mortgagor absolutely and irrevocably assigns to the Mortgagee the Rents, and the Mortgagor grants to the Mortgagee the right to enter upon and to take possession of the Mortgaged Property for the purpose of collecting the same and to let the Mortgaged Property, or any part thereof, and to apply the Rents after payment of all necessary charges and expenses on account to the Debt, reserving only to the Mortgagor the conditional right, as a licensee, to collect, use and enjoy the Rents until an Event of Default shall occur hereunder. In exercising such conditional right, the Mortgagor shall be entitled to collect and receive such Rent and agrees to use such Rents in payment of principal and interest becoming due under the Note and in payment of Taxes and Premiums becoming due hereunder, but such right of the Mortgagor may be revoked by the Mortgagee upon the occurrence of Event of Default by the Mortgagor under the terms of the Note or this Mortgage and thereafter the Mortgagee may let the Mortgaged Property or any part thereof and may retain and apply the Rents toward payment of the Debt in such order, priority and proportions as the Mortgagee, in its discretion, shall deem proper, or toward the operation, maintenance and repair of the Mortgaged Property, and irrespective of whether the Mortgagee shall have commenced a foreclosure of this Mortgage or shall have applied or arranged for the appointment of a receiver. The Mortgagee shall give to the Mortgagor notice of such revocation of the right to let and collect the Rents within a reasonable time thereafter. The

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Mortgagor shall not, without the consent of the Mortgagee, make, or suffer to be made, any Leases or modify or cancel any Leases or accept prepayments of installments of the Rents for a period of more than one (1) month in advance or further assign the whole or any part of the Rents. The Mortgagor shall (i) fulfill or perform each and every provision of the Leases on the part of the Mortgagor to be fulfilled or performed, (ii) promptly send copies of all notices of default which the Mortgagor shall send or receive under the Leases to the Mortgagee, and (iii) enforce, short of termination of the Leases, the performance or observance of the provisions thereof by the tenants thereunder. The Mortgagor shall from time to time, but not less frequently than once every year, provide to the Mortgagee a complete and detailed leasing status and rent roll report with respect to the Improvements, which report shall also include, by way of illustration only, a list of current tenants, space occupied, base rent, additional rent, lease concessions, commencement and expiration dates, renewal and/or purchase options, and leasing commission obligations and shall be in form and substance satisfactory in all respects to the Mortgagee. In addition to the rights which the Mortgagee may have herein, in the event of any default under this Mortgage, the Mortgagee, at its option, may require the Mortgagor to pay monthly in advance to the Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Mortgaged Property as may be in possession of the Mortgagor. Upon default in any such payment, the Mortgagor will vacate and surrender possession of the Mortgaged Property to the Mortgagee, or to such receiver and, in default thereof, the Mortgagor may be evicted by summary proceedings or otherwise. Nothing contained in this Paragraph shall be construed as imposing on the Mortgagee any of the obligations of the lessor under the Leases, any duty to produce rents from the Mortgaged Property and shall not cause the Mortgagee to be a "mortgagee-in-possession" for any purpose. The Mortgagor further agrees that each shall, upon request, execute, acknowledge and deliver to the Mortgagee such further and additional assignments and other instruments as shall be reasonably required for the purpose of assigning the Rents. In the event the Mortgagor shall lease to a tenant all or any portion of the Mortgaged Property (all of which Leases shall be in accordance with the provisions contained in that certain Assignment of Leases and Rents of even date herewith between the Mortgagor and the Mortgagee (the "Assignment of Rents")), it shall include in such lease or leases a provision subordinating such lease or leases to the lien of this Mortgage or any renewals, amendments, changes, modifications, consolidations, extensions or replacements thereof, or any new or additional mortgage; provided, however, the Mortgagor shall agree to execute a Subordination, Non-Disturbance and Attornment Agreement in form and content satisfactory to Mortgagee.

## 8. Books and Records.

(a) The Mortgagor will keep and maintain or will cause to be kept and maintained on a fiscal year basis in accordance with generally accepted accounting practices consistently applied, proper and accurate books, records and accounts reflecting all of the financial affairs of the Mortgagor and all items of income and expense in connection with the operation of the Mortgaged Property or in connection with any services, equipment or furnishings provided in connection with the operation of the Mortgaged Property, whether such income or expense be realized by the Mortgagor or by any other person whatsoever excepting lessees unrelated to and unaffiliated with the Mortgagor who have leased from the Mortgagor portions of the Mortgaged Property for the purpose of occupying the same. The Mortgagee shall have the right from time to time at all times

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during normal business hours and upon reasonable notice to examine such books, records and accounts at the office of the Mortgagor or such other person maintaining such books, records and accounts and to make copies or extracts thereof as the Mortgagee shall desire.

(b) The Mortgagor will furnish the Mortgagee annually, within ninety (90) days next following the end of each fiscal year of the Mortgagor, with: (i) a complete executed copy of an annual financial statement prepared in accordance with generally accepted accounting practices, covering the operation of the Mortgaged Property for such fiscal year and containing a balance sheet, income statements, cash flow statements and shall otherwise be in form and substance satisfactory to the Mortgagee, and (ii) a complete executed copy of an annual financial statements of the Mortgagor and Responsible Party and income statements from the Responsible Party for such fiscal year, prepared in accordance with generally accepted accounting practices, and containing a fully itemized statement of profit and loss and of surplus and a balance sheet, and shall otherwise be in form and substance satisfactory to the Mortgagee. Together with each such financial statement, the Mortgagor and Responsible Party, as applicable, shall furnish to the Mortgagee a certificate signed by the Mortgagor and Responsible Party, as applicable, certifying on the date thereof that: (i) such financial statement is true, complete and accurate and (ii) either that there does or does not exist an event which constitutes, or which upon notice or lapse of time or both would constitute, a default or an Event of Default under this Mortgage and, if such default or Event of Default exists, the nature thereof and the period of time it has existed (a "Certification"). The Mortgagor shall furnish to the Mortgagee within ten (10) days after request, such further detailed financial and other information (including, but not limited to, financial statements) as may be requested by the Mortgagee with respect to the Mortgaged Property and the Mortgagor, Responsible Party, any Guarantor or any affiliate of, or entity controlled by, the Mortgagor, Responsible Party or any Guarantor as of a date not earlier than that specified by the Mortgagee in such request, together with a Certification with respect thereto.

## 9. Transfer or Encumbrance of the Mortgaged Property

(a) No part of the Mortgaged Property nor any interest of any nature whatsoever therein nor any interest of any nature whatsoever in the Mortgagor (whether partnership, stock, equity, beneficial, profit, loss or otherwise) shall in any manner be further encumbered, sold, transferred, assigned or conveyed, or permitted to be further encumbered, sold, transferred, assigned or conveyed without the prior written consent of the Mortgagee, which consent in any and all circumstances may be withheld in the sole and absolute discretion of the Mortgagee. In addition, the Mortgagor shall not operate the Mortgaged Property, nor permit the Mortgaged Property to be operated as, or converted to, a condominium or cooperative form of ownership. The provisions of this Paragraph shall apply to each and every such further encumbrance, sale, transfer, assignment or conveyance, regardless of whether or not the Mortgagee has consented to, or waived by its action or inaction its rights hereunder with respect to, any such previous further encumbrance, sale, transfer, assignment or conveyance, and irrespective of whether such further encumbrance, sale, transfer, assignment or conveyance is voluntary, by reason of operation of law or is otherwise made.

(b) Notwithstanding the provisions of Paragraph 9(a) above, Mortgagee agrees to consent to a one-time transfer of the Mortgaged Property and assumption of the Loan, provided

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Mortgagee's consent is conditioned upon the absence of an Event of Default under the Note, this Mortgage or any of the other Loan Documents at the time the request for such transfer is made and at the time the transfer is to occur, and upon Mortgagee's approval of the proposed transferee, which approval shall be in Mortgagee's sole and absolute discretion. In addition, it is expressly agreed that:

(i) Mortgagor shall pay a fee of one percent (1%) of the then outstanding principal balance of the Loan, payable at the closing of such transfer;

(ii) In addition to the fee described in clause (i) above, Mortgagor shall pay to Mortgagee all fees, costs and expenses incurred by Mortgagee arising in connection with such transfer, including but not limited to, an administrative fee of Five Hundred Dollars (\$500.00), attorney's fees and the cost of endorsing and extending Mortgagee's policy of mortgage title insurance to reflect the date of recording of the transferee's assumption documents hereinafter referred to (which written endorsement shall show no additional exceptions to such existing policy other than those previously approved by Mortgagee); and

(iii) The transferee shall agree, in writing, to assume and be bound by any and all of the Loan Documents pursuant to documentation in form and substance satisfactory to Mortgagee, original counterparts of which are delivered to Mortgagee upon request.

## 10. Maintenance of the Mortgaged Property: Compliance with Laws, Regulations, Covenants and Easements.

(a) The Mortgagor shall cause the Mortgaged Property to be maintained in good condition and repair and, to the extent of any renovations that are made by the Mortgagor, the same shall be made in compliance with the requirements of all governmental authorities having jurisdiction over the Mortgaged Property. The Mortgagor will not commit or suffer to be committed any waste of the Mortgaged Property. The Improvements and the Equipment shall not be removed, demolished or materially altered (except for normal replacement of the Equipment), without the consent of the Mortgagee, including, but not limited to, any alteration changing the configuration or number of parking spaces comprising a part of the Mortgaged Property. The Mortgagor shall promptly repair, replace or rebuild any part of the Mortgaged Property which may be damaged or destroyed by fire or other property hazard or casualty (including any fire or other property hazard or casualty for which insurance was not obtained or obtainable) or which may be affected by any taking by any public or quasi-public authority through eminent domain or otherwise, and shall complete and pay for, within a reasonable time, any structure at any time in the process of construction or repair on the Premises.

(b) The Mortgagor represents to and covenants with the Mortgagee that to the best of the knowledge thereof after diligent inquiry, the Mortgaged Property is currently in compliance with, and the Mortgagor shall in the future promptly comply with, all existing and future governmental laws, orders, ordinances, rules and regulations affecting the Mortgaged Property, or any portion thereof or the use thereof, including specifically, but not limited to, provisions of the Americans with Disabilities Act. The Mortgagor shall comply with the requirements of all, and

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shall not modify, amend or terminate any, easements and restrictive covenants which from time to time affect the whole or any portion of the Mortgaged Property or the use thereof. The Mortgagor shall also comply with the requirements of, and to the extent reasonably within the Mortgagor's control, maintain, preserve, enforce and renew, all rights of way, easements, grants, privileges, licenses, franchises and restrictive covenants which from time to time benefit or pertain to the whole or any portion of the Mortgaged Property, and the Mortgagor shall not modify, amend or terminate, or surrender any of its rights under, any of such rights of way, easements, grants, privileges, licenses, franchises or restrictive covenants. The Mortgagor will not, without obtaining the prior written consent of the Mortgagee, initiate, join in or consent to any new private restrictive covenant, zoning ordinance, or other public or private restrictions, limiting or affecting the uses which may be made of the Mortgaged Property or any part thereof.

(c) A written property management contract for the management of the Premises and the Improvements satisfactory to Mortgagee with a professional manager acceptable to Mortgagee shall be in force at all times. At the Mortgagee's sole discretion, the management agreement and all fees payable thereunder shall be subordinated to this Mortgage and collaterally assigned to Mortgagee, pursuant to a subordination and assignment agreement, in form and substance satisfactory to Mortgagee. If required by Mortgagee, the property manager shall consent to such subordination and collateral assignment and all property management contracts shall require the property manager thereunder to provide such consent. In the event of any change in the property manager or termination or modification of the property management contract without Mortgagee's prior written approval, Mortgagee may at its sole option declare the Debt immediately due and payable.

## 11. Environmental Provisions.

(a) For the purposes of this Paragraph the following terms shall have the following meanings: (i) the term "Hazardous Material" shall mean any material or substance that, whether by its nature or use, is now or hereafter defined as a hazardous waste, hazardous substance, pollutant or contaminant under any Environmental Requirement, or which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and which is now or hereafter regulated under any Environmental Requirement, or which is or contains petroleum, gasoline, diesel fuel or another petroleum hydrocarbon product or material; (ii) the term "Environmental Requirements" shall collectively mean all present and future laws, statutes, ordinances, rules, regulations, orders, codes, licenses, permits, decrees, judgments, directives or the equivalent of or by any Governmental Authority and relating to or addressing the protection of the environment or human health or safety, and (iii) the term "Governmental Authority" shall mean the Federal government, or any state or other political subdivision thereof, or any agency, court or body of the Federal government, any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) The Mortgagor hereby represents to and covenants with the Mortgagee that to the best of the knowledge of Mortgagor, after diligent inquiry, being limited to review of existing information and data in the Mortgagor's or Responsible Party's possession or control, that (i) no Hazardous Material is currently located at, on, in, under or about the Mortgaged Property in a

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manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement, (ii) no releasing, emitting, discharging, leaching, dumping or disposing of any Hazardous Material from the Mortgaged Property onto or into any other property or from any other property onto or into the Mortgaged Property has occurred or is occurring in violation of any Environmental Requirement, (iii) no notice of violation, lien, complaint, suit, order or other notice with respect to the Mortgaged Property is presently outstanding under any Environmental Requirement or that may be subject to any Environmental Requirement, and (iv) the Mortgaged Property and the operation thereof are in full compliance with all Environmental Requirements.

(c) The Mortgagor shall comply, and shall cause all tenants or other occupants of the Mortgaged Property to comply, in all respects with all Environmental Requirements, and will not generate, store, handle, process, dispose of or otherwise use, and will not permit any tenant or other occupant of the Mortgaged Property to generate, store, handle, process, dispose of or otherwise use, Hazardous Materials at, in, on, under or about the Mortgaged Property in a manner that could lead or potentially lead to the imposition on the Mortgagor, the Mortgagee or the Mortgaged Property of any liability or lien of any nature whatsoever under any Environmental Requirement. The Mortgagor shall notify the Mortgagee promptly in the event of any spill or other release of any Hazardous Material at, in, on, under or about the Mortgaged Property which is required to be reported to a Governmental Authority under any Environmental Requirement, will promptly forward to the Mortgagee copies of any notices received by the Mortgagor relating to alleged violations of any Environmental Requirement and will promptly pay when due any fine or assessment against the Mortgagee, the Mortgagor, the Responsible Party or the Mortgaged Property relating to any Environmental Requirement. If at any time it is determined that the operation or use of the Mortgaged Property violates any applicable Environmental Requirement or that there are Hazardous Materials located at, in, on, under or about the Mortgaged Property which, under any Environmental Requirement, require special handling in collection, storage, treatment or disposal, or any other form of cleanup or corrective action, the Mortgagor shall, within thirty (30) days after receipt of notice thereof from any Governmental Authority or from the Mortgagee, take, at the sole cost and expense of the Mortgagor, such actions as may be necessary to fully comply in all respects with all Environmental Requirements, provided, however, that if such compliance cannot reasonably be completed within such thirty (30) day period, the Mortgagor shall commence such necessary action within such thirty (30) day period and shall thereafter diligently and expeditiously proceed to fully comply in all respects and in a timely fashion with all Environmental Requirements.

(d) If the Mortgagor fails to timely take, or to diligently and expeditiously proceed to complete in a timely fashion, any such action described in clause (c) above, the Mortgagee may, in its sole and absolute discretion, make advances or payments toward the performance or satisfaction of the same, but shall in no event be under any obligation to do so. All sums so advanced or paid by the Mortgagee (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, and fines or other penalty payments) and all sums advanced or paid in connection with any judicial or administrative investigation or proceeding relating thereto, will immediately, upon demand, become due and payable from the Mortgagor and shall bear interest at the Default Rate (as hereinafter defined) from the date any such sums are so

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advanced or paid by the Mortgagee until the date any such sums are repaid by the Mortgagor to the Mortgagee. The Mortgagor will execute and deliver, promptly upon request, such instruments as the Mortgagee may deem useful or necessary to permit the Mortgagee to take any such action, and such additional notes and mortgages, as the Mortgagee may require to secure all sums so advanced or paid by the Mortgagee. If a lien is filed against the Mortgaged Property by any Governmental Authority resulting from the need to expend or the actual expending of monies arising from an action or omission, whether intentional or unintentional, of the Mortgagor or for which the Mortgagor is responsible, resulting in the releasing, spilling, leaking, leaching, pumping, emitting, pouring, emptying or dumping of any Hazardous Material into the waters or onto land located within or without the State where the Mortgaged Property is located, then the Mortgagor will, within thirty (30) days from the date that the Mortgagor is first given notice that such lien has been placed against the Mortgaged Property (or within such shorter period of time as may be specified by the Mortgagee if such Governmental Authority has commenced steps to cause the Mortgaged Property to be sold pursuant to such lien), either (a) pay the claim and remove the lien, or (b) furnish a cash deposit, bond, or such other security with respect thereto as is satisfactory in all respects to the Mortgagee and is sufficient to effect a complete discharge of such lien on the Mortgaged Property.

(e) The Mortgagee may, at its option, at intervals of not less than one year, or more frequently if the Mortgagee reasonably believes that a Hazardous Material or other environmental condition violates or threatens to violate any Environmental Requirement, cause an environmental audit of the Mortgaged Property or portions thereof to be conducted to confirm compliance with the provisions of this Paragraph, and the Mortgagor shall cooperate in all reasonable ways with the Mortgagee in connection with any such audit. If such audit discloses that a violation of an Environmental Requirement exists, the Mortgagor shall pay all costs and expenses incurred in connection with such audit; otherwise, the costs and expenses of such audit shall, notwithstanding anything to the contrary set forth in this Paragraph, be paid by the Mortgagee.

(f) If this Mortgage is foreclosed, or if the Mortgaged Property is sold pursuant to the provisions of this Mortgage, or if the Mortgagor tenders a deed or assignment in lieu of foreclosure or sale, the Mortgagor shall deliver the Mortgaged Property to the purchaser at foreclosure or sale or to the Mortgagee, its nominee, or wholly-owned subsidiary, as the case may be, in a condition that complies in all respects with all Environmental Requirements. The Mortgagor will defend, indemnify, and hold harmless the Mortgagee, its employees, agents, officers, and directors, from and against any and all claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) arising out of, or in any way related to, (i) any breach by the Mortgagor of any of the provisions of this Paragraph 11, (ii) the presence, disposal, spillage, discharge, emission, leakage, release, or threatened release of any Hazardous Material which is at, in, on, under, about, from or affecting the Mortgaged Property, including, without limitation, any damage or injury resulting from any such Hazardous Material to or affecting the Mortgaged Property or the soil, water, air, vegetation, buildings, personal property, persons or animals located on the Mortgaged Property or on any other property or otherwise, (iii) any personal injury (including wrongful death) or property damage (real

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or personal) arising out of or related to any such Hazardous Material, (iv) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Material, or (v) any violation of any Environmental Requirement or any policy or requirement of the Mortgagee hereunder. With respect to the foregoing, the Mortgagee shall have the right to participate in the defense of, or at its option to assume the defense of, any action, suit, proceeding, demand, assessment or judgment brought by any party against the Mortgagee. The aforesaid indemnification shall, notwithstanding any exculpatory or other provision of any nature whatsoever to the contrary set forth in the Note, this Mortgage or any other document or instrument now or hereafter executed and delivered in connection with the loan evidenced by the Note and secured by this Mortgage, constitute the personal recourse undertakings, obligations and liabilities of the Mortgagor and Responsible Party.

(g) The aforesaid indemnification shall not be applicable to any claim, demand, penalty, cause of action, fine, liability, settlement, damage, cost or other expense of any type whatsoever occasioned, (i) to the extent arising and caused solely and directly as the result of the negligence or willful misconduct of the Mortgagee, its nominee or wholly-owned subsidiary or their respective employees or agents, or (ii) to the extent arising in connection with an environmental condition occurring subsequent to the date upon which the Mortgagee, its nominee or wholly-owned subsidiary acquires actual possession of the Mortgaged Property by foreclosure of this Mortgage, a sale of the Mortgaged Property pursuant to the provisions of this Mortgage, acceptance of a deed or assignment in lieu of foreclosure or sale or otherwise.

(h) All obligations and liabilities of the Mortgagor under this Paragraph 11 shall cease and terminate on the seventh (7th) anniversary of the date of payment to the Mortgagee in cash of the entire Debt, provided that contemporaneously with or subsequent to the payment to the Mortgagee in cash of the entire Debt the Mortgagor, at the sole cost and expense thereof, delivers to the Mortgagee an environmental audit of the Mortgaged Property in form and substance, and prepared by a qualified environmental consultant, satisfactory in all respects to the Mortgagee and indicating that the Mortgaged Property is in full compliance with all applicable Environmental Requirements, and provided further, however, that the Mortgagor shall continue to be obligated to indemnify the Mortgagee and to hold the Mortgagee harmless from and against any penalty, fine, liability, damage, cost or other expense incurred by the Mortgagee and to which the aforesaid indemnification pertains to the extent the same arises out of any claim, penalty, fine liability or damage which is asserted or cause of action suit which is commenced prior to, or which otherwise relates back to the period before, the seventh (7th) anniversary of the date of payment to the Mortgagee in cash of the entire Debt. Except as hereinabove specifically provided to the contrary in this Paragraph 11, the obligations and liabilities of the Mortgagor under this Paragraph 11 shall survive and continue in full force and effect and shall not be terminated, discharged or released, in whole or in part, irrespective of whether the Debt has been paid in full and irrespective of any foreclosure of this Mortgage, sale of the Mortgaged Property pursuant to the provisions of this Mortgage or acceptance by the Mortgagee, its nominee or wholly-owned subsidiary of a deed or assignment in lieu of foreclosure or sale and irrespective of any other fact or circumstance of any nature whatsoever.

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12. Performance of Other Agreements. The Mortgagor shall observe and perform each and every term to be observed or performed by the Mortgagor pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Mortgaged Property.

13. Other Security for the Debt. The Mortgagor shall observe and perform all of the terms, covenants and provisions contained in the Note and in all other mortgages and other instruments or documents evidencing, securing or guaranteeing payment of the Debt, in whole or in part, or otherwise executed and delivered in connection with the Note, this Mortgage or the loan evidenced and secured thereby or hereby.

14. Right of Entry. The Mortgagee and its agents shall have the right to enter and inspect the Mortgaged Property at all reasonable times upon reasonable notice and subject to the rights of tenants under any lease of or rental agreement for space in the Mortgaged Property.

15. Trust Fund. The Mortgagor shall receive the advances secured hereby and shall hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of any improvement and shall apply such advances first to the payment of the cost of any such improvement on the Mortgaged Property before using any part of the total of the same for any other purpose.

16. Security Agreement. This Mortgage constitutes both a real property mortgage and a "security agreement", within the meaning of the Uniform Commercial Code, and the Mortgaged Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of the Mortgagor in the Mortgaged Property. The Mortgagor by executing and delivering this Mortgage has granted to the Mortgagee, as security for the Debt, a security interest in the Equipment. If the Mortgagor shall default under the Note or this Mortgage, the Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Equipment or any part thereof, and to take such other measures as the Mortgagee may deem necessary for the care, protection and preservation of the Equipment. Upon request or demand of the Mortgagee, the Mortgagor shall at the expense thereof assemble the Equipment and make it available to the Mortgagee at a convenient place acceptable to the Mortgagee. The Mortgagor shall pay to the Mortgagee on demand any and all expenses, including legal expenses and attorneys' fees, incurred or paid by the Mortgagee in protecting its interest in the Equipment and in enforcing its rights hereunder with respect to the Equipment. Any notice of sale, disposition or other intended action by the Mortgagee with respect to the Equipment sent to the Mortgagor in accordance with the provisions of this Mortgage at least seven (7) days prior to the date of any such sale, disposition or other action, shall constitute reasonable notice to the Mortgagor, and the method of sale or disposition or other intended action set forth or specified in such notice shall conclusively be deemed to be commercially reasonable within the meaning of the Uniform Commercial Code unless objected to in writing by the Mortgagor within five (5) days after receipt by the Mortgagor of such notice. The proceeds of any sale or disposition of the Equipment, or any part thereof, may be applied by the Mortgagee to the

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payment of the Debt in such order, priority and proportions as the Mortgagee in its discretion shall deem proper.

## ARTICLE II - DEFAULTS AND REMEDIES

1. Events of Default. The term "Event of Default", wherever used in this Mortgage, shall mean any one or more of the following events, without regard to any grace period or notice and cure period provided or referenced below with respect to any such events, and the term "Default", wherever used in this Mortgage, shall mean any one or more of the following events, after expiration of any grace period or notice and cure period provided or referenced below with respect to any such events. The Debt shall become immediately due and payable at the option of the Mortgagee upon the occurrence of any one or more of the following events, whether such occurrence shall be voluntary, involuntary, by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any rule or regulation of any administrative or governmental body:

(a) if any portion of the Debt is not paid within ten (10) days of the due date or if the Debt is not paid in full on maturity;

(b) if the Mortgagor shall fail to pay within twenty (20) days of notice and demand by the Mortgagee, any installment of any assessment against the Mortgaged Property for local improvements heretofore or hereafter laid, which assessment is or may become payable in annual or periodic installments and is or may become a lien on the Mortgaged Property, notwithstanding the fact that such installment may not be due and payable at the time of such notice and demand;

(c) if any Federal tax lien is filed against the Mortgagor, or any Guarantor or the Mortgaged Property and the same is not discharged of record within thirty (30) days after the same is filed;

(d) except as expressly permitted under the Loan Documents, if without the consent of the Mortgagee (which consent in any and all circumstances may be withheld in the sole and absolute discretion of the Mortgagee), (i) any part of the Mortgaged Property or any interest of any nature whatsoever therein (whether partnership, stock, equity, beneficial, profit, loss or otherwise) or any interest of any nature whatsoever in the Mortgagor is in any manner, by operation of law or otherwise, whether directly or indirectly, further encumbered, sold, transferred, assigned or conveyed, and irrespective of whether any such further encumbrance, sale, transfer, assignment or conveyance is voluntary, by reason or operation of law or is otherwise made or (ii) the Mortgaged Property is operated as, or converted to, a cooperative or condominium form of ownership;

(e) if without the consent of the Mortgagee any Improvement or Equipment (except for the normal replacement of the Equipment) is removed, demolished or materially altered, or if the Mortgaged Property is not kept in reasonably good condition and repair and Mortgagor fails to correct any deficiency within ten (10) days after notice from the Mortgagee;

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(f) if the Mortgagor shall fail to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the Mortgaged Property within three (3) months from the issuance thereof, or the time period set forth therein, whichever is less;

(g) if the Policies are not assigned to the Mortgagee or kept in full force and effect, or if the Policies are not delivered to the Mortgagee upon request;

(h) if Mortgagor shall fail to maintain insurance required hereunder;

(i) if the Mortgagor shall fail to pay the Mortgagee within ten (10) days after demand for all Premiums and/or Taxes paid by the Mortgagee pursuant to this Mortgage, together with any late payment charge and interest thereon calculated at the Default Rate;

(j) if without the consent of the Mortgagee any Leases are made, canceled or modified, or if the Mortgagor shall consent to any assignment thereof or subletting thereunder, or if any portion of the Rents is paid for a period of more than one (1) month in advance or if any of the Rents are further assigned;

(k) if any representation or warranty of the Mortgagor, or of any Guarantor or of the Responsible Party made herein or in the Guaranty (as hereinafter defined), or in any certificate, report, financial statement or other instrument furnished in connection with the making of the Note, this Mortgage, or any such Guaranty of the Mortgagor, or any Guarantor or the Responsible Party, shall prove false or misleading in any material respect or shall have omitted any substantial contingent or unliquidated liability or claim;

(l) If the Mortgagor, any Guarantor or any general partner of the Mortgagor (each of whom is hereinafter in this Subparagraph referred to as an "Obligor") shall commence any case, proceeding or other action relating to it in bankruptcy or seeking reorganization, liquidation, dissolution, winding-up, arrangement, composition or readjustment of its debts, or for any other relief, under bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up, arrangement, composition, readjustment of debt or other similar act or law of any jurisdiction, domestic or foreign, now or hereafter existing; or if an Obligor shall apply for a receiver, custodian or trustee of it or for all or a substantial part of its property; or if an Obligor shall make an assignment for the benefit of creditors; or if an Obligor shall be unable to, or shall admit in writing the inability to pay its debts generally as they become due; or if an Obligor shall take any action indicating its consent to, approval of, acquiescence in, or in furtherance of, any of the foregoing; or if any case, proceeding or other action against an Obligor shall be commenced in bankruptcy or seeking reorganization, liquidation, dissolution, winding-up, arrangement, composition or readjustment of its debts, or any other relief, under any bankruptcy, insolvency, reorganization, liquidation, dissolution, arrangement, composition, readjustment of debt or other similar act or law of any jurisdiction, domestic or foreign, now or hereafter existing, and such condition shall continue for a period of sixty (60) days undischarged or unbonded; or if a receiver, custodian or trustee of an Obligor or for all or a substantial part of its property shall be appointed and such condition shall continue for a period of sixty (60) days undischarged or

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unbonded; or if a warrant of attachment, execution or distraint, or similar process, shall be issued against any substantial part of the property of an Obligor and such condition shall continue for a period of sixty (60) days undismissed, undischarged or unbonded;

(m) if the Mortgagor or any other person shall be in default after expiration of any applicable grace or curative period under the Note, or under any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt, in whole or in part, or otherwise executed and delivered in connection with the Note, this Mortgage or the loan evidenced and secured thereby or hereby;

(n) if the Mortgagor or any other person shall be in default after expiration of any applicable grace or curative period under any mortgage or deed of trust covering any part of the Mortgaged Property whether superior or inferior in lien to this Mortgage, and including, without limitation, any such mortgage or deed of trust now or hereafter held by the Mortgagee;

(o) if the Mortgaged Property shall become subject (i) to any tax lien, other than a lien for local real estate taxes and assessments not due and payable, or (ii) to any lis pendens, notice of pendency, stop order, notice of intention to file mechanic's or materialman's lien, mechanic's or materialman's lien or other lien of any nature whatsoever and the same shall not either be discharged of record or in the alternative insured over to the satisfaction of the Mortgagee by the title company insuring the lien of this Mortgage within a period of thirty (30) days after the same is filed or recorded, and irrespective of whether the same is superior or subordinate in lien or other priority to the lien of this Mortgage and irrespective of whether the same constitutes a perfected or inchoate lien or encumbrance on the Mortgaged Property or is only a matter of record or notice;

(p) if the Mortgagor shall continue to be in default under any of the other terms, covenants or conditions of this Mortgage for ten (10) days after notice from the Mortgagee in the case of any default which can be cured by the payment of a sum of money or for thirty (30) days after notice from the Mortgagee in the case of any other default, provided that if such default cannot reasonably be cured within such thirty (30) day period and the Mortgagor shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require the Mortgagor in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of ninety (90) days; or

(q) if the Mortgagor shall fail to maintain its business in good standing under the applicable regulations of the agencies or governmental authorities having jurisdiction thereof, or its failure to receive and maintain whatever licenses are required, or shall be required, for the ownership, maintenance and operation of the Mortgaged Property.

2. Rights and Remedies of the Mortgagee. At any time after the occurrence of a Default hereunder, the Mortgagee shall have all of the rights and remedies available under applicable law, including, by way of illustration and not of limitation, the right:

(i) to declare the Debt immediately due and payable;

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(ii) to commence and maintain an action or actions in any court of competent jurisdiction to foreclose this Mortgage and the security interest granted herein, or to obtain specific enforcement of the covenants of the Mortgagor hereunder, and the Mortgagor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy, and that for the purposes of any action brought hereunder, the Mortgagor waives the defenses of laches and any statute of limitations;

(iii) to enter upon, possess, manage and operate the Mortgaged Property or any part thereof, to make, terminate, enforce or modify the Leases upon such terms and conditions as the Mortgagee deems proper, and to make repairs, alterations and improvements to the Mortgaged Property necessary in the Mortgagee's judgment to protect or enhance the security hereof;

(iv) to enforce and realize upon, or waive, the security hereunder and any other security now or hereafter held by the Mortgagee in such order and manner as the Mortgagee may in its sole discretion determine, whether concurrently or successively and in one or several consolidated independent judicial actions or lawfully taken non-judicial proceedings, or both; and

(v) foreclose this Mortgage, and in any such action qualify for the appointment of a receiver of the Mortgaged Property (either before or after a foreclosure sale, without notice and without regard to the solvency or insolvency of the Mortgagor at the time of the application for such receiver, and without regard to the then value of the Mortgaged Property, and the Mortgagee or any holder of the Note may be appointed as such receiver or as mortgagee in possession. The receiver or the mortgagee in possession shall have the power to collect the Rents during the pendency of such foreclosure action, and in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during all other times, when the Mortgagor, except for the intervention of the receiver or mortgagee in possession, would be entitled to collect such Rents, together with all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Mortgaged Property during the whole of said period.

3. Appointment of Receiver. Upon or at any time after the occurrence of a Default, to the extent permitted by law, the Mortgagee shall be entitled as a matter of right to the appointment of a receiver of the Mortgaged Property, without notice or the requirement of bond (notice and bond being hereby waived) and without regard to the solvency or insolvency of the Mortgagor or any partner thereof at the time of application for such receiver and without regard to the then value of the Mortgaged Property or whether the same shall be then occupied as a homestead or not; and the Mortgagee or any holder of the Note may be appointed as such receiver or as mortgagee-in-possession. Such receiver or the mortgagee-in-possession shall have power to collect the rents, issues and profits of the Mortgaged Premises during the pendency of such foreclosure action and, in case of a sale and a deficiency, during the full statutory period of redemption (if any), whether there be redemption or not, as well as during any further times (if any) when the Mortgagor, except for the intervention of such receiver or mortgagee-in-possession, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such case, for the protection, possession, control, management and operation of the

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Mortgaged Property (including the completion of any construction, repair or restoration) during the whole of said period. The court from time to time may authorize the receiver or mortgagee-in-possession to apply the net income in its hands in payment in whole or in part of: (a) the indebtedness and obligations or by any order or judgment foreclosing the lien of this Mortgage, or any tax, special assessment or other Lien which may be or become superior to the lien and security interest hereof or the lien of such order or judgment, provided such application is made prior to foreclosure sale; and (b) the deficiency in case of a sale and deficiency.

4. Sale of Mortgaged Property. If this Mortgage is foreclosed, the Mortgaged Property, or any interest therein, may, at the discretion of the Mortgagee, be sold in one or more parcels or in several interests or portions and in any order or manner.

5. Recovery of Sums Required To Be Paid. The Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced.

6. Actions and Proceedings. The Mortgagee shall have the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of the Mortgagor, which the Mortgagee, in its discretion, feels should be brought to protect the Mortgagee's interest in the Mortgaged Property.

7. Right to Cure Defaults. Upon the occurrence of any Event of Default hereunder, the Mortgagee may, at its discretion, remedy the same and for such purpose shall have the right to enter upon the Mortgaged Property or any portion thereof without thereby becoming liable to the Mortgagor or any person in possession thereof holding under or claiming under or through the Mortgagor, it being understood and agreed that nothing contained in this Mortgage shall in any manner obligate the Mortgagee to remedy any Event of Default hereunder. If the Mortgagee shall remedy such a default or appear in, defend, or bring any action or proceeding to protect the Mortgagee's interest in the Mortgaged Property or to foreclose this Mortgage or collect the Debt, the costs and expenses thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Paragraph, shall be paid by the Mortgagor to the Mortgagee upon demand. All such costs and expenses incurred by the Mortgagee in remedying such default or in appearing in, defending, or bringing any such action or proceeding shall be paid by the Mortgagor to the Mortgagee upon demand, with interest (calculated for the actual number of days elapsed on the basis of a 360-day year) at a rate per annum equal to eighteen percent (18%) (the "Default Rate"), provided, however, that the Default Rate shall in no event exceed the maximum interest rate which the Mortgagor may by law pay, for the period after notice from the Mortgagee that such costs or expenses were incurred to the date of payment to the Mortgagee. To the extent any of the aforementioned costs or expenses paid by the Mortgagee after default by the Mortgagor shall constitute payment of (i) taxes, charges or assessments which may be imposed by law upon the Mortgaged Property, (ii) premiums on insurance policies covering the Mortgaged Property, (iii) expenses incurred in upholding the lien of this Mortgage, including, but not limited to, the costs and

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expenses of any litigation to collect the indebtedness secured by this Mortgage or to prosecute, defend, protect or preserve the rights and the lien created by this Mortgage, or (iv) any amount, cost or charge to which the Mortgagee becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority; then, and in each such event, such costs, expenses and amounts, together with interest thereon at the Default Rate, shall be added to the indebtedness secured by this Mortgage and shall be secured by this Mortgage.

8. Late Payment Charge. If any payment under the Note or this Mortgage is not paid within fifteen (15) days after the date on which it is due, the Mortgagor shall pay to the Mortgagee upon demand, in addition to any interest, if any, payable pursuant to Paragraph 7 of Article II above, an amount equal to 4% of such unpaid installment as a late payment charge.

9. Sole Discretion of Mortgagee. Except as may otherwise be expressly provided to the contrary, where, pursuant to the Note, this Mortgage or any other document or instrument now or hereafter executed and delivered in connection therewith or otherwise with respect to the loan secured hereby, the Mortgagee exercises any right given to it to consent or not consent, or to approve or disapprove, or any arrangement or term is to be satisfactory to the Mortgagee, the decision of the Mortgagee to consent or not consent, or to approve or disapprove, or to decide that arrangements or terms are satisfactory or not satisfactory, shall be in the sole and absolute discretion of the Mortgagee and shall be final and conclusive.

10. Non-Waiver. The failure of the Mortgagee to insist upon strict performance of any term of this Mortgage shall not be deemed to be a waiver of any term of this Mortgage. No delay or omission by the Mortgagee to exercise any right, power or remedy accruing under this Mortgage shall be construed to be a waiver of any default or acquiescence therein. A waiver in one or more instances to exercise any right, power or remedy accruing hereunder shall apply only to the particular instance or instances, and at the particular time or times only, and no such waiver shall be deemed a continuing waiver, but every term, covenant, provision or condition establishing such right, power or remedy shall survive and continue to remain in full force and effect. The Mortgagor shall not be relieved of the obligation to pay the Debt at the time and in the manner provided for its payment in the Note and this Mortgage by reason of: (i) failure of the Mortgagee to comply with any request of the Mortgagor to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt or any portion thereof, (ii) the release, regardless of consideration, of the whole or any part of the Mortgaged Property or any other security for the Debt, or (iii) any agreement or stipulation between the Mortgagee and any subsequent owner or owners of the Mortgaged Property or other person extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt or any portion thereof, without first having obtained the consent of the Mortgagor, and in the latter event, the Mortgagor shall continue to be obligated to pay the Debt at the time and in the manner provided in the Note and this Mortgage, as so extended, modified and supplemented, unless expressly released and discharged from such obligation by the Mortgagee in writing. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to the Mortgaged Property, the Mortgagee may release any

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person at any time liable for the payment of the Debt or any portion thereof or any part of the security held for the Debt and may extend the time of payment or otherwise modify the terms of the Note or this Mortgage, including, without limitation, a modification of the interest rate payable on the principal balance of the Note, without in any manner impairing or affecting this Mortgage or the lien hereof or the priority of this Mortgage, as so extended and modified, as security for the Debt over any such subordinate lien, encumbrance, right, title or interest. The Mortgagee may resort for the payment of the Debt to any other security held by the Mortgagee in such order and manner as the Mortgagee, in its discretion, may elect. The Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of the Mortgagee thereafter to foreclose this Mortgage. The Mortgagee shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every additional right and remedy now or hereafter afforded by law or equity. The rights of the Mortgagee under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of the Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

11. Absolute and Unconditional Obligation. The Mortgagor acknowledges that the obligation to pay the Debt in accordance with the provisions of the Note and this Mortgage is and shall at all times continue to be absolute and unconditional in all respects, and shall at all times be valid and enforceable irrespective of any other agreements or circumstances of any nature whatsoever which might otherwise constitute a defense to the Note or this Mortgage or the obligation of the Mortgagor thereunder to pay the Debt or the obligations of any other person relating to the Note or this Mortgage or the obligations of the Mortgagor under the Note or this Mortgage or otherwise with respect to the loan secured hereby, and the Mortgagor absolutely, unconditionally and irrevocably waives any and all right to assert any setoff, counterclaim or crossclaim of any nature whatsoever with respect to the obligation of the Mortgagor to pay the Debt in accordance with the provisions of the Note and this Mortgage or the obligations of any other person relating to the Note or this Mortgage or obligations of the Mortgagor under the Note or this Mortgage or otherwise with respect to the loan secured hereby in any action or proceeding brought by the Mortgagee to collect the Debt, or any portion thereof, or to enforce, foreclose and realize upon the lien and security interest created by this Mortgage or any other document or instrument securing repayment of the Debt, in whole or in part.

12. Offsets, Counterclaims and Defenses. Any assignee of this Mortgage (and the Note) shall take the same free and clear of all offsets, counterclaims or defenses of any nature whatsoever which the Mortgagor may have against any assignor of this Mortgage and the Note.

13. Waiver of Statutory Rights. The Mortgagor shall not and will not apply for or avail itself of any appraisement, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws to the full extent that the Mortgagor may do so under applicable law. The Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Property marshaled upon any foreclosure of the lien of this Mortgage and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as

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an entirety. TO THE FULL EXTENT PERMITTED BY LAW, THE MORTGAGOR DOES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS OF REDEMPTION FROM SAME UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE OF THE LIEN OF THIS MORTGAGE ON BEHALF OF THE MORTGAGOR AND EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF THE MORTGAGOR IN THEIR REPRESENTATIVE CAPACITY ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PREMISES SUBSEQUENT TO THE DATE OF THIS MORTGAGE. THE MORTGAGOR REPRESENTS TO AND COVENANTS WITH MORTGAGEE THAT THE MORTGAGOR HAS BEEN AND IS AUTHORIZED AND EMPOWERED TO MAKE THE FOREGOING WAIVER.

14. Waiver of Trial by Jury. The Mortgagor hereby irrevocably and unconditionally waives, and the Mortgagee by its acceptance of the Note and this Mortgage irrevocably and unconditionally waives, any and all rights to trial by jury in any action, suit or counterclaim arising in connection with, out of or otherwise relating to the Note, this Mortgage or any other document or instrument heretofore, now or hereafter executed and delivered in connection therewith, the loan secured by this Mortgage or in any way related to this transaction or otherwise with respect to the Mortgaged Property.

## ARTICLE VII - MISCELLANEOUS

1. Notice. Any notice, request, demand, statement, authorization, approval or consent made hereunder shall be in writing and shall be sent by Federal Express, or other reputable nationally recognized overnight courier service, or by postage pre-paid registered or certified mail, return receipt requested, and shall be deemed given when received or refused (as indicated on the receipt) and addressed as follows:

If to Mortgagee:

Fortis Benefits Insurance Company  
c/o Fortis Real Estate  
One Chase Manhattan Plaza  
New York, New York 10005  
Attention: Senior Vice President - Mortgages

With a copy to:

Coffield Ungaretti & Harris  
3500 Three First National  
Chicago, Illinois 60602  
Attention: Michael J. Hornbrook, Esq.

If to Mortgagor:

Amalgamated Bank of Chicago, as trustee  
c/o George Novogroder  
875 North Michigan Avenue  
Chicago, Illinois 60611

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With a copy to:

George Novogroder  
875 North Michigan Avenue  
Chicago, Illinois 60611

it being understood and agreed that the Mortgagee will use reasonable efforts to send copies of any notices to the addresses marked "With a copy to" hereinabove set forth; provided, however, that failure of the Mortgagee to deliver such copy or copies shall have no consequence whatsoever to the effectiveness of any notice made to the Mortgagor. Each party may designate a change of address by notice given, as herein provided, to the other party, at least fifteen (15) days prior to the date such change of address is to become effective.

2. Waiver of Notice. The Mortgagor shall not be entitled to any notices of any nature whatsoever from the Mortgagee except with respect to matters for which this Mortgage specifically and expressly provides for the giving of notice by the Mortgagee to the Mortgagor and the Mortgagor hereby expressly waives the right to receive any notice from the Mortgagee with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by the Mortgagee to the Mortgagor.

3. Estoppel Certificates. The Mortgagor and Mortgagee hereby agree, within ten (10) days after request by the other party and at the expense of Mortgagor, to furnish the requesting party with a statement, duly acknowledged and certified, setting forth the amount of the Debt and the offsets or defenses thereto, if any. Notwithstanding anything to the contrary contained herein, Mortgagee shall not be obligated to furnish more than two (2) such estoppel certificates in any consecutive twelve (12) month period.

4. Changes in Laws Regarding Taxation. In the event of the passage after the date of this Mortgage of any law of the State in which the Mortgaged Property is located deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage, the Note or the Debt, the Mortgagor shall, if permitted by law, pay any tax imposed as a result of any such law within the statutory period or within fifteen (15) days after demand by the Mortgagee, whichever is less, provided, however, that if, in the opinion of the attorneys for the Mortgagee, the Mortgagor is not permitted by law to pay such taxes, the Mortgagee shall have the right, at its option, to declare the Debt due and payable on a date specified in a prior notice to the Mortgagor of not less than thirty (30) days, provided however, the Mortgagor shall not be obligated to pay any prepayment premium as a result of an acceleration of the Debt under this Paragraph.

5. No Credits on Account of the Debt. The Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes assessed against the Mortgaged Property or any part thereof and no deduction shall otherwise be made or claimed from the taxable value of the Mortgaged Property, or any part thereof, by reason of this Mortgage or the Debt.

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6. Documentary Stamps. If at any time the United States of America, any state thereof, or any governmental subdivision of any such state, shall require revenue or other stamps to be affixed to the Note or this Mortgage, the Mortgagor will, upon demand, pay for the same, with interest and penalties thereon, if any.

7. Filing of Mortgage, etc. The Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage and any extension, modification, renewal or replacement hereof, and any security instrument creating a lien or evidencing the lien hereof upon the Mortgaged Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect, preserve and perfect the lien hereof upon, and the interest of the Mortgagee in, the Mortgaged Property. The Mortgagor will pay all title insurance fees and charges, all filing, registration and recording fees, and all expenses incident to the preparation, execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property, and any instrument of further assurance, and all Federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property or any instrument of further assurance. The Mortgagor shall hold harmless and indemnify the Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making and recording of this Mortgage.

8. Further Acts, etc. The Mortgagor will, at the cost of the Mortgagor, and without expense to the Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as the Mortgagee shall, from time to time, require for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby mortgaged or intended now or hereafter so to be, or which the Mortgagor may be or may hereafter become bound to convey or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver and hereby authorizes the Mortgagee to execute in the name of the Mortgagor to the extent the Mortgagee may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien hereof upon the Mortgaged Property.

9. Usury Laws. This Mortgage and the Note are subject to the express condition that at no time shall the Mortgagor be obligated or required to pay interest on the principal balance due under the Note at a rate which could subject the holder of the Note to either civil or criminal liability as a result of being in excess of the maximum interest rate which the Mortgagor is permitted by law to contract or agree to pay. If, by the terms of this Mortgage or the Note, the Mortgagor is at any time required or obligated to pay interest on the principal balance due under the Note at a rate in excess of such maximum rate, the rate of interest under the Note shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at

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such maximum rate and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal balance of the Note.

10. Brokerage. The Mortgagor represents to and covenants and agrees with the Mortgagee that no brokerage commission or other fee, commission or compensation is to be paid by the Mortgagee with respect to this Mortgage or the Debt, that any such brokerage commission or other fee, commission or compensation due any party in connection with this Mortgage or the Debt has been paid in full by the Mortgagor, and no party has any right or claim to any further commission, fee, compensation or payment; the Mortgagor agrees to indemnify the Mortgagee against any claims for any of the same.

11. Indemnity. Anything in this Mortgage or the other Loan Documents (hereinafter defined) to the contrary notwithstanding, the Mortgagor shall indemnify and hold the Mortgagee harmless and defend the Mortgagee at the Mortgagor's sole cost and expense against any loss or liability, cost or expense (including, without limitation, reasonable attorneys' fees and disbursements of the Mortgagee's counsel, whether in-house staff, retained firms or otherwise), and all claims, actions, procedures and suits arising out of or in connection with (i) any ongoing matters arising out of the transaction contemplated hereby, the Debt, this Mortgage, the Note or any other document or instrument now or hereafter executed and/or delivered in connection with the Debt (the "Loan Documents") including, but not limited to, all costs of reappraisal and environmental audit of the Mortgaged Property or any part thereof, whether required by law, regulation, the Mortgagee or any governmental or quasi-governmental authority, except as provided otherwise in Paragraph 7 of the Hazardous Material Indemnification Agreement dated the date hereof and delivered in connection with the Debt, (ii) any amendment to, or restructuring of, the Debt and this Mortgage, the Note or any of the other Loan Documents, (iii) any and all lawful action that may be taken by the Mortgagee in connection with the enforcement of the provisions of this Mortgage or the Note or any of the other Loan Documents, whether or not suit is filed in connection with the same, or in connection with the Mortgagor, any Guarantor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding and (iv) the past, current and/or future sale or offering for sale of limited partnership interests in the Mortgagor, including, without limitation, liabilities under any applicable securities or blue sky laws. All sums expended by the Mortgagee shall be payable on demand and, until reimbursed by the Mortgagor pursuant hereto, shall be deemed additional principal of the Debt and secured hereby and shall bear interest at the Default Rate.

12. No Oral Change. This Mortgage may only be modified, amended or changed by an agreement in writing signed by the Mortgagor and the Mortgagee, and may only be released, discharged or satisfied of record by an agreement in writing signed by the Mortgagee. No waiver of any term, covenant or provision of this Mortgage shall be effective unless given in writing by the Mortgagee and if so given by the Mortgagee shall only be effective in the specific instance in which given. The Mortgagor acknowledges that the Note, this Mortgage and the other documents and instruments executed and delivered in connection therewith or otherwise in connection with the loan secured hereby set forth the entire agreement and understanding of the Mortgagor and the Mortgagee with respect to the loan secured hereby and that no oral or other agreement, understanding, representation or warranty exists with respect to the loan secured hereby other than

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those set forth in the Note, this Mortgage and such other executed and delivered documents and instruments.

13. Enforceability. This Mortgage and the obligations arising hereunder shall be governed by, and construed in accordance with, the laws of the State in which the Mortgaged Property is located and any applicable laws of the United State of America. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be unenforceable or prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such unenforceability, prohibition or invalidity, without invalidating the remaining provisions of this Mortgage.

14. Relationship. The relationship of the Mortgagee to the Mortgagor and the other parties executing this Mortgage is strictly and solely that of lender and borrower and mortgagor and mortgagee and nothing contained in the Note, this Mortgage or any other document or instrument now or hereafter executed and delivered in connection therewith or otherwise in connection with the loan secured hereby is intended to create, or shall in any event or under any circumstance be construed as creating, a partnership, joint venture, tenancy-in-common, joint tenancy or other relationship of any nature whatsoever between the Mortgagee and the Mortgagor other than as lender and borrower and mortgagor and mortgagee.

15. Liability. If the Mortgagor consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several.

16. Certain Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage shall be used interchangeably in singular or plural form and the word "Mortgagor" shall mean each the Mortgagor and any subsequent owner or owners of the Mortgaged Property or any part thereof or interest therein; the word "Mortgagee" shall mean the Mortgagee or any subsequent holder of the Note; the word "Note" shall mean the Note, any amendment, extension, modification, restatement or replacement thereof or any other evidence of indebtedness secured by this Mortgage; the word "Guarantor" shall mean each person guaranteeing payment of the Debt or any portion thereof or performance by the Mortgagor of any of the terms of this Mortgage and their respective heirs, executors, administrators, legal representatives, successors and assigns; the word "person" shall include an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, or other entity; the words "Mortgaged Property" shall include any portion of the Mortgaged Property or interest therein. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

17. Headings, etc. The headings and captions of various paragraphs of this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

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18. Duplicate Originals. This Mortgage may be executed in any number of duplicate originals, and each such duplicate original shall be deemed to constitute but one and the same instrument.

19. Reasonableness. If at any time the Mortgagor or the Responsible Party believes that the Mortgagee has not acted reasonably in granting or withholding any approval or consent under the Note, this Mortgage or any other document or instrument now or hereafter executed and delivered in connection therewith or otherwise with respect to the loan secured hereby, as to which approval or consent either the Mortgagee has expressly agreed to act reasonably, or absent such agreement, a court of law having jurisdiction over the subject matter would require the Mortgagee to act reasonably, then the sole remedy shall be to seek injunctive relief or specific performance and no action for monetary damages or punitive damages shall in any event or under any circumstance be maintained by the Mortgagor against the Mortgagee.

20. Exculpation.

(a) Notwithstanding anything to the contrary contained in this Mortgage, the exculpation from recourse liability contained herein shall in no event and under no circumstances be deemed or construed to modify, qualify or affect in any manner whatsoever the obligations and liabilities of the Responsible Party pursuant to the terms of that certain Guaranty of Payment of even date herewith made by the Responsible Party in favor of the Mortgagee (the "Guaranty") and pursuant to the terms of that certain Hazardous Material Indemnification Agreement of even date herewith made by the Responsible Party in favor of the Mortgagee. Notwithstanding anything to the contrary contained in the Note or this Mortgage, and except as provided in clauses (b) and (c) below, the liability and obligation of the Mortgagor or Responsible Party to perform and observe and make good the obligations contained in the Note and this Mortgage (except to the extent the Responsible Party is otherwise liable or obligated therefor pursuant to the terms of the Guaranty, it being understood and agreed that the provisions of this Section 20 are applicable only to those obligations and liabilities not otherwise described in the Guaranty) shall not be enforced by any action or proceeding wherein damages or any money judgment shall be sought against the Mortgagor or Responsible Party, except a foreclosure action against the Mortgaged Property, but any judgment in any such foreclosure action shall be enforceable against the Mortgagor or Responsible Party only to the extent of the Mortgagor's interest in the Mortgaged Property and in the income therefrom and the Mortgagee, by accepting the Note and this Mortgage, irrevocably waives any and all right to sue for, seek or demand any deficiency judgment against the Mortgagor or Responsible Party in any such foreclosure action, under or by reason of or under or in connection with the Note or this Mortgage. The obligations herein described shall survive the foreclosure of the Mortgage or any other remedial exercise of rights and remedies by Mortgagee under any of the Loan Documents.

(b) Notwithstanding the provisions of Paragraph 20(a) above, the agreement of the Mortgagee not to pursue recourse liability as provided in Paragraph 20(a) SHALL BECOME NULL AND VOID and shall be of no further force or effect and the Mortgagee shall have the right to pursue recourse liability against the Mortgagor and Responsible Party, which liability shall be joint and several, in the event of:

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(i) fraud or material misrepresentation made by Mortgagor in connection with the Loan, the Note, this Mortgage or any of the other Loan Documents;

(ii) except as expressly permitted under the Loan Documents, the sale, transfer, assignment, encumbrance or conveyance of any interest in the Mortgaged Property or any interest in the Mortgagor, or if the Mortgaged Property is operated as or converted to a condominium or cooperative form of ownership, without the prior written consent of the Mortgagee; or

(iii) the Mortgagor or Responsible Party should file, or there should be filed against the Mortgagor or Responsible Party (and the same is not dismissed within sixty (60) days), a petition in bankruptcy or a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the bankruptcy laws of the United States or under any other similar federal, state or other statute relating to relief from indebtedness, or a receiver, trustee or liquidator should be approved with respect to the Mortgagor, Responsible Party or the Mortgaged Property or any part thereof.

(c) Notwithstanding the provisions of Paragraph 20(a) and (b) above, the agreement of the Mortgagee not to pursue recourse liability as provided in Paragraph 20(a) SHALL BECOME NULL AND VOID and shall be of no further force and effect, and the Mortgagee shall have the right to pursue recourse liability against the Mortgagor and Responsible Party, which liability shall be joint and several, but only to the extent that the Mortgagee actually suffers loss, cost, expense or damage, by reason of the:

(i) failure to pay Taxes or Premiums or charges for labor or materials or any other charges which may create liens on any portion of the Mortgaged Property;

(ii) misapplication or misappropriation of (a) proceeds of insurance covering any portion of the Mortgaged Property, or (b) proceeds of the sale or condemnation of any portion of the Mortgaged Property, or (c) rents, issues or profits derived from the Mortgaged Property received by or on behalf of the Mortgagor subsequent to the occurrence of an Event of Default under the Note or this Mortgage and not applied to the reasonable expenses of the Mortgaged Property;

(iii) causing or permitting waste to occur in, on, or about the Mortgaged Property;

(iv) failure to deliver to the Mortgagee should Mortgagee (or its nominee or subsidiary) succeed to Mortgagor's interest as landlord under Mortgaged Property leases, all unearned advance Rents under the Mortgaged Property leases and security deposits paid by tenants or other occupants of the Mortgaged Property and not refunded to or forfeited by such tenants;

(v) failure to cover that portion of the cost of any loss to any portion of the Mortgaged Property by fire or casualty which exceeds the insurance proceeds collected by Mortgagee, whether or not such proceeds are made available by Mortgagee for restoration;

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(vi) failure to pay any expenses for which the Mortgagor is obligated under the application issued by the Mortgagee for the Loan;

(vii) failure to pay any and all cost incurred by the Mortgagee in order to cause the Improvements to comply with the accessibility provisions of The Fair Housing Act of 1988, the Americans With Disabilities Act or any similar law, rule, order, regulation or restriction, as amended from time to time, but only to the extent the Mortgaged Property does not comply on the date Mortgagee (or its nominee or subsidiary) succeeds to Mortgagor's interest in the Mortgaged Property; or

(viii) failure to pay all costs, fees and expenses relating to the environmental requirements of Paragraph 11 of Article 1 of this Mortgage or any environmental indemnification agreement required by the Mortgagee.

21. Sale; Assignment. Mortgagor acknowledges Mortgagee shall have the right in its sole and absolute discretion (i) to sell and assign the Loan or participation interests in the Loan, in each instance in such manner and on such terms and conditions as Mortgagee shall deem to be appropriate. Mortgagor shall cooperate and shall cause Guarantor, indemnitor and other person or party associated or connected with the Loan or the collateral therefore to cooperate in all respects with Mortgagee in connection with such sale, assignment, participation and/or securitization, and shall, in connection therewith, execute and deliver such estoppels, certificates, instruments and documents as may be requested by Mortgagee. Mortgagor grants to Mortgagee, and shall cause Guarantor, indemnitor and any other person or party associated or connected with the Loan or the collateral therefore to grant to Mortgagee the right to distribute, on a confidential basis, financial and other information concerning Mortgagor, Guarantor, indemnitor and any other person or party encumbered by this Mortgage and other pertinent information with respect to the Loan to any party who has indicated to Mortgagee an interest in entering into such sale, assignment and/or securitization of the Loan. If Mortgagor shall default in the performance of its obligations as set forth in this Paragraph, and if such default shall not be remedied by Mortgagor within ten (10) days after notice by Mortgagee, Mortgagee shall have the right in its discretion to declare the Debt immediately due and payable.

22. Trustee's Exemption. This Instrument is executed by Amalgamated Bank of Chicago, not personally but solely as Trustee aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee, and is payable out of the assets of the trust estate held under the Trust Agreement. It being understood and agreed that all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be assessed or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee.

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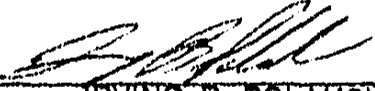
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IN WITNESS WHEREOF, the Mortgagor has duly executed this Mortgage the day and year first above written.

AMALGAMATED BANK OF CHICAGO,  
not personally but as Trustee as aforesaid

By:   
Name: IRVING B. POLAKOW  
Title: 21 Vice President

The undersigned has joined in the execution and delivery of this Mortgage solely for the purpose of (i) evidencing joint and several liability with the Mortgagor for the liability described in Paragraph 20 of Article III above and (ii) making, ratifying, confirming and publishing the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the undersigned.

GEORGE NOVOGRODER,  
individually

By:   
Name: George Novogroder

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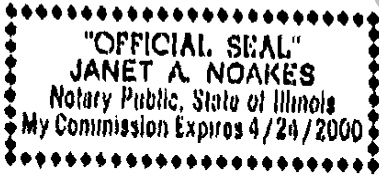
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STATE OF ILLINOIS )  
 ) ss.  
COUNTY of Cook )

I, JANET A. NOAKES, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that IRVING B. POLAKOW, (~~HE~~ <sup>HE</sup> ~~VICE PRESIDENT~~ <sup>VICE PRESIDENT</sup>) of Amalgamated Bank of Chicago, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such ~~VICE PRESIDENT~~, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said association, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this <sup>4<sup>th</sup></sup> day of June, 1996.



Janet A. Noakes  
Notary Public  
My Commission Expires: 4/24/2000

[SEAL]

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STATE OF ILLINOIS     )  
  ) ss.  
COUNTY     COOK     )

I, JoAnn Suchy, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that George Novogroder, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 22 day of June, 1996.

~~~~~  
"OFFICIAL SEAL"  
JoAnn Suchy  
Notary Public, State of Illinois  
My Commission Expires 9/6/96  
~~~~~

JoAnn Suchy  
Notary Public  
My Commission Expires:

[SEAL]

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## EXHIBIT A

### DESCRIPTION OF PREMISES

LOTS 18, 19, 20, 21 AND 22 (EXCEPTING FROM THE AFORESAID LOTS THE WEST 7.0 FEET THEREOF) IN BLOCK 6 IN RESUBDIVISION OF BLOCKS 5 AND 6 IN SOUTH WASHINGTON HEIGHTS, A SUBDIVISION OF THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index Number(s): 25-30-122-006-0000  
25-30-122-007-0000  
25-30-122-008-0000  
25-30-122-009-0000  
25-30-122-010-0000

Common Address: 12121-25 South Western Avenue, Blue Island, Illinois

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## EXHIBIT B

### PERMITTED ENCUMBRANCES

1. Taxes not yet due and payable.

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