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Charles E. Schrank
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MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF
RENTS AND LEASES AND FINANCING STATEMENT

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FINANCING STATEMENT ("Mortgage") is made as of September 30, 1996, but effective as of October 8, 1996, by 730 NORTH MICHIGAN AVENUE VENTURE, an Illinois general partnership, having an office at c/o Thomas J. Klutznick Company, 900 North Michigan Avenue, Chicago, Illinois 60610 (the "Borrower"), AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee under Trust Agreement dated as of April 20, 1994 and known as Trust No. 118199-01 (the "Borrower's Trust" and together with the Borrower, the "Mortgagor"), and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee under Trust Agreement dated December 19, 1979 and known as Trust No. 4866208, having an office at c/o Mr. Michael Schulson, Lunan Corporation, 414 North Orleans, Suite 202, Chicago, Illinois 60610 (the "Co-Mortgagor"; the Mortgagor and Co-Mortgagor are sometimes referred to herein as the "Mortgagors"), in favor of CREDIT LYONNAIS NEW YORK BRANCH, a branch, licensed under the laws of the State of New York, and a banking corporation organized under the laws of the Republic of France ("Mortgagee"), as Agent for itself as a Lender and for each Lender under the Loan Agreement referred to below (Mortgagee and each other Lender are hereinafter sometimes collectively referred to as "Lender"), having an office at c/o Credit Lyonnais Real Estate Group, 1301 Avenue of the Americas, New York, New York 10019-6092, and its and their successors and assigns.

29, NR 1000064 NR 1072

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WITNESSETH

WHEREAS, Borrower has executed and delivered to Mortgagee that certain Note, dated as of the effective date hereof, in an aggregate principal amount not to exceed NINETY MILLION 00/100 DOLLARS (\$90,000,000.00) (the Note and any and all amendments, modifications, supplements, restatements, substitutions, renewals, extensions for

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any period, increases or rearrangements thereof are herein referred to collectively as the "Note"); and

WHEREAS, Borrower and Mortgagee have also executed that certain Loan Agreement, dated as of the effective date hereof (the Loan Agreement and any and all amendments, modifications, supplements, restatements, substitutions, renewals, extensions for any period, increases or rearrangements thereof is referred to as the "Loan Agreement"; capitalized terms used herein, which are not otherwise defined herein, shall have the same meanings as ascribed to such terms in the Loan Agreement); and

WHEREAS, Mortgagor has executed and delivered to Mortgagee that certain Assignment of Lessor's Interest in Leases and Rents ("Assignment of Leases and Rents") dated of even date herewith to secure the Liabilities (as hereinafter defined); and

WHEREAS, as a condition to Lender's extension of certain financial accommodations to Borrower under and subject to the Note and Loan Agreement, Mortgagee has required that Mortgagor enter into this Mortgage and grant to Mortgagee the liens and security interests referred to herein to secure (i) the payment of the principal amount evidenced by the Note together with interest thereon; (ii) timely payment and performance by Borrower of all its obligations, covenants and agreements (A) under that certain ISDA Master Agreement, dated as of the effective date hereof, by and between Borrower and Credit Lyonnais New York Branch (as the same may be amended, modified, supplemented and/or restated from time to time, the "Master Agreement"), (B) under any and all interest rate swap, interest rate collar, interest rate cap or other transactions now or hereafter entered into with reference to, in connection with or otherwise governed by the provisions of the Master Agreement, and (C) under any and all other Interest Rate Protection Agreements (defined in the Loan Agreement as any interest rate swap, interest rate collar, interest rate cap or similar arrangements providing interest rate protection to Borrower) and other interest rate hedging products entered into between Borrower and Mortgagee or any affiliates of Mortgagee; (iii) payment of the principal amount, together with interest thereon, of all present and future advances of money made by Mortgagee to Borrower, as well as payment and performance of all other obligations of Borrower under the Loan Agreement and the other Loan Documents; and (iv) other payment and performance obligations related to this Mortgage (the aforesaid obligations of Mortgagor to Mortgagee being hereinafter referred to collectively as the "Liabilities"); and

WHEREAS, the Borrower is the sole holder of the beneficial interests in the Borrower's Trust; and

WHEREAS, the Co-Mortgagor acknowledges and agrees that Co-Mortgagor is obligated to execute and deliver this Mortgage pursuant to the terms and provisions of the Lunan Ground Lease (as defined below), that the Co-Mortgagor's obligation to enter into mortgages such as this Mortgage formed a material basis for the tenant under the Lunan Ground Lease to enter into the Lunan Ground Lease, and that Co-Mortgagor enters into this Mortgage pursuant to, and in consideration of, the Lunan Ground Lease and for other good

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and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Co-Mortgagor; and

WHEREAS, the Liabilities secured hereby shall not exceed an aggregate principal amount, at any one time outstanding of ONE HUNDRED EIGHTY MILLION AND 00/100 (\$180,000,000.00), provided, that the foregoing limitation shall apply only to the lien upon the real property created by this Mortgage, and it shall not in any manner limit, affect or impair any grant of a security interest or other right in favor of the Mortgagee under the provisions of the Loan Agreement or under any other security agreement at any time executed by Borrower;

NOW, THEREFORE, in consideration of the premises contained herein and to secure payment of the Liabilities and in consideration of One Dollar (\$1.00) in hand paid, the receipt and sufficiency whereof are hereby acknowledged, Mortgagors do hereby grant, remise, release, alien, convey, mortgage and warrant to Mortgagee, its successors and assigns, all Mortgagors' right, title and interest, including any after-acquired right, title and interest, in and to the real estate located in the City of Chicago, County of Cook, State of Illinois described on the attached Exhibit A-1, Exhibit A-2 and Exhibit A-3 (collectively, the "Land"), including without limitation:

- (i) all of Mortgagor's interest as owner in fee simple in the real estate described on Exhibit A-1 attached hereto and made a part hereof (the "Mortgagor Land"),
- (ii) all of Co-Mortgagor's interest as owner in fee simple in that certain real estate located in the City of Chicago, in the County of Cook and the State of Illinois described on Exhibit A-2 attached hereto and made a part hereof (the "Co-Mortgagor Land"),
- (iii) all of Mortgagor's right, title and interest as Tenant under that certain Agreement to Lease described on Exhibit B-1 attached hereto and made a part hereof (as the same may hereafter be amended, restated, supplemented, modified, extended or renewed from time to time, the "Lunan Ground Lease"); demising the Co-Mortgagor Land, together with any after-acquired right, title and interest of Mortgagor, its successors and assigns in and to the Co-Mortgagor Land; and
- (iv) all of Mortgagor's right, title and interest as Tenant under that certain Agreement to Lease described on Exhibit B-2 attached hereto and made a part hereof (as the same may hereafter be amended, restated, supplemented, modified, extended or renewed from time to time, the "Stern Ground Lease"; the Stern Ground Lease and the Lunan Ground Lease are herein sometimes collectively referred to as the "Ground Leases"), demising the real estate described on Exhibit A-3

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attached hereto and made a part hereof (the "Stern Land"), together with any after-acquired right, title and interest of Mortgagor, its successors and assigns in and to the Stern Land;

together with the Improvements (as defined below), and Mortgagors do further grant a security interest to Mortgagee in all Personal Property (as defined below) as well as all Mortgaged Property (as defined below) as may be secured under the Uniform Commercial Code (the "Code") in effect in the State of Illinois (the "State"), which Land, Improvements and all related improvements and facilities, together with all rights, privileges, easements, hereditaments and appurtenances thereto relating or appertaining, and all personal property, fixtures and equipment required, or otherwise intended, for use in connection with the operation thereof, are herein collectively called the "Project".

TOGETHER WITH all of Mortgagor's right, title and interest as landlord or lessor in, to and under any and all Leases and similar agreements, whether now existing or hereafter created, respecting the Project;

TOGETHER WITH all the buildings, structures and improvements of every nature whatsoever and all extensions, renewals, substitutes and replacements of, and all additions, improvements, betterments and the appurtenances to, the Land now existing or hereafter acquired by, or released to either of Mortgagors or constructed, assembled or placed by either of Mortgagors on the Land, immediately upon such acquisition, release, construction, assembling, or placement, as the case may be, which in each such case, without any further grant, conveyance, assignment or other act by either of Mortgagors, shall become subject to the lien of this Mortgage as fully and completely and with the same effect, as though now owned by Mortgagors or either of them and specifically described herein ("Improvements");

TOGETHER WITH all right, title and interest, if any, including any after-acquired right, title and interest, and including any right of use or occupancy, which either of Mortgagors may now have or hereafter acquire in and to (a) all easements, rights of way, gores of land or any lands occupied by streets, ways, alleys, passages, sewer rights, water courses, water rights and powers, wastewater discharge capacity, and public places adjoining said Land, and all estates, rights, titles, interests, reciprocal easement agreements, operating agreements, anchor agreements, licenses, privileges, and liberties relating to the Project, and any other interests in property constituting appurtenances to the Project, or which hereafter shall in any way belong, relate or be appurtenant thereto, and (b) all hereditaments, gas, oil, minerals (with the right to extract, sever and remove such gas, oil and minerals), easements, tenements and development rights, of every nature whatsoever, located in or on the Project and all other rights and privileges thereunto belonging or appertaining and all extensions, additions, improvements, betterments, renewals, substitutions and replacements to or of any of the rights and interests described in subparagraphs (a) and (b) above (hereinafter the "Property Rights").

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TOGETHER WITH all right, title and interest, if any, including any after-acquired right, title and interest, and including any right of use or occupancy, which either of Mortgagors may now or hereafter acquire in and to all fixtures and appurtenances of every nature whatsoever now or hereafter located in, on or attached to, and used or intended to be used in connection with, or with the operation of, the Project or any construction thereat or thereon, regardless of whether the same are located on the Land or located elsewhere (including, without limitation, in warehouses or other storage facilities or in the possession of or on the premises of a bailee, vendor or manufacturer), including, but not limited to (a) all apparatus, machinery and equipment of either of Mortgagors and (b) all extensions, additions, improvements, betterments, renewals, substitutions and replacements to or of any of the foregoing (the items described in the foregoing clauses (a) and (b) being the "Fixtures"); as well as all personal property and equipment of every nature whatsoever of Mortgagor now or hereafter located in or on the Project, or used or useful in connection with, or with the operation of, the Project or construction thereat or thereon, or derived from the use or operation of the Project, regardless of whether the same are located on the Land or located elsewhere (including, without limitation, in warehouses or other storage facilities or in the possession of or on the premises of a bailee, vendor or manufacturer) including but not limited to (c) accounts, contract rights, general intangibles, tax refunds, chattel paper, instruments, notes, letters of credit, documents, documents of title or any Sale Commitment; (d) inventory; (e) equipment, building materials and construction materials; (f) all of Mortgagor's deposit accounts (general or special) with and credits and other claims against Mortgagee, or any other financial institution with which Mortgagor maintains deposits; (g) all of Mortgagor's now owned or hereafter acquired monies, and any and all other property and interests in property of Mortgagor now or hereafter coming into the actual possession, custody or control of Mortgagee or any agent or affiliate of Mortgagee in any way or for any purpose (whether for safekeeping, deposit, custody, pledge, transmission, collection or otherwise); (h) all insurance proceeds of or relating to any of the foregoing; (i) all of Mortgagor's books and records relating to any of the foregoing; and (j); all accessions and additions to, substitutions for, and replacements, products and proceeds of any of the foregoing clauses (c) through (i) (the items described in the foregoing clauses (c) through (j) and any other personal property referred to in this paragraph being the "Personal Property"). It is mutually agreed, intended and declared that the Project and all of the Property Rights and Fixtures owned by either of Mortgagors (referred to collectively herein as the "Real Property") shall, so far as permitted by law be real estate and covered by this Mortgage. It is also agreed that if any of the property herein mortgaged is of a nature so that a security interest therein can be perfected under the Code in effect in the State, this instrument shall constitute a security agreement, fixture filing and financing statement, and each of Mortgagors agree to execute, deliver and file or refile any financing statement, continuation statement, or other instruments Mortgagee may reasonably require from time to time to perfect or renew such security interest under the Code. To the extent permitted by law, (i) all of the Fixtures are or are to become fixtures on the Land and (ii) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture-filing" within the meaning of Sections 9-313 and 9-402 of the Code. Subject to the terms and conditions of the Loan Agreement, the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as

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prescribed herein or by general law, or, as to that part of the security in which a security interest may be perfected under the Code, by the specific statutory consequences now or hereafter enacted and specified in the Code, all at Mortgagee's sole election.

TOGETHER WITH all of the books, records and computer records or tapes of account now or hereafter maintained by or on behalf of the Mortgagor in connection with the operation of the Project, wherever located.

TOGETHER WITH all the estate, right, title and interest of each of Mortgagors in and to (i) all judgments, insurance proceeds, awards of damages and settlements resulting from condemnation proceedings or the taking of the Real Property, or any part thereof, under the power of eminent domain or for any damage (whether caused by such taking or otherwise) to the Real Property, or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the Real Property or any part thereof; and (except as otherwise provided herein or in the Loan Agreement) the Mortgagee is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor, and to apply the same as provided in the Loan Agreement; and (ii) all contract rights, general intangibles, actions and rights in action relating to the Real Property or the Personal Property including, without limitation, all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Real Property or the Personal Property; and (iii) all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Real Property and the Personal Property. (The rights and interests described in this paragraph shall hereinafter be called the "Intangibles".)

All of the property described above, and each item of property therein described, not limited to but including the Project, the Property Rights, the Fixtures, the Personal Property, the Real Property, the Intangibles, the rents and the Leases, is herein referred to as the "Mortgaged Property."

Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee-in-possession in the absence of the taking of actual possession of the Mortgaged Property by the Mortgagee. Nothing contained in this Mortgage shall be construed as imposing on Mortgagee any of the obligations of the lessor under any Lease of the Mortgaged Property in the absence of an explicit assumption thereof by Mortgagee. In the exercise of the powers herein granted the Mortgagee, except as provided in the Loan Agreement, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by each of Mortgagors.

TO HAVE AND TO HOLD the Mortgaged Property, properties, rights and privileges hereby conveyed or assigned, or intended so to be, unto Mortgagee, its beneficiaries, successors and assigns, forever for the uses and purposes herein set forth. Each of Mortgagors hereby releases and waives all rights under and by virtue of any homestead exemption laws, if any, of the State. Mortgagor hereby covenants, represents and warrants that (i) it is lawfully possessed of the Co-Mortgagor Land and the Stern Land by virtue of the

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Ground Leases and has good leasehold estates for the full term of each of the Ground Leases, (ii) it is seised of the remainder of the Mortgaged Property, (iii) it has the lawful authority to sell, assign, convey and mortgage the Mortgaged Property and (iv) title to the Mortgaged Property is free and clear of all encumbrances, except the Permitted Exceptions, and that Mortgagor will forever defend the same against all other claims. Co-Mortgagor hereby covenants, represents and warrants that (x) it is seised of the Co-Mortgagor Land, (y) it has the lawful authority to sell, assign, convey and mortgage such Mortgagor Land, and (z) the title to the Co-Mortgagor Land is free and clear of all encumbrances, except Permitted Exception, and that Co-Mortgagor will forever defend the same against all other claims.

The following provisions shall also constitute an integral part of this Mortgage:

ARTICLE ONE

LIABILITIES

This Mortgage is made by Mortgagors in favor of Mortgagee to secure the full and prompt payment by Mortgagor when due, by lapse of time or otherwise, of the Liabilities.

ARTICLE TWO

COVENANTS OF MORTGAGORS

Borrower, Borrower's Trust and Co-Mortgagor covenant and agree, as applicable, with Mortgagee as follows:

2.01 **Performance under the Loan Agreement, this Mortgage and Other Loan Documents.** Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof, the Loan Agreement and every other Loan Document and every instrument evidencing or securing the Liabilities and will promptly pay or cause to be paid to Mortgagee when due all other sums required to be paid by Mortgagor pursuant to the Loan Agreement, this Mortgage and every other Loan Document. The Liabilities, with interest thereon, and any late and other charges imposed in accordance with the terms of the Loan Agreement, the Loan Documents, and every instrument evidencing or securing the Liabilities, including without limitation the balance of the principal sum of the Note together with the interest accrued and unpaid thereon, shall be due and payable in any event on the Maturity Date.

2.02 **Maintenance of Lien.** Mortgagors will for the term of the Loan maintain and preserve the Lien of this Mortgage as a first and paramount Lien on the Mortgaged Property subject only to the Permitted Exceptions.

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2.03 Compliance with Laws and Other Restrictions. Mortgagor covenants, represents and warrants that the Land and the Project and the use thereof presently comply with all Laws as required by the Loan Agreement, provided that Mortgagor may, in good faith and with reasonable diligence, contest the validity or application of any of Law, provided: (i) that such contest is permitted under the terms of the Ground Leases and is resolved favorably, or compliance with the contested Law is achieved not less than ten (10) days prior to the date the continued existence thereof would cause a default under either of the Ground Leases, (ii) that such contest shall have the effect of staying enforcement of such Law and will not expose Mortgagor, any landlord under either Ground Lease or Mortgagee to any potential fines or penalties; (iii) that, within ten (10) days after any third party has requested that Mortgagor comply with such Law, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest the validity or application of such Law and demonstrated to Mortgagee's reasonable satisfaction that such contest is likely to succeed; and (iv) that, if the cost of compliance with such Law is likely, in Mortgagee's reasonable judgment, to exceed \$100,000, Mortgagor shall have deposited with Mortgagee at such place as Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the place of payment designated in the Note, a sum of money which shall be sufficient in the reasonable judgment of Mortgagee to pay in full the cost of complying with such Laws.

2.04 Taxes and Assessments. Mortgagor shall pay promptly when due all Impositions. Mortgagor covenants that Mortgagor will continually cause the Project to be taxed under tax bills which include no property which is not a part of the Mortgaged Property (except to the extent that Mortgagor has received the prior written consent of Mortgagee otherwise) and Mortgagor shall not file or permit to be filed with the office of the assessor or any other taxing or assessing authority a petition, application or other instrument which would result in the inclusion of property other than the Mortgaged Property within the tax bills affecting the Mortgaged Property or any part thereof. In the event that the Mortgaged Property is not currently taxed or assessed as a separate parcel or parcels, upon Mortgagee's request, Mortgagor will promptly file, if it has not theretofore filed, such petition, application or other instrument as is necessary to cause the Land and Project to be taxed as a separate parcel or parcels which include no property not a part of the Mortgaged Property.

2.05 Mechanic's and Other Liens. Mortgagor shall not suffer or permit any mechanics' lien or claim or other Lien to be filed or otherwise asserted against the Project and will cause the same to be discharged pursuant to Section 7.1(d) of the Loan Agreement. In case Mortgagor shall fail to prosecute any contest in accordance with Section 7.1(d) of the Loan Agreement, Mortgagee may settle any such Lien or claim in accordance with Section 7.1(e) of the Loan Agreement. For purposes of this Section 2.05, the provisions of Section 7.1(d) and Section 7.1(e) shall apply equally to mechanics' liens or claims as well as to other Liens or claims filed or otherwise asserted against the Project.

2.06 Insurance and Condemnation.

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2.06.1 Insurance. Mortgagor shall, at its sole expense, obtain for, deliver to, assign and maintain for the benefit of Mortgagee, until the Liabilities are paid in full, insurance policies as specified in the Loan Agreement.

2.06.2 Adjustment of Loss. Any loss under any insurance policies covering or relating to the Mortgaged Property shall be adjusted and compromised as set forth in Article 10 of the Loan Agreement.

2.06.3 Condemnation Awards. All compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Mortgaged Property or any part thereof, (ii) damage to the Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of other property, or (iii) the alteration of the grade of any street or highway on or about the Mortgaged Property shall be applied as set forth in Article 10 of the Loan Agreement.

2.06.4 Repair; Proceeds of Casualty Insurance and Eminent Domain. If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause, Mortgagor shall restore and repair the Mortgaged Property in accordance with the terms and provisions of Article 10 of the Loan Agreement. Any condemnation or insurance proceeds shall be disbursed and applied as set forth in Article 10 of the Loan Agreement.

2.06.5 Renewal of Policies. Any and all policies of insurance required under the Loan Agreements shall be renewed in accordance with the terms and provisions of the Loan Agreement.

2.07 Non-Impairment of Mortgagee's Right. Nothing contained in this Mortgage shall be deemed to limit or otherwise affect any right or remedy of Mortgagee under any provision of this Mortgage or of any statute or rule of law to pay, at Mortgagee's election and upon ten (10) days' prior written notice to Mortgagor (except with respect to payment of premiums and other amounts required to be paid to maintain the insurance required hereunder and under the Loan Agreement, which Mortgagee may cause to be paid prior to the date that such insurance would lapse if such premiums or other amounts are not paid without prior notice to Mortgagor), any amount required to be paid by Mortgagor under this Mortgage, including any of Sections 2.03, 2.04, 2.05 and 2.21 hereof, which is not paid by Mortgagor when due, and the amount so paid by Mortgagee shall be a reimbursable expense of Mortgagee under the Loan Agreement and bear interest at the Default Rate. Mortgagor shall pay to Mortgagee within five (5) Business Days after demand the amount so paid by Mortgagee, together with all accrued and unpaid interest thereon.

2.08 Care of the Mortgaged Property. Upon completion of Project Construction, Mortgagor shall preserve and maintain, or cause to be preserved and maintained, the Mortgaged Property in good and first class condition and repair. Mortgagor shall

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otherwise operate and maintain the Project in accordance with the terms of the Loan Agreement.

2.09 Transfer or Encumbrance of the Mortgaged Property. Mortgagors shall not permit or suffer to occur any sale, transfer, encumbrance or other disposition of the Mortgaged Property, or any other Transfer, without the prior written consent of Mortgagee having been obtained, excepting Permitted Transfers of partnership interests in Borrower made in accordance with the provisions of the Loan Agreement. Mortgagor shall not, without the prior written consent of Mortgagee, further assign or permit to be assigned the rents, and any such assignment without the prior express written consent of Mortgagee shall be null and void. Mortgagor shall not permit any interest in any Lease of the Mortgaged Property to be subordinated to any encumbrance on the Mortgaged Property other than the Loan Documents and any such subordination shall be null and void. Mortgagor agrees that in the event the ownership of the Mortgaged Property, any interest therein or any part thereof becomes vested in any other Person, Mortgagee may, without notice to Mortgagor, deal in any way with such Person without in any way vitiating or discharging Mortgagor's liability hereunder or the Liabilities. No sale of the Mortgaged Property, no forbearance to any Person with respect to this Mortgage, and no extension to any Person of the time for payment of the Liabilities given by Mortgagee shall operate to release, discharge, modify, change or affect the original liability of Mortgagor, either in whole or in part, except to the extent specifically agreed in writing by Mortgagee.

2.10 Further Assurances. At any time and from time to time, upon Mortgagee's reasonable request, Mortgagors shall make, execute and deliver, or cause to be made, executed and delivered, to Mortgagee, and when appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, re-registered and re-filed at such time and in such offices and places as shall be deemed reasonably desirable by Mortgagee, any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Mortgagee may reasonably consider necessary or desirable in order to effectuate or perfect, or to continue and preserve the obligations under, this Mortgage, any other Loan Documents, and any instrument evidencing or securing the Liabilities, and the Lien of this Mortgage as a Lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by Mortgagors, and unto all and every Person or Persons deriving any estate, right, title or interest under this Mortgage. Upon any failure by Mortgagors to do so, Mortgagee may make, execute, record, register, file, re-record, re-register or re-file any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagors, and Mortgagors hereby irrevocably appoint Mortgagee the agent and attorney-in-fact of Mortgagors to do so.

2.11 Security Agreement and Financing Statements.

(a) Mortgagor (as debtor) hereby grants to Mortgagee (for the benefit of all Lenders) a security interest under the Code in all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever constituting part of the Mortgaged

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Property. Mortgagor shall execute any and all documents, including without limitation financing statements pursuant to the Code, as Mortgagee may request to preserve, maintain and perfect the priority of the first Lien and security Interest created hereby on property which may be deemed personal property or fixtures, and shall pay to Mortgagee on demand any expenses incurred by Mortgagee in connection with the preparation, execution and filing of any such documents. Mortgagor hereby authorizes and empowers Mortgagee and irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor to execute and file, on Mortgagor's behalf, all financing statements and refiling and continuations thereof as Mortgagee deems reasonably necessary or advisable to create, preserve and protect such Lien. When and if Mortgagor and Mortgagee shall respectively become the debtor and secured party in any Code financing statement affecting the Mortgaged Property (or Mortgagee takes possession of personal property delivered by Mortgagor where possession is the means of perfection of the security interest), then, at Mortgagee's sole election, this Mortgage shall be deemed a security agreement as defined in such Code, and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed herein or by general law, or, as to such part of the security which is also reflected in such financing statement, by the specific statutory consequences now or hereafter enacted and specified in the Code.

(b) As to those items of collateral described in this Mortgage that are, or are to become fixtures related to the real estate mortgaged herein, it is intended as to those items that **THIS MORTGAGE SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING** from the date of its filing in the real estate records of the County where the Mortgaged Property is situate. The name of the record owner of said real estate is (i) the Borrower's Trust with respect to the Mortgagor Land, (ii) Robert L. Stern with respect to the Stern Land, and (iii) the Co-Mortgagor with respect to the Co-Mortgagor Land. Information concerning the security interest created by this instrument may be obtained from the Mortgagee, as secured party, at the address of Mortgagee as set forth in page one of this Mortgage. The address of the Mortgagor, as debtor, is as set forth in page one to this Mortgage. This document covers goods which are or are to become fixtures.

(c) Without limitation of the foregoing, if an Event of Default occurs and is continuing, Mortgagee shall be entitled immediately to exercise all remedies available to it under the Code and this Section 2.11. Mortgagor shall, in such event and if Mortgagee so requests, assemble the tangible personal property at Mortgagor's expense, at a convenient place designated by Mortgagee. Mortgagor shall pay all expenses incurred by Mortgagee in the collection of such indebtedness, including *Legal Costs*, and in the repair of any real estate or other property to which any of the tangible personal property may be affixed. If any notification of intended disposition of any of the personal property is required by law, such notification shall be deemed reasonable and proper if given at least ten (10) days before such disposition. Any proceeds of the disposition of any of the personal property may be applied by Mortgagee to the payment of the reasonable expenses of retaking, holding, preparing for sale and selling the personal property, including *Legal Costs*, and any balance of such proceeds may be applied by Mortgagee toward the payment of such of the Liabilities, and in such order

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of application, as Mortgagee may from time to time elect. If an Event of Default occurs and is continuing, Mortgagee shall have the right to exercise and shall automatically succeed to all rights of Mortgagor with respect to intangible personal property subject to the security interest granted herein. Any party to any contract subject to the security interest granted herein shall be entitled to rely on the rights of Mortgagee without the necessity of any further notice or action by Mortgagor. Mortgagee shall not by reason of this Mortgage or the exercise of any right granted hereby be obligated to perform any obligation of Mortgagor with respect to any portion of the personal property nor shall Mortgagee be responsible for any act committed by Mortgagor, or any breach or failure to perform by Mortgagor with respect to any portion of the personal property.

(d) Mortgagor and Mortgagee agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing the express declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from the Mortgaged Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings, legal or equitable, shall be regarded as part of the real estate encumbered by this Mortgage irrespective of whether (i) any such item is physically attached to the Project, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Mortgagee, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (A) rights in or to the proceeds of any fire and/or hazard insurance policy, or (B) any award in eminent domain proceedings for a taking or for loss of value, or (C) Mortgagor's interest as lessor in any present or future Lease or rights to income growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to Lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee as determined by this instrument or adversely affecting the priority of Mortgagee's Lien granted hereby or by any other recorded document. Any such mention in any such financing statement is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to clauses (A), (B) or (C) above, that notice of Mortgagee's priority of interest, to be effective against a particular class of persons, including, but not limited to, the federal government and any subdivisions or entity of the federal government, must be filed in the Code records.

2.12 After-Acquired Property. To the extent permitted by, and subject to, applicable law, the Lien of this Mortgage, including without limitation the security interest created under Section 2.11, shall automatically attach, without further act, to all property hereafter acquired by Mortgagors located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

2.13 Leases Affecting Mortgaged Property.

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(a) Mortgagor shall comply with and perform in a complete and timely manner all of its material obligations as landlord under all Leases.

(b) The assignment of Leases contained in this Mortgage shall not be deemed to impose upon Mortgagee any of the obligations or duties of the landlord or Mortgagor provided in any Lease, including, without limitation, any liability under the covenant of quiet enjoyment contained in any Lease in the event that any Tenant shall have been joined as a party defendant in any action to foreclose this Mortgage. Mortgagor hereby acknowledges and agrees that Mortgagor is and will remain liable under such Leases to the same extent as though the assignment of Leases contained in this Mortgage had not been made. Mortgagee disclaims any assumption of the obligations imposed upon the landlord or Mortgagor under the Leases, except as to such obligations which arise after such time as Mortgagee shall have exercised the rights and privileges conferred upon it by the assignment of Leases contained in this Mortgage and assumed ownership of the collateral thereby assigned.

2.14 Expenses. Mortgagor shall pay when due and payable, and otherwise within five (5) Business Days after written demand made by Mortgagee, all Liabilities and Costs which have been incurred or which may hereafter be incurred by Mortgagee in connection with any of the following:

(a) Any court or administrative proceeding involving Mortgagors, the Mortgaged Property or the Loan Documents to which Mortgagee is made a party or is subject to subpoena by reason of its being a holder of any of the Loan Documents, including without limitation bankruptcy, insolvency, reorganization, eminent domain, condemnation, building code and zoning proceedings;

(b) Any court or administrative proceeding or other action undertaken by Mortgagee to enforce any remedy or collect any indebtedness due under this Mortgage or any of the other Loan Documents, including without limitation a foreclosure of this Mortgage or a public or private sale under the Code; or

(c) Any activity in connection with any request by Mortgagor or anyone acting on behalf of Mortgagor that Mortgagee consent to a proposed action which, pursuant to the Loan Agreement, this Mortgage or any of the other Loan Documents may be undertaken or consummated only with the prior consent of Mortgagee, whether or not such consent is granted.

In the event of foreclosure hereof, Mortgagee shall be entitled to add to the indebtedness found to be due by the court a reasonable estimate of such expenses to be incurred after entry of the decree of foreclosure. To the extent permitted by law, Mortgagor agrees to hold harmless Mortgagee against and from, and reimburse it for, all Liabilities and Costs which may be imposed upon, asserted against, or incurred or paid by the Mortgagee by reason of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Mortgaged Property through any cause whatsoever, except for the gross

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negligence or willful misconduct of Mortgagee, its employees and agents, or asserted against it on account of any act performed or omitted to be performed hereunder, except for the gross negligence or willful misconduct of Mortgagee, its employees and agents, or on account of any transaction arising out of or in any way connected with the Mortgaged Property, this Mortgage, the other Loan Documents, any of the obligations of Mortgagor pursuant to the Loan Documents or any of the other Liabilities except to the extent that such bodily injury or death or property damage results solely from any actions or inactions occurring after the date that Agent or Lender (or any of their respective successors or assigns) takes title to or possession of the Project.

2.15 Mortgagee's Performance of Mortgagor's Obligations. If Mortgagor fails to pay any tax, assessment, encumbrance or other Imposition, or to furnish insurance hereunder, or to perform any other covenant, condition or term in this Mortgage, or any other Loan Document, Mortgagee may, but shall not be obligated to, upon ten (10) days' prior written notice to Mortgagor (except with respect to payment of premiums and other amounts required to be paid to maintain the insurance required hereunder and under the Loan Agreement, which Mortgagee may cause to be paid prior to the date that such insurance would lapse if such premiums or other amounts are not paid without prior notice to Mortgagor) pay, obtain or perform the same. All payments made, whether such payments are regular or accelerated payments, and costs and expenses incurred or paid by Mortgagee in connection therewith (including, without limitation, Legal Costs) shall be due and payable within ten (10) days after demand by Mortgagee and shall become part of the Liabilities evidenced and secured by the Note, this Mortgage and the other Loan Documents. Mortgagee is hereby empowered, upon five (5) Business Days' prior written notice to Mortgagor (which prior notice shall not be required if, in Mortgagee's reasonable judgment, sooner action is required to preserve the interests granted to Mortgagee hereunder and under the other Loan Documents) to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any covenant, condition or term that Mortgagor has failed to perform or observe, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor and any amounts (including, without limitation, Legal Costs) expended by Mortgagee shall become additional Liabilities evidenced and secured by the Note, this Mortgage and the other Loan Documents. Performance or payment by Mortgagee of any obligation of Mortgagor shall not relieve Mortgagor of such obligation or of the consequences of having failed to perform or pay the same and shall not effect the cure of any Event of Default.

2.16 Payment of Superior Liens. To the extent that Mortgagee, after the date hereof, pays any sum due under any provision of law or instrument or document creating any Lien superior or equal in priority in whole or in part to the Lien of this Mortgage, Mortgagee shall have and be entitled to a Lien on the Mortgaged Property equal in parity with that discharged, and Mortgagee shall be subrogated to and receive and enjoy all rights and Liens possessed, held or enjoyed by, the holder of such Lien, which shall remain in existence and benefit Mortgagee to secure the Liabilities; provided, however, that Mortgagee shall not pay any such sum if no Event of Default shall have occurred and be continuing. Mortgagee

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shall be subrogated, notwithstanding their release of record, to mortgages, trust deeds, superior titles, vendors, Liens, mechanics' and materialmen's Liens, charges, encumbrances, rights and equities on the Mortgaged Property to the extent that any obligation under any of the same is paid or discharged with proceeds of disbursements or advances of the Loans or other Indebtedness secured hereby.

2.17 Books and Records. Mortgagor shall keep and maintain at all times complete, true and accurate books of account and records reflecting the results of the operation of the Mortgaged Property and shall deliver to Mortgagee all financial statements pertaining to Mortgagor and the Mortgaged Property as are required by the Loan Agreement. In the event of a foreclosure of this Mortgage, all of Mortgagor's books and records maintained in connection with the Mortgaged Property shall be made available to the successful bidder at the foreclosure sale for inspection and copying for a period of not less than three (3) years following said sale.

2.18 Estoppel. Mortgagor, within ten (10) days after written request from Mortgagee, shall furnish a written statement executed by Mortgagor setting forth the unpaid principal of, and any interest on, the Note, and any other unpaid sums secured hereby, as well as any offsets or defenses which Mortgagor claims to exist against the payment of all or any portion of the Liabilities, including the specific basis and amount of each such claim.

2.19 Use of the Mortgaged Property. Mortgagor shall not suffer or permit the Mortgaged Property, or any portion thereof, to be used by the public in such manner as might unreasonably tend to impair Mortgagor's title to the Mortgaged Property or any portion thereof, or in such manner as might reasonably make possible a claim or claims of easement by prescription or adverse possession by the public, as such, or of implied dedication of the Mortgaged Property or any portion thereof. Further, without limitation of the foregoing, Mortgagor shall not use or permit the use of the Mortgaged Property or any portion thereof for any unlawful purpose.

2.20 Litigation Involving Mortgaged Property. Mortgagor shall initiate or appear in any legal action or other appropriate proceedings when necessary to protect the Mortgaged Property from material damage. Mortgagor shall, upon written request of Mortgagee, represent and defend the interests of Mortgagee in any proceedings described in this Section 2.20 or, at Mortgagee's election, pay the Legal Costs of Mortgagee in connection with any such proceedings.

2.21 Ground Lease Provisions.

(a) Mortgagor represents and warrants to Mortgagee that, except as set forth on Exhibit B hereto, the Ground Leases have not been amended, modified, supplemented or assigned. To Mortgagor's actual knowledge, as of the date hereof, no default of any obligations under either of the Ground Leases has occurred and is continuing, and the Ground Leases are in full force and effect. Mortgagor agrees that it will not take any action, to give any notice,

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approval or consent or exercise, waive or modify any rights under or in respect to either of the Ground Leases, which action, omission, notice, approval, consent or exercise, waiver or modification of rights would affect the Project or the Improvements in any materially adverse respect without Mortgagee's consent.

(b) Mortgagor shall pay all rent and other charges required under the Ground Leases as and when the same are due and keep, observe and perform all of the other terms, covenants, provisions and agreements of the Ground Leases on the part of the lessee thereunder to be kept, observed and performed, and Mortgagor, except as a consequence of Mortgagee's acquisition of the Co-Mortgagor Land and/or the Stern Land, as applicable (and subject to the provisions of subsection (f) below) shall not cancel, terminate or surrender, or permit any cancellation, termination or surrender of either of the Ground Leases, in whole or in part.

(c) Intentionally Omitted

(d) Mortgagor will enforce the material obligations of the landlords under the Ground Leases to the end that Mortgagor may enjoy all of the rights granted under the Ground Leases, and will promptly notify Mortgagee in writing of any material default known to Mortgagor by either of the landlords under the Ground Leases in the performance or observance of any of the material terms, covenants and conditions on the part of either of the landlords to be performed or observed under the Ground Leases.

(e) If any action or proceeding shall be instituted to terminate either of the Ground Leases or to recover possession of the Improvements or any portion thereof, or for any other purpose affecting either of the Ground Leases or this Mortgage, Mortgagor will, immediately upon service thereof on or to Mortgagor, deliver to Mortgagee a true copy of each petition, summons, complaint, notice of motion, order to show cause and of all other provisions, pleadings, and papers, however designated, served in any such action or proceeding.

(f) Mortgagor covenants and agrees that unless Mortgagee shall otherwise expressly consent in writing, the fee title to the property demised by the Ground Leases and the leasehold estate created thereby or any subleasehold estate derived therefrom shall not merge but shall always remain separate and distinct, notwithstanding the union of said estates either in the landlords under the Ground Leases, Mortgagor, or a third party by purchase or otherwise. In the event Mortgagor acquires the fee title or any other estate, title or interest in the Mortgaged Property, this Mortgage shall (and in the case of the Co-Mortgagor's Land, shall continue to) attach to and cover and be a lien upon the fee title or such other estate so acquired, and such fee title or other estate shall, without further assignment, Mortgage or conveyance, become and be subject to the lien of and covered by this Mortgage. If requested by Mortgagee, Mortgagor shall execute, acknowledge and deliver a written instrument confirming such joinder of the fee simple estate hereto.

(g) No release or forbearance, by either of the landlords under the Ground Leases or otherwise, of any of the Mortgagor's obligations under either of the Ground Leases, shall release Mortgagor from any of its obligations under this Mortgage.

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(h) During the continuance of an Event of Default, Mortgagor shall not make any election or give any consent or approval as tenant under either of the Ground Leases without obtaining Mortgagor's prior written consent thereto. Upon the occurrence and during the continuance of an Event of Default, all such rights of Mortgagor, together with the right of termination, cancellation, modification, change, supplement, alteration or amendment of either of the Ground Leases, all of which are hereby assigned for collateral purposes to Mortgagee, shall reside in and be exercisable solely by Mortgagee.

(i) Mortgagor will give Mortgagee prompt written notice of the commencement of any arbitration or appraisal proceeding under and pursuant to the provisions of either of the Ground Leases. To the extent not prohibited by the applicable Ground Lease, Mortgagee shall have the right to intervene and participate in any such proceeding, and Mortgagor shall not take any actions with respect to such arbitration or the selection of any arbitrator or arbitrators, or appraiser in such proceeding without Mortgagee's consent, which shall not unreasonably withhold or delayed, unless an Event of Default shall have occurred and be continuing.

(j) The lien of this Mortgage shall attach to all of Mortgagor's rights and remedies at any time arising under or pursuant to Subsection 365(h) of the Bankruptcy Code, 11 U.S.C. §365(h), including, without limitation, all of the Mortgagor's rights to remain in possession of the Project.

Mortgagor shall not, without Mortgagee's prior written consent, elect to treat either of the Ground Leases as terminated under Subsection 365(h)(1) of the Bankruptcy Code, 11 U.S.C. §365(h)(1). Any such election made without Mortgagee's consent shall be void. Mortgagor shall not, without Mortgagee's prior written consent, vote or consent to treat either of the Ground Leases as terminated under said Subsection 365(h)(1) of the Bankruptcy Code, and Mortgagor hereby further assigns, transfers and sets over to Mortgagee all of Mortgagor's rights to object to the termination of either Ground Lease under Section 365(h)(1)(A) of the Bankruptcy Code (and irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor with respect thereto) in any case in respect of the landlord under either of the Ground Leases or any fee owner of the Mortgaged Property under the Bankruptcy Code. As long as no Event of Default shall have occurred and be continuing, Mortgagee shall consult and confer with Mortgagor in connection with the contest or proceeding involving the termination of either of the Ground Leases.

Mortgagor hereby unconditionally assigns, transfers and sets over to Mortgagee all of Mortgagor's claims and rights to the payment of damages arising from any rejection of either of the Ground Leases by either of the landlords under the Ground Leases or any other fee owner of the Mortgaged Property under the Bankruptcy Code. If Mortgagor does not file a proof of claim under the Bankruptcy Code against the landlord under either of the Ground Leases or any other fee owner of the Mortgaged Property within thirty (30) days prior to the deadline therefor, Mortgagee shall be entitled to file such proof of claim either in its own name or in the name of Mortgagor. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the obligations

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secured by this Mortgage shall have been satisfied and discharged in full. Any amounts received by Mortgagee as damages arising out of the rejection of either of the Ground Leases as aforesaid shall be applied first to all reasonable costs and expenses of Mortgagee (including, without limitation, Legal Costs) incurred in connection with the exercise of any of its rights or remedies under this section and then in accordance with the provisions of Article 13 of the Loan Agreement. Mortgagor shall promptly make, execute, acknowledge and deliver, in form and substance satisfactory to Mortgagee, a UCC Financing Statement (Form UCC-1) and all such additional instruments, agreements and other documents, as may at any time hereafter be required by Mortgagee to effectuate and carry out the assignment made pursuant to this Section.

Mortgagee shall have the right to proceed on its own behalf or, during the continuance of an Event of Default, on the Mortgagor's behalf, relating to the rejection of either of the Ground Leases, including, without limitation, the right to file and prosecute any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the landlord under either of the Ground Leases or any fee owner of the Mortgaged Property under the Bankruptcy Code; provided, however, that nothing set forth herein shall be deemed to limit in any way the right of Mortgagor to proceed in its own name and on behalf relating to the rejection of either of the Ground Leases or otherwise unless an Event of Default shall be continuing.

If pursuant to Subsection 365(h)(2) of the Bankruptcy Code, 11 U.S.C. §365(h)(2), the Mortgagor shall seek to offset against the rental reserved in either of the Ground Leases the amount of any damages caused by the nonperformance by the applicable landlord or any fee owner of any of their obligations under the applicable Ground Lease after the rejection by such landlord or any fee owner of such Ground Lease under the Bankruptcy Code, Mortgagor shall, not less than ten (10) days prior to Mortgagor's action effecting such offset, notify Mortgagee of its intent to do so, setting forth the amounts proposed to be so offset and the basis therefor. Mortgagee shall have the right to object to all or any part of such offset that, in the reasonable judgment of Mortgagee, would constitute a breach of such Ground Lease, and in the event of such objection, Mortgagor shall not effect any offset of the amounts so objected to by Mortgagee. Neither Mortgagee's failure to object as aforesaid nor any objection relating to such offset shall constitute an approval of any such offset by Mortgagee.

If any action, proceeding, motion or notice shall be commenced or filed in respect of either of the landlords under the Ground Leases or any fee owner, the Project or either of the Ground Leases in connection with any case under the Bankruptcy Code, Mortgagee shall have the option, as between Mortgagor and Mortgagee exercisable upon notice from Mortgagee to Mortgagor, to conduct and control any such litigation with counsel of Mortgagee's choice. Mortgagee may proceed in its own name or in the name of Mortgagor in connection with any such litigation, and Mortgagor agrees to execute any and all powers, authorizations, consents or other documents reasonably required by Mortgagee in connection therewith. In the event that Mortgagee elects to conduct and control any such litigation as provided in the preceding sentence, Mortgagee shall consult and confer with Mortgagor in connection with the conduct of such litigation and shall not, without Mortgagor's consent (which consent shall not be unreasonably withheld) agree to the termination of either Ground Lease, unless an Event of Default shall have

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occurred and be continuing. Mortgagor shall, upon demand, pay to Mortgagee all costs and expenses (including Legal Costs) reasonably paid or incurred by Mortgagee in connection with the prosecution or conduct of any such proceedings. Any such costs or expenses not paid by Mortgagor as aforesaid shall be secured by the lien of this Mortgage and shall be added to the principal amount of the indebtedness secured hereby. Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion (unless such motion is for the purpose of protecting either Ground Lease and its value as security for the Liabilities), in respect of either Ground Lease in any case commenced or filed in respect of either of the landlords under the Ground Leases or any fee owner, the Project or either of the Ground Leases in connection with any case under the Bankruptcy Code without prior written consent of Mortgagee, which consent shall not unreasonably withheld or delayed.

Mortgagor shall, promptly after obtaining knowledge thereof, notify Mortgagee of any filing by or against either of the landlords under the Ground Leases or other fee owner of a petition under the Bankruptcy Code. Mortgagor shall deliver to Mortgagee, promptly following receipt thereof, copies of any and all notices, summonses, pleadings, applications and other documents received by Mortgagor in connection with any such petition and any proceeding relating thereto.

If there shall be filed by or against Mortgagor a petition under the Bankruptcy Code and Mortgagor, as tenant under either of the Ground Leases, shall elect to reject either of the Ground Leases pursuant to Section 365(a) of the Bankruptcy Code, Mortgagor shall give Mortgagee not less than thirty (30) days' prior notice of the date on which Mortgagor shall apply to the Bankruptcy Code for authority to reject the applicable Ground Lease. Mortgagee shall have the right, but not the obligation, to serve upon Mortgagor within such thirty (30) day period a notice stating that Mortgagee demands that Mortgagor assume and assign such Ground Lease to Mortgagee pursuant to Section 365 of the Bankruptcy Code. If Mortgagee shall serve upon Mortgagor the notice described in the preceding sentence, Mortgagor shall not seek to reject the applicable Ground Lease and shall comply with the demand provided for in the preceding sentence. Any payments required to be made as a condition to such assumption or assignment pursuant to §365(b) or 365(f) of the Bankruptcy Code shall be paid by Mortgagor. In the event that Mortgagor shall fail to pay any such amounts, Mortgagee may, at its option, pay such amounts, and the amount of any such payments shall be added to the Liabilities secured hereby.

(k) Mortgagor will from time to time, at the request of Mortgagee, use its reasonable good faith efforts to obtain promptly and deliver to Mortgagee certificates of estoppel of the landlords under the Ground Leases.

(l) In the event either of the Ground Leases shall be terminated and Mortgagee shall acquire from the landlord thereunder a new lease in lieu thereof, to the extent permitted by law, Mortgagor hereby waives any right, title or interest in and to such new lease or the leasehold estate created thereby, waiving all rights of redemption now or hereafter operable under any law.

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(m) This Mortgage is lawfully executed and delivered in conformity with the Ground Leases, constitutes a "Leasehold Mortgage" (as such term is defined in the Stern Ground Lease) and a "Mortgage" (as such term is defined in the Lunan Ground Lease) and is and will be kept a valid lien on the interest of Mortgagor in and to the Mortgaged Property.

(n) Without the prior written consent of Mortgagee, Mortgagor will not allow the subordination or consent to the subordination of the Ground Leases to any mortgage on the either landlords' interest in any of the real property demised by the Ground Leases.

ARTICLE THREE

DEFAULTS

3.01 **Event of Default.** The term "Event of Default," wherever used in this Mortgage, means the occurrence of an Event of Default under the Loan Agreement.

ARTICLE FOUR

REMEDIES

4.01 **Acceleration of Maturity.** If an Event of Default shall have occurred and be continuing, Mortgagee may declare the Liabilities to be immediately due and payable, without further demand or notice, and the obligations and liabilities of any Lender under the Loan Documents shall immediately terminate without further demand or notice.

4.02 **Mortgagee's Power of Enforcement.** If an Event of Default shall have occurred and be continuing, Mortgagee may, either with or without entry or taking possession as provided in this Mortgage or otherwise, and without regard to whether or not the Liabilities shall have been accelerated and without regard to whether the obligations and liabilities of the Mortgagee under the Loan Documents have been terminated, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure or any other action for any default existing at the time such earlier action was commenced or arising thereafter, proceed by any appropriate action or proceeding: (a) to enforce the obligations of Mortgagor under the Loan Agreement and/or any other of the Liabilities or the performance of any term hereof or any of the other Loan Documents; (b) to foreclose this Mortgage by judicial action and to have sold, as an entirety or in separate lots or parcels, the Mortgaged Property; (c) to foreclose this Mortgage by advertisement with full authority and power to sell the Mortgaged Property at public auction and convey the same to the purchaser in fee simple, either on one parcel or separate lots and parcels, all in accordance with and in the manner prescribed by law; such power of sale, if available, being hereby expressly granted to Mortgagee in which event, references to "foreclosure" or "foreclosure sale", in this Mortgage shall be deemed to mean and include sales pursuant to the exercise of the power of sale granted herein; and (d) to pursue any other remedy available to Mortgagee. Mortgagee may take action either by such

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proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Mortgagee may determine.

4.03 Mortgagee's Right to Enter and Take Possession, Operate and Apply Income.

(a) If an Event of Default shall have occurred and be continuing, the Mortgagors, upon demand of the Mortgagee, shall forthwith surrender to the Mortgagee the actual possession of the Mortgaged Property, and if and to the extent permitted by law, the Mortgagee itself, or by such officers or agents as it may appoint, may enter and take possession of all or any portion of the Mortgaged Property and may exclude the Mortgagors and their agents and employees wholly therefrom and may have joint access with the Mortgagors to the books, papers and accounts of the Mortgagors relating to the Mortgaged Property.

(b) If an Event of Default shall have occurred and be continuing, and the Mortgagors shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after the Mortgagee's demand, the Mortgagee may obtain a judgment or decree conferring on the Mortgagee the right to immediate possession or requiring the Mortgagors to deliver immediate possession of all or part of the Mortgaged Property to the Mortgagee, to the entry of which judgment or decree the Mortgagors hereby specifically consent. The Mortgagor shall pay to the Mortgagee, upon demand, all costs and expenses of obtaining such judgment or decree and Legal Costs, and all such costs and expenses and Legal Costs shall, until paid, be secured by the lien of this Mortgage.

(c) If an Event of Default shall have occurred and be continuing, Mortgagee may apply for the appointment of a receiver in accordance with the statutes and law made and provided for, which receivership the Mortgagors hereby consent to.

(d) After an Event of Default shall have occurred, and so long as it is continuing, upon every such entering upon or taking of possession, the Mortgagee or receiver, as the case may be, may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time:

(i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon as will, in the judgment of Mortgagee or the receiver, make it comparable in quality and condition to its quality and condition on the date of completion of the Project, or if the Project is not complete as of the date that an Event of Default has occurred, in quality and condition contemplated by the Approved Plans and Specifications, and purchase or otherwise acquire additional fixtures and personal property;

(ii) insure or keep the Mortgaged Property insured with limits not in excess of those set forth in the Loan Agreement;

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(iii) manage and operate the Mortgaged Property and exercise all the rights and powers of the Mortgagors with respect to the same;

(iv) enter into agreements with others to exercise the powers herein granted the Mortgagee or receiver, all as the Mortgagee or receiver from time to time may determine; and the Mortgagee or receiver may collect and receive all the rents, income and other benefits thereof, including those past due as well as those accruing thereafter and may apply the monies so received by the Mortgagee or receiver, in such priority as the Mortgagee may determine, to any or none of the following: (1) the payment of interest, principal, and other payments due and payable on the Note, or pursuant to the Loan Agreement, this Mortgage or the Liabilities, (2) the deposits for taxes and assessments and insurance premiums due, (3) the cost of insurance, taxes, assessments and other proper charges upon the Mortgaged Property or any part thereof, and (4) Legal Costs.

The entering upon and taking possession of the Mortgaged Property, the appointment of a receiver, the collection of such rents and profits and the application thereof as aforesaid shall not cure or waive any Event of Default under this Mortgage nor in any way operate to prevent the Mortgagee from pursuing any other remedy which it may now or hereafter have under the terms of this Mortgage nor shall it in any way be deemed to constitute the Mortgagee a mortgagee-in-possession. The rights and powers of the Mortgagee hereunder shall remain in full force and effect both prior to and after any foreclosure of the Mortgage and any sale pursuant thereto and until expiration of the period of redemption from said sale, regardless of whether a deficiency remains from said sale. The purchaser at any foreclosure sale, including the Mortgagee, shall have the right, at any time and without limitation, to advance money to any receiver appointed hereunder to pay any part or all the items which the receiver would otherwise be authorized to pay if cash were available from the Mortgaged Property and the sum so advanced, with interest at the rate then in effect under the terms of the Loan Agreement, shall be a part of the sum required to be paid to redeem from any foreclosure sale. The rights hereunder shall in no way be dependent upon and shall apply without regard to whether the Mortgaged Property is in danger of being lost, materially injured or damaged or whether the Mortgaged Property is adequate to discharge the Liabilities secured hereby. The rights contained herein are in addition to and shall be cumulative with the rights given in the Assignment of Leases and Rents, assigning any Leases, rents and profits of the Mortgaged Property. To the extent inconsistent with the terms of this Section 4.03, the terms of the Assignment of Leases and Rents shall control.

The Mortgagee shall surrender possession of the Mortgaged Property to the Mortgagors only when all Events of Default under the terms of this Mortgage shall have been cured. However, the same right to take possession shall exist if any subsequent Event of Default shall occur.

4.04 Leases. The Mortgagee is authorized to foreclose this Mortgage subject to the rights, if any, of any tenant or tenants of the Mortgaged Property, or the Mortgagee

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may elect which tenants Mortgagee desires to name as parties defendant in such foreclosure, and the failure to make any such tenant a party defendant to any foreclosure proceedings and to foreclose its rights will not be, nor be asserted by the Mortgagor to be, a defense to any proceedings instituted by the Mortgagee to collect the sums secured hereby or to collect any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

All Leases entered into by Mortgagor subsequent to the date hereof, shall provide that the Mortgagee may elect to give the tenant thereunder priority over the lien of this Mortgage; that upon notification by the Mortgagee to that effect, the rights and interests of such tenant shall be deemed to have priority over the lien of this Mortgage; and that such tenant shall execute and deliver whatever instruments may be required for such purposes, and Mortgagee shall be made, constituted and irrevocably appointed as such tenant's attorney in fact so to do in the event that tenant shall fail to do so within ten (10) days after written demand from Mortgagee.

4.05 Purchase by Mortgagee. Upon any foreclosure sale, Mortgagee may bid for and purchase all or any portion of the Mortgaged Property and, upon compliance with the terms of the sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

4.06 Application of Foreclosure Sale Proceeds. Out of the proceeds arising from the sale and foreclosure, the Mortgagee may retain all sums due under the Loan Agreement together with all such sums of money as the Mortgagee shall have expended or advanced pursuant to this Mortgage or pursuant to statute together with interest thereon as provided and all costs and expenses of such foreclosure, including Legal Costs, with the balance, if any, to be paid to the persons entitled thereto by law.

4.07 Application of Indebtedness Toward Purchase Price. Upon any foreclosure sale, the Mortgagee may apply any or all of the Liabilities and other sums due to the Mortgagee under the Note, the Loan Agreement, this Mortgage or any other instrument securing the Note or any instrument evidencing or securing the Liabilities, or any decree in lieu thereof, toward the purchase price.

4.08 Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws. Mortgagors hereby waive any and all rights of redemption. Further, to the full extent permitted by applicable law, in case of an Event of Default, neither Mortgagors nor anyone claiming by, through or under it will set up, claim or seek to take advantage of any reinstatement, appraisal, valuation, stay or extension laws now or hereafter in force, or take any other action which would prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat. Mortgagors, for themselves and all who may at any time claim by, through or under them, hereby waive, to the full extent that they may lawfully so do, the benefit, of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshalled upon any foreclosure of the

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Lien hereof and agrees that Mortgagee or any court having jurisdiction to foreclose such Lien may sell the Mortgaged Property in part or as an entirety.

4.09 Receiver - Mortgagee in Possession. If an Event of Default shall have occurred and be continuing, the Mortgagee, to the extent permitted by law and without regard to the value, adequacy or occupancy of the security for the indebtedness and other sums secured hereby, shall be entitled as a matter of right, if it so elects, to the appointment of a receiver to enter upon and take possession of the Mortgaged Property and to collect all rents, income and other benefits thereof and apply the same as the court may direct; provided, however, the foregoing shall in no way limit or impair the rights of the Mortgagee under the Loan Agreement or any other Loan Document. The expenses, including reasonable receiver's fees, Legal Costs, reasonable costs and agent's fees, incurred pursuant to the powers herein contained shall be secured by this Mortgage. The right to enter and take possession of and to manage and operate the Mortgaged Property, and to collect all rents, income and other benefits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law and may be exercised concurrently therewith or independently thereof. The Mortgagee shall be liable to account only for such rents, income and other benefits actually received by the Mortgagee, whether received pursuant to this Section or Section 4.03. Notwithstanding the appointment of any receiver or other custodian, the Mortgagee shall be entitled as pledgee to the possession and control of any cash, deposits, or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to, the Mortgagee. Upon, or at any time after the filing of a suit to foreclose this Mortgage, the court in which such suit is filed shall also have (full) power to enter an order placing the Mortgagee in possession of the Mortgaged Property with the same power herein granted to a receiver and with all other rights and privileges of a Mortgagee in possession under law.

The acceptance by Mortgagee of this Mortgage with all of the rights, powers, privileges and authority created hereby shall not, prior to entry upon and taking possession of the Mortgaged Property by Mortgagee, be deemed or construed to constitute either Mortgagee a "mortgagee in possession" nor thereafter or at any time or in any event obligate the Mortgagee to appear in or defend any action or proceeding relating to the Mortgaged Property or the Leases or to take any action hereunder or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability with respect to the Mortgaged Property or any Lease or to assume any obligation or responsibility for any security deposits or other deposits delivered to Mortgagor in connection with the Mortgaged Property or any lessee and not assigned and delivered to Mortgagee, nor, shall Mortgagee be liable in any way (except for its gross negligence or wilful misconduct) for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Mortgaged Property.

It is expressly intended, understood and agreed that this Mortgage, the Loan Agreement, the Note and the other Loan Documents, are made and entered into for the sole protection and benefit of Mortgagee and its successors and assigns, and no other persons or entities shall have any right at any time to act hereon; and the proceeds of the Loan do not constitute a trust fund for the benefit of any third party.

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Notwithstanding anything herein to the contrary, Mortgagee by acting pursuant hereto (including, but not limited to, the exercise by Mortgagee of any rights or remedies granted hereby) does not intend and shall not be deemed to be a partner or joint venturer with Mortgagors or any general or limited partner of Mortgagors or any Affiliate of Mortgagors. None of Mortgagors, or any Affiliate of Mortgagors or any general or limited partner of Mortgagors are acting as agent or principal of Mortgagee for any purpose.

4.10 Suits to Protect the Mortgaged Property. Subject to any right to contest granted herein or in the Loan Agreement and after notice to the Mortgagors (except in the case of an emergency) the Mortgagee shall have the power and authority (but not the duty), after an Event of Default has occurred and is continuing, to institute and maintain any suits and proceedings as the Mortgagee may deem advisable (a) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or which violate the terms of this Mortgage or (b) to preserve or protect its interest in the Mortgaged Property.

4.11 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting the Mortgagor, or the Guarantors (as defined in the Loan Agreement), the Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such proceedings for the entire amount due and payable by the Mortgagor under the Note, the Loan Agreement, this Mortgage and any other instrument securing the Note, and any other instrument evidencing or securing the Liabilities, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by the Mortgagor after such date.

4.12 Mortgagor to Pay the Liabilities in Event of Default; Application of Monies by Mortgagee.

(a) If an Event of Default has occurred and is continuing, then, upon the Mortgagee's demand, the Mortgagor will pay to the Mortgagee the whole amount of the Liabilities due and payable under the Note and any other instrument evidencing or securing the Liabilities and all other sums secured hereby; and if the Mortgagor shall fail to pay the same forthwith upon such demand, the Mortgagee shall be entitled to sue for and to recover judgment against the Mortgagor for the whole amount so due and unpaid together with costs and expenses, including without limitation the Legal Costs, either before, after or during the pendency of any proceedings for the enforcement of this Mortgage; and the right of the Mortgagee to recover such judgment shall not be affected by any taking possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

(b) The Mortgagors hereby agrees, to the extent permitted by law, that no recovery of any judgment by the Mortgagee, and no attachment or levy of execution upon any of the Mortgaged Property or any other property of the Mortgagor, shall in any way affect the

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lien of this Mortgage upon the Mortgaged Property or any part thereof or any lien, rights, powers or remedies of the Mortgagee hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before until this Mortgage and such lien, rights, powers and remedies are released of record in accordance with the terms of the Loan Agreement.

(c) Except as may otherwise be provided in the Loan Agreement, any monies collected or received by the Mortgagee under this Section 4.12 may be applied to the payment of Legal Costs, and the balance remaining shall be applied to the payment of amounts due and unpaid under the Note, the Loan Agreement, this Mortgage and all other instruments securing the Note and all instruments evidencing or securing the Liabilities.

4.13 Delay or Omission. No delay or omission of Mortgagee in the exercise of any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee.

4.14 Waiver of Default. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies in respect thereof. If Mortgagee (a) grants forbearance or an extension of time for the payment of any sums secured hereby, (b) takes other or additional security for the payment thereof, (c) waives or does not-exercise any right granted in this Mortgage or any other Loan Documents, (d) releases any part of the Mortgaged Property from the Lien of this Mortgage or any other Loan Documents, (e) consents to the filing of any map, plat or replat of the Land, (f) consents to the granting of any easement on the Land, or (g) makes or consents to any agreement changing the terms of this Mortgage or subordinating the Lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the Lien of this Mortgage or any other Loan Documents or the Liabilities, any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, except as otherwise expressly provided in an instrument or instruments executed by Mortgagee. No such act or omission shall preclude Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default, nor shall the Lien of this Mortgage be altered thereby, except to the extent of any releases as described in clause (d), above, of this Section 4.14.

4.15 Discontinuance of Proceedings; Position of Parties Restored. If Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or such proceedings shall have resulted in a final determination adverse to Mortgagee, then and in every such case Mortgagors and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceedings had occurred or had been taken.

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4.16 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Mortgagee by the Loan Agreement, this Mortgage or any other Loan Documents or any instrument evidencing or securing the Liabilities is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under any other Loan Documents or any instrument evidencing or securing the Liabilities, now or hereafter existing at law, in equity or by statute.

4.17 Acknowledgment of Waiver of Hearing Before Sale. The Mortgagor understands that during the continuance of an Event of Default, the Mortgagee may elect its rights under the Code and take possession of the collateral and dispose of the same by sale or otherwise in one or more parcels provided that at least ten (10) days' prior notice of such disposition must be given, all as provided for by the Code, as hereafter amended or by any similar or replacement statute hereafter enacted. The Mortgagor further understands that under the Constitution of the United States it may have the right to notice and hearing before the personal property collateral may be sold and that the Code does not require any hearing or other judicial proceeding. **THE MORTGAGOR HEREBY EXPRESSLY CONSENTS AND AGREES THAT THE PERSONAL PROPERTY MAY BE DISPOSED OF PURSUANT TO THE CODE AS DESCRIBED ABOVE. THE MORTGAGOR ACKNOWLEDGES THAT IT IS REPRESENTED BY LEGAL COUNSEL; THAT BEFORE SIGNING THIS DOCUMENT THIS SECTION AND THE MORTGAGOR'S CONSTITUTIONAL RIGHTS WERE FULLY EXPLAINED BY SUCH COUNSEL AND THAT THE MORTGAGOR UNDERSTANDS THE NATURE AND EXTENT OF THE RIGHTS WAIVED HEREBY AND THE EFFECT OF SUCH WAIVER.**

4.18 Homestead. Mortgagors represent and covenant that the Mortgaged Property forms no part of any property owned, used or claimed by Mortgagors as a business or residential homestead and disclaims and renounces all and every such claim thereto.

4.19 Extensions. The granting to Mortgagor or to any other person or party of any extension of time for the payment of all or any part of the Liabilities or the performance of any covenant or agreement contained herein, or the taking of other or additional security for the payment of the whole or any part of the Liabilities, or the releasing of any part of the security at any time held in connection with the Liabilities, shall not in any way release Mortgagor or any other person or party obligated for the payment of the Liabilities, or release or impair this Mortgage or any other security held in connection with the Liabilities, except to the extent of the person, party or property expressly released in writing by Mortgagee.

4.20 Tenants at Sufferance. Following any sale of the Mortgaged Property, or any part thereof, pursuant to the provisions of this Mortgage, to the extent permitted by law, all persons and parties in possession of the property sold shall be obligated to immediately vacate the premises, and prior to such vacation shall be tenants at sufferance of the purchaser of the property sold and shall be subject to eviction in action of forcible detainer; provided, however, that the provisions of this Section 4.20 shall be subject to any agreements made in

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writing by Mortgagee with reference to any existing and/or future Leases; and provided, further, that the purchaser at any foreclosure sale shall have the option to affirm any then existing Leases or tenancies or otherwise succeed to the rights of Mortgagor thereunder.

4.21 Subrogation. To the extent that any of the Liabilities represent funds utilized to satisfy any outstanding indebtedness or obligations secured by liens, rights or claims against the Mortgaged Property or any part thereof, Mortgagee shall be subrogated to any and all liens, rights, superior titles and equities owned or claimed by the holder of any such outstanding indebtedness or obligation so satisfied, however remote, regardless of whether said liens, rights, superior titles and equities are by the holder(s) thereof assigned to Mortgagee.

4.22 Loan Agreement. This Mortgage is the Mortgage referred to in the Loan Agreement. All of the terms, covenants, representations and warranties, waivers of notice and default and due-on-sale provisions contained in the Note, the Loan Agreement and the other Loan Documents are, by this reference, adopted and incorporated into this Mortgage to the same full extent and with the same binding force and effect as if all such terms, covenants, conditions, restrictions, representations, provisions, waivers and warranties were herein stated in full, it being the express intent that this Mortgage and other Loan Documents each complement and supplement the others to the extent necessary or required to protect, preserve and confirm the rights, powers, interests and remedies of Mortgagee in respect of the Liabilities. Mortgagor agrees that this Mortgage also secures the performance of Borrower of all of its obligations under the Loan Agreement.

ARTICLE FIVE

MISCELLANEOUS PROVISIONS

5.01 Successors and Assigns Included in Parties. Whenever Mortgagors or Mortgagee are named or referred to herein, heirs and successors and assigns of such Person or entity shall be included, and all covenants and agreements contained in this Mortgage shall bind the successors and assigns of Mortgagors, including any subsequent owner of all or any part of the Mortgaged Property and inure to the benefit of the successors and assigns of Mortgagee. This Section 5.01 shall not be construed to permit an assignment, transfer, conveyance, encumbrance or other disposition otherwise prohibited by this Mortgage or the Loan Agreement.

5.02 Notices. All notices, requests, reports, demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Mortgagee shall be directed to Mortgagor or Mortgagee as the case may be in accordance with the Loan Agreement. Any such notices, requests, reports, demands or other instruments shall be delivered in the manner provided in the Loan Agreement and shall be deemed given or effective as provided therein.

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5.03 Headings. The headings of the articles, sections, paragraphs and subdivisions of this mortgage are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

5.04 Disbursement of Loan Proceeds for Construction of Improvements. This is a construction mortgage, as said term is defined in Section 9-313(1)(c) of the Code. Mortgagors further covenant and agree that the Loan secured hereby is a construction loan and that the proceeds of the Loan secured hereby are to be disbursed by the Mortgagee to Borrower in accordance with the terms contained in the Loan Agreement, which provisions are incorporated herein by reference. Mortgagors and Mortgagee intend that, in addition to, and not exclusive of, any other debt, liability or obligation secured hereby, this Mortgage shall secure unpaid balances of all advances of Loan proceeds and other such extensions of credit made by the Mortgagee to Borrower after this Mortgage is filed for recordation in the Office of the Recorder of Deeds of Cook County, Illinois. All borrowings and indebtedness arising and accruing under the Loan Agreement, or under any of the Loan Documents, from time to time, whether or not the resulting indebtedness secured hereby may exceed the face amount of the Note, shall be secured hereby.

5.05 Future Advances. This Mortgage is given for the purpose of securing loan advances which the Mortgagee may make to or for Mortgagor pursuant and subject to the terms and provisions of the Loan Agreement. The parties hereto intend that, in addition to any other debt or obligation secured hereby, this Mortgage shall secure unpaid balances of loan advances made after this Mortgage is delivered to the Recorder of Deeds, Cook County, Illinois, whether made pursuant to an obligation of Mortgagee or otherwise, provided that such advances are within twenty (20) years from the date hereof and in such event, such advances shall be secured to the same extent as if such future advances were made on the date hereof, although there may be no advance made at the time of execution hereof and although there may be no indebtedness outstanding at the time any advance is made. Such loan advances may or may not be evidenced by the Note.

5.06 Invalid Provisions. The parties hereto intend and believe that each provision in this Mortgage and the other Loan Documents comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Mortgage or any of the other Loan Documents is found by a court of law of competent jurisdiction to be in violation of any applicable local, state, or federal law, statute, ordinance, administrative or judicial decision, or public policy, and if such court declares such portion, provision, or provisions of this Agreement to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such portion, provision, or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, and that the remainder of this Mortgage shall be construed as if such illegal, invalid, unlawful, void, or unenforceable portion, provision, or provisions were not contained therein, and that the rights, obligations, and interests of Mortgagors and Mortgagee under the remainder of this Mortgage shall continue in full force and effect. All agreements herein and in the Note are expressly limited

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so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof acceleration of maturity of the unpaid principal balance of the Note, or otherwise, shall the amount paid or agreed to be paid to the Lenders for the use, forbearance or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Note or any other agreement referred to herein, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity and if from any circumstance the Lenders shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Note and not to the payment of interest.

5.07 Changes. Neither this Mortgage nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought. To the extent permitted by law, any agreement hereafter made by Mortgagors and Mortgagee relating to this Mortgage shall be superior to the rights of the holder of any intervening Lien. Any holder of a Lien junior to the Lien of this Mortgage shall take its Lien subject to the right of Mortgagee to amend, modify or supplement this Mortgage, the Loan Documents or the Loan Agreement, to extend the maturity of the Liabilities or any portion thereof, to vary the rate of interest chargeable under the Loan Agreement and to increase the amount of the indebtedness secured hereby, in each and every case without obtaining the consent of the holder of such junior Lien and without the Lien of this Mortgage losing its priority over the rights of any such junior Lien.

5.08 Governing Law. This Mortgage shall be construed, interpreted, enforced and governed by and in accordance with the internal laws (as opposed to the conflict of laws principles) of the State of Illinois. In the event that any provision in this Mortgage shall be inconsistent with any provision of the laws of the State governing the foreclosure of mortgages, provided that such State law provision is applicable to the rights and obligations of the parties to this Mortgage, such State law provisions shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with applicable State law. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under applicable State law in the absence of said provision, Mortgagee shall be vested with the rights granted in applicable State law to the full extent permitted by law.

5.09 Other Loan Documents and Collateral. Mortgagee shall be entitled to enforce payment and performance of the Liabilities and to exercise all rights and powers under this Mortgage or under any Loan Document or other agreement or any laws now or hereafter in force, notwithstanding that some or all of the Liabilities may now or hereafter be otherwise

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secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise, including, but not limited to the Loan Documents. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to power of sale, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in such order and manner as it may in its absolute discretion determine. Mortgagee may resort to any other security held by Mortgagee for the payment of the Liabilities in such order and manner as Mortgagee may elect. Notwithstanding anything contained herein to the contrary, Mortgagee shall be under no duty to Mortgagors or others, to exercise or exhaust all or any of the rights, powers and remedies available to Mortgagee.

5.10 Limitation of Liability. The provisions contained in Section 14.13 of the Loan Agreement are hereby incorporated herein by this reference thereto.

5.11 Modification of Loan Terms. If the time of payment of any indebtedness secured hereby is extended at any time or times, if the Loan Agreement is renewed, modified or replaced or if any security for the Loan Agreement is released, Mortgagors and any other parties now or hereafter liable therefor or interested in the Mortgaged Property shall be deemed to have consented to such extensions, renewals, modifications, replacements and releases and their liability and the Lien hereof and of the other Loan Documents shall not be released and the rights created hereby and thereby shall continue in full force, the right of recourse against all such parties being reserved by Mortgagee.

5.12 Definitions Included in Amendment. Definitions contained in this Mortgage which identify documents, including the other Loan Documents, shall be deemed to include all amendments and supplements to such documents from the date hereof, and all future amendments and supplements thereto entered into from time to time to satisfy the requirements of this Mortgage or otherwise with the consent of Mortgagee. Reference to this Mortgage contained in any of the foregoing documents shall be deemed to include all amendments and supplements to this Mortgage.

5.13 Conflict With Loan Agreement. In the event of any conflict between the terms and provisions of this Mortgage and the terms and provisions of the Loan Agreement, the terms and provisions of the Loan Agreement shall control. A provision in this Mortgage shall not be deemed inconsistent with the Loan Agreement by reason of the fact that no provision in the Loan Agreement covers such provision in this Mortgage.

5.14 Total Liabilities Secured. The total Liabilities secured hereby at any one time shall not exceed \$180,000,000.00 plus interest thereon and any disbursement made for the payment of taxes, levies or insurance on the Mortgaged Property with interest on such disbursements.

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5.15 Business Loan Recital. Mortgagor represents and agrees that the obligations secured hereby: (a) constitutes a business loan which comes within the purview of subparagraph (1)(c) of Section 4 of "An Act in relation to the rate of interest and other charges in connection with sales on credit and the lending of money," approved May 24, 1879, as amended (815 ILCS 205/4(1)(c)) and a loan secured by a mortgage which comes within the purview of subsection (1)(l) of said Section; and (b) is an exempted transaction under the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 et seq.

5.16 Special Co-Mortgagor Provisions. The Co-Mortgagor is executing and delivering this Mortgage pursuant to the terms and provisions of Section 13(a) of the Lunan Ground Lease. Notwithstanding any provision to the contrary contained herein:

(a) The Co-Mortgagor is executing and delivering this Mortgage solely for the purpose of encumbering the Co-Mortgagor's fee estate in the portion of the Land and related Property Rights which are subject to the Lunan Ground Lease and, by executing and delivering this Mortgage does not assume any personal liability for the payment of any amounts due under the terms and provisions of the Note, the Loan Agreement or any of the other Loan Documents; and

(b) The Mortgagee agrees, by acceptance of the delivery of this Mortgage, that Mortgagee shall deliver written notice to the Co-Mortgagor, at the same time that such notice is delivered to the Mortgagor, of any matter which, with the passage of time or the delivery of notice, would become an Event of Default hereunder, with such notice to be delivered to:

American National Bank and
Trust Company of Chicago
33 North LaSalle Street
Chicago, Illinois 60690
Attention: Land Trust Department
Trust No. 4866208

with copies to:

Mr. Michael Schulson
Lunan Corporation
414 North Orleans
Suite 202
Chicago, Illinois 60610

and:

Rudnick & Wolfe
203 North LaSalle Street

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Suite 1800
Chicago, Illinois 60601
Attention: David Glickstein, Esq.

5.17 **Trustee Exculpation.** This Mortgage is executed by American National Bank and Trust Company of Chicago, not personally but solely as Trustee as aforesaid, in the exercise of power and authority conferred upon and vested in it as such Trustee (and American National Bank and Trust Company of Chicago hereby represents and warrants that it possess full power and authority to execute this instrument). All the terms, provisions, stipulations, covenants and conditions to be performed hereunder (whether or not the same are expressed in terms of covenants, promises or agreements), are undertaken by its solely as Trustee, as aforesaid, and not individually, and no personal liability shall be asserted to be enforceable against American National Bank and Trust Company of Chicago by reason of any of the terms, provisions, stipulations, covenants and conditions contained herein.

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

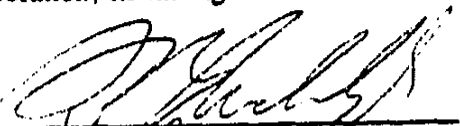
MORTGAGORS:

BORROWER:

730 NORTH MICHIGAN AVENUE VENTURE, an Illinois general partnership

By: **TKM LLC, an Illinois limited liability company**

By: **TK Michigan Ave. Corp. , an Illinois corporation, its manager**

By: 
Its: VICE PRESIDENT

By: **McGolden Mile Corporation, a Delaware corporation**

By: _____
Its: _____

BORROWER'S TRUST:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee under Trust Agreement dated as of April 20, 1994 and known as Trust No. 118199-01

By: _____
Its: _____

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

MORTGAGORS:

BORROWER:

730 NORTH MICHIGAN AVENUE VENTURE, an Illinois general partnership

By: **TKM LLC, an Illinois limited liability company**

By: **TK Michigan Ave. Corp. , an Illinois corporation, its manager**

By: _____
Its: _____

By: **McGolden Mile Corporation, a Delaware corporation**

By: *Christine M. Mohr*
Its: Asst. Vice President

BORROWER'S TRUST:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee under Trust Agreement dated as of April 20, 1994 and known as Trust No. 118199-01

By: *[Signature]*
Its: VP

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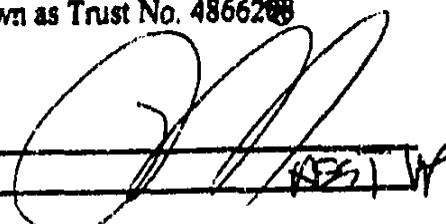
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CO-MORTGAGOR:

**AMERICAN NATIONAL BANK AND TRUST
COMPANY OF CHICAGO**, not personally but solely as
Trustee under Trust Agreement dated December 19, 1979
and known as Trust No. 4866288

By: _____

Its: _____

A large, stylized handwritten signature is written over the signature line. To the right of the signature line, the initials "AES/W" are handwritten.

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Liza L. Hoeffleur, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Steven R. Reed, V.P. of TK Michigan Ave. Corp. an Illinois corporation, the manager TKM LLC, an Illinois limited liability company (the "Limited Liability Company"), a general partner of 730 North Michigan Avenue Venture, an Illinois general partnership (the "Partnership"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Steven R. Reed, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said corporation on behalf of said Limited Liability Company and Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of September 1996.



Liza L. Hoeffleur
Notary Public

My commission expires 12.5.97.

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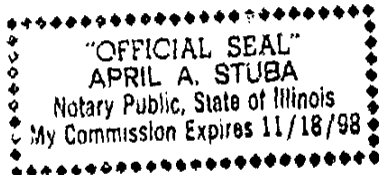
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, APRIL STUBA, a Notary Public in and for said County, in the State
aforesaid, DO HEREBY CERTIFY, that ^{CHRISTINE} M. COLE, ASST. J.P. of McGolden Mile
Corporation, a Delaware corporation, a general partner of 730 North Michigan Avenue
Venture, an Illinois general partnership (the "Partnership"), who is personally known to me to
be the same person whose name is subscribed to the foregoing instrument as such
ASST. J.P., appeared before me this day in person and acknowledged that he/she signed
and delivered the said instrument as his/her own free and voluntary act and as the free and
voluntary act of said corporation on behalf of said Partnership, for the uses and purposes
therein set forth.

GIVEN under my hand and Notarial Seal this 2nd day of OCT., 1996.

April A. Stuba
Notary Public

My commission expires 11/18/98.



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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State
aforesaid, DO HEREBY CERTIFY, that Gregory S. Kaspizyk WP of AMERICAN
NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as
Trustee under Trust No. 118199-01 (the "Trustee"), who is personally known to me to be the
same person whose name is subscribed to the foregoing instrument as such WP,
appeared before me this day in person and acknowledged that he/she signed and delivered the
said instrument as his/her own free and voluntary act and as the free and voluntary act of said
Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27 day of Oct, 1996.

Brian T. Hosey
Notary Public

My commission expires _____.



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EXHIBIT A-1

PARCEL A:

ALL OF BLOCK 53 INCLUDING ALL OF THE VACATED ALLEYS LOCATED THEREIN IN KINZIE'S ADDITION TO CHICAGO IN THE NORTH FRACTIONAL 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPTING THEREFROM THAT PART FALLING WITHIN NORTH MICHIGAN AVENUE AS WIDENED AND EXCEPTING THEREFROM THE DEMISED PREMISES DESCRIBED IN PARCEL B AND PARCEL C BELOW.

PARCEL B:

TRACT 5:

THE LEASEHOLD ESTATE, AS LEASEHOLD ESTATE IS DEFINED IN 1(G) OF THE CONDITIONS AND STIPULATIONS OF THIS POLICY, CREATED BY THE INSTRUMENT HEREIN REFERRED TO AS THE LEASE, EXECUTED BY AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED DECEMBER 19, 1979 AND KNOWN AS TRUST NUMBER 16662-08, AS LESSOR AND AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST NUMBER 118199-01, AS LESSEE, DATED JANUARY 1, 1996, A MEMORANDUM OF WHICH LEASE WAS RECORDED JANUARY 24, 1996 AS DOCUMENT NUMBER 96065184, WHICH LEASE DEMISES THE LAND FOR A TERM OF YEARS BEGINNING JANUARY 1, 1996 FOR A TERM OF 99 YEARS DEMISING THE FOLLOWING PARCEL:

LOT 8 IN BLOCK 53 AND THAT PART OF THE NORTH HALF OF THE VACATED EAST WEST ALLEY LYING SOUTH AND ADJOINING LOT 8, LYING WEST OF THE EAST LINE OF LOT 8 AND EAST OF THE WEST LINE OF LOT 8 AS EXTENDED, IN BUTLER'S SUBDIVISION OF THE NORTHEAST CORNER OF BLOCK 53 IN KINZIE'S ADDITION TO CHICAGO, IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL C:

TRACT 7:

LEASEHOLD ESTATE AS CREATED BY A CERTAIN AGREEMENT TO LEASE DATED MAY 10, 1994 AS DISCLOSED BY A MEMORANDUM OF LEASE ENTERED INTO AS MAY 31, 1994 BY AND BETWEEN ROBERT L. STERN, LESSOR, AND AMERICAN NATIONAL BANK AND TRUST COMPANY AS TRUSTEE APRIL 20, 1994 AND KNOWN AS TRUST NUMBER 118199-01, LESSEE, RECORDED JUNE 6, 1994 AS DOCUMENT NUMBER 94501549, SAID LEASE DEMISES THE FOLLOWING PARCELS FOR A TERM OF 99 YEARS:

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EXHIBIT A-1 (CONTINUED)

PARCEL C:

PARCEL 1:

LOT 9 AND LOT 10 (EXCEPT REAR 10 FEET THEREOF) AND THE NORTH HALF OF THE VACATED ALLEY LYING SOUTH OF AND ADJOINING SAID LOTS IN BUTLER'S SUBDIVISION OF THE NORTHEAST CORNER OF BLOCK 53 IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH FRACTIONAL SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 11 (EXCEPT THE WEST 13 FEET THEREOF AND EXCEPT THE SOUTH 13 FEET OF THE REMAINDER THEREOF AND SUCH OTHER PORTIONS THEREOF AS ARE TAKEN OR USED FOR ALLEYS), AND LOTS 12, 13, 14, 15 AND 16 (EXCEPT THE EAST 75 FEET OF SAID LOTS 15 AND 16 CONVEYED TO CITY OF CHICAGO BY QUIT CLAIM DEED DATED MAY 29, 1918 AND RECORDED APRIL 7, 1924 AS DOCUMENT 8351245, AND THE SOUTH HALF, THE EAST HALF AND THE NORTH HALF OF THE VACATED ALLEYS AND VACATED EVANS COURT LYING NORTH AND ADJOINING, WEST AND ADJOINING AND SOUTH AND ADJOINING THE AFORESAID LOTS IN CHARLES BUTLER'S SUBDIVISION OF THE NORTH EAST CORNER OF BLOCK 53 IN KINZIE'S ADDITION TO CHICAGO IN SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THAT PART OF THE VACATED ALLEY LYING EAST OF AND ADJOINING LOT 14 AFORESAID, AND WEST OF AND ADJOINING LOTS 15 AND 16 AFORESAID AND LYING BETWEEN THE NORTH AND SOUTH LINES OF LOT 14 AFORESAID EXTENDED EAST TO THE WEST LINE OF SAID LOTS 15 AND 16 AND THE SOUTH HALF OF THE VACATED ALLEY LYING NORTH AND ADJOINING AND THE NORTH HALF OF VACATED EVANS COURT LYING SOUTH AND ADJOINING THE AFOREMENTIONED VACATED ALLEY, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 1 IN THE SUBDIVISION OF LOTS 18, 19, 20 AND 21 IN ASSESSOR'S DIVISION OF PART OF BLOCK 53 IN KINZIE'S ADDITION TO CHICAGO, IN FRACTIONAL SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, AS PER PLAT RECORDED JANUARY 13, 1875 AS DOCUMENT 9416, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

LOT 17 IN BLOCK 53 IN ASSESSOR'S DIVISION OF PARTS OF BLOCKS 33 AND 53 AND BLOCKS 39, 46 AND 47 IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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EXHIBIT A-2

PARCEL D:

TRACT 5:

LOT 8 IN BLOCK 53 AND THAT PART OF THE NORTH HALF OF THE VACATED EAST WEST ALLEY LYING SOUTH AND ADJOINING LOT 8, LYING WEST OF THE EAST LINE OF LOT 8 AND EAST OF THE WEST LINE OF LOT 8 AS EXTENDED, IN BUTLER'S SUBDIVISION OF THE NORTHEAST CORNER OF BLOCK 53 IN KINZIE'S ADDITION TO CHICAGO, IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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EXHIBIT A-3 REFERENCES PARCELS 1 THROUGH 5 BELOW

PARCEL 1:

LOT 9 AND LOT 10 (EXCEPT REAR 10 FEET THEREOF) AND THE NORTH HALF OF THE VACATED ALLEY LYING SOUTH OF AND ADJOINING SAID LOTS IN BUTLER'S SUBDIVISION OF THE NORTHEAST CORNER OF BLOCK 53 IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH FRACTIONAL SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 11 (EXCEPT THE WEST 13 FEET THEREOF AND EXCEPT THE SOUTH 13 FEET OF THE REMAINDER THEREOF AND SUCH OTHER PORTIONS THEREOF AS ARE TAKEN OR USED FOR ALLEYS), AND LOTS 12, 13, 14, 15 AND 16 (EXCEPT THE EAST 75 FEET OF SAID LOTS 15 AND 16 CONVEYED TO CITY OF CHICAGO BY QUIT CLAIM DEED DATED MAY 29, 1918 AND RECORDED APRIL 7, 1924 AS DOCUMENT 8351245, AND THE SOUTH HALF, THE EAST HALF AND THE NORTH HALF OF THE VACATED ALLEYS AND VACATED EVANS COURT LYING NORTH AND ADJOINING, WEST AND ADJOINING AND SOUTH AND ADJOINING THE AFORESAID LOTS IN CHARLES BUTLER'S SUBDIVISION OF THE NORTH EAST CORNER OF BLOCK 53 IN KINZIE'S ADDITION TO CHICAGO IN SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THAT PART OF THE VACATED ALLEY LYING EAST OF AND ADJOINING LOT 14 AFORESAID, AND WEST OF AND ADJOINING LOTS 15 AND 16 AFORESAID AND LYING BETWEEN THE NORTH AND SOUTH LINES OF LOT 14 AFORESAID EXTENDED EAST TO THE WEST LINE OF SAID LOTS 15 AND 16 AND THE SOUTH HALF OF THE VACATED ALLEY LYING NORTH AND ADJOINING AND THE NORTH HALF OF VACATED EVANS COURT LYING SOUTH AND ADJOINING THE AFOREMENTIONED VACATED ALLEY, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 1 IN THE SUBDIVISION OF LOTS 18, 19, 20 AND 21 IN ASSESSOR'S DIVISION OF PART OF BLOCK 53 IN KINZIE'S ADDITION TO CHICAGO, IN FRACTIONAL SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, AS PER PLAT RECORDED JANUARY 13, 1875 AS DOCUMENT 9416, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

LOT 17 IN BLOCK 53 IN ASSESSOR'S DIVISION OF PARTS OF BLOCKS 33 AND 53 AND BLOCKS 39, 46 AND 47 IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Exhibit B-1

Agreement to Lease, dated as of January 1, 1996, by and between American National Bank and Trust Company of Chicago, not personally but solely as Trustee under Trust Agreement dated December 19, 1979 and known as Trust No. 4866208, and American National Bank and Trust Company of Chicago, not personally but solely as Trustee under Trust Agreement dated April 20, 1994 and known as Trust No. 118199-01.

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Exhibit B-2

Agreement to Lease, dated as of May 10, 1994, by and between Robert L. Stern, an individual residing in the State of California, and American National Bank and Trust Company of Chicago, not personally but solely as Trustee under Trust Agreement dated April 20, 1994 and known as Trust No. 118199-01.

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2002-1-30

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PROPERTY ADDRESS: 730 NORTH MICHIGAN AVENUE, CHICAGO, ILLINOIS

P.I.N. NOS.

17-10-102-021, 17-10-102-022, 17-10-102-023, 17-10-102-024, 17-10-102-010,
17-10-102-011, 17-10-102-012, 17-10-102-005, 17-10-102-006, 17-10-102-007,
17-10-102-008, 17-10-102-009, 17-10-102-003, 17-10-102-004, 17-10-102-014,
17-10-102-015, 17-10-102-016, 17-10-102-013, 17-10-102-028, 17-10-102-029,
17-10-102-031, 17-10-102-030 AND 17-10-102-032

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