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PREPARED BY:

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Suite 300
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Address of Mortgaged Premises:
1101-1189 Tower Road
Schaumburg Cook County, Illinois 60172

Tax Number(s): 07-11-401-002

96958588

DEPT-01 RECORDING \$93.00
T0012 TRAN 3434 12/19/96 11:54:00
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COOK COUNTY RECORDER

Above Space for Recorder's Use Only

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MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT ("Mortgage") made this 11 day of December, 1996 by COLE TAYLOR BANK, as Successor Trustee to Harris Trust and Savings Bank, a national banking association, not personally but solely as Trustee pursuant to Trust Agreement dated December 1, 1990 and known as Trust Number 94834 ("Borrower") in favor of LIFE INSURANCE COMPANY OF GEORGIA, a Georgia corporation, having its mailing office at c/o The Investment Centre, 300 Galleria Parkway, N.W., Suite 1200, Atlanta, Georgia 30339, Attn: Mortgage Loan Servicing Department ("Lender");

WITNESSETH, THAT WHEREAS, Borrower is justly indebted to Lender for money borrowed in the principal amount of TWO MILLION NINE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$2,950,000.00) ("Principal Amount"), as evidenced by note executed by Borrower of even date herewith, made payable to the order of and delivered to Lender (which note, together with any and all other notes executed and delivered in substitution therefor or in renewal and extension thereof, in whole or in part, are herein collectively referred to as "Note"), by the provisions of which Borrower promises to pay to Lender, at the address set forth above (or

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at such other place as the legal owner and holder of Note may, from time to time, designate), out of that part of the trust estate subject to the aforesaid trust and hereafter specifically described:

- I. Principal Amount (or so much thereof as may be advanced by Lender from time to time);
- II. interest at the rate set forth in Note, ("Note Rate"); and
- III. all other sums due and owing pursuant hereunder, pursuant to Note, and pursuant to any other document executed and delivered to evidence or secure Principal Amount ("Other Loan Documents"), or sums advanced by Lender to protect "Mortgaged Premises" (hereafter defined) or to preserve the priority of the lien established hereby (PROVIDED THAT such other sums shall not exceed two hundred percent [200%] of Principal Amount);

(collectively "Indebtedness"), from the date of disbursement of Principal Amount, in the installments set forth in Note, with a final payment of Indebtedness on January 1, 2022 ("Maturity Date").

NOW, THEREFORE, to secure the payment of Indebtedness and the performance of the terms, covenants, conditions and agreements contained herein in Note, and in any and all Other Loan Documents executed by DANIEL DVORLIN, BRUCE TEITELBAUM, THE ARTHUR J. JACKSON REVOCABLE TRUST and BR/ESIDE REALTY TRUST ("Beneficiary"), the owner of one hundred percent (100%) of the beneficial interest in Borrower ("Beneficial Interest") and delivered to secure Indebtedness, Borrower, by these presents, DOES HEREBY GRANT, MORTGAGE AND CONVEY to Lender, its successors and assigns, forever, certain land situated in Cook County, Illinois, legally described on Exhibit "A" attached hereto and made a part hereof ("Land"), TOGETHER WITH ALL RIGHT, TITLE AND INTEREST OF BORROWER, INCLUDING ANY AFTER-ACQUIRED TITLE OR REVERSION, IN AND TO THE FOLLOWING (collectively "Other Interests"):

A. All right, title and interest of Borrower, including any after-acquired title or reversion, in and to the rights-of-way, roads, streets, avenues and alleys adjoining Land.

B. All and singular the tenements, hereditaments, easements, appurtenances, passages, waters, water rights, water courses, riparian rights, other rights, liberties and privileges thereof or in anyway now or hereafter appertaining, including any other claim at law or in equity and any after-acquired title, franchise or license and the reversions and remainder and remainders thereof.

C. All buildings and improvements, of every kind, nature and description, now or hereafter located and placed upon Land ("Improvements") and all materials intended for construction, re-construction, alteration and repair of Improvements, all of which shall be deemed a part thereof immediately upon the delivery of the same, and all fixtures and articles of personal property now

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or hereafter owned by Borrower and attached to or contained in and used in connection with Mortgaged Premises, including, but not limited to, all furniture, furnishings, apparatus, machinery, motors, elevators, fittings, radiators, awnings, shades, screens, blinds, office equipment, carpeting and other furnishings and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning, electrical and sprinkler systems and equipment, if any, and fixtures and appurtenances thereto ("Personal Property") together with the "Collateral" described in Section 27 hereof and all renewals or replacements of Personal Property and Collateral or articles in substitution therefor, whether or not the same are or shall be attached to Improvements in any manner, excepting from Personal Property, however, any furniture, fixtures, equipment and articles of personal property, regardless of the manner or mode of attachment, belonging to any present or future tenant or lessee of Land and Improvements (collectively "Occupancy Tenants") (any reference hereafter made to Personal Property shall be deemed to exclude the same); IT BEING MUTUALLY AGREED that:

1. all of Personal Property owned by Borrower and placed by it on Mortgaged Premises shall, insofar as the same is permitted by law, be deemed to be fixtures and a part of the realty and security for the payment of Indebtedness, and
2. as to any Personal Property owned by Borrower or Beneficiary not deemed to be fixtures and a part of Mortgaged Premises, this Mortgage shall be and is a security agreement for the purpose of establishing a security interest in Personal Property, pursuant to the Uniform Commercial Code of the State of Illinois, and additional security for the payment of Indebtedness and the performance of all other obligations of Borrower herein and in Other Loan Documents set forth.

D. All rents, issues, proceeds and profits accruing and to accrue from Mortgaged Premises and all right, title and interest of Borrower in and to any and all leases approved by Lender now or hereafter on or affecting Mortgaged Premises, whether written or oral, and all other leases and agreements for the use thereof (collectively "Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission of Lender given to Borrower to collect the rentals to be paid pursuant thereto.

E. All proceeds heretofore or hereafter payable to Borrower and all subsequent owners of Mortgaged Premises ("Proceeds") by reason of loss or damage by fire and such other hazards, casualties and contingencies ("Casualty") insured pursuant to "Insurance Policies" (hereafter defined) and awards and other compensation heretofore or hereafter payable to Borrower and all subsequent owners of Mortgaged Premises ("Awards") for any taking by condemnation or eminent domain proceedings, either permanent or temporary ("Condemnation"), of all or any part of Mortgaged Premises or any easement or appurtenance thereof, including severance and consequential damage and change in grade of streets. Proceeds or Awards are hereby assigned to Lender as additional security for Indebtedness (Borrower hereby appoints Lender its attorney-in-fact, coupled with an interest), and authorizes, directs and empowers such attorney-in-fact, at its option, on behalf of Borrower, its personal representatives, successors and

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assigns, to adjust or compromise the claim for Proceeds or Awards and to collect and receive the amounts thereof, to give proper receipts and acquittance therefor and, after deducting expenses of collection, to apply the net Proceeds or Awards received in accordance with Paragraphs 6 and 7 following.

For convenience, Land, Improvements and Other Interests are herein collectively referred to as "Mortgaged Premises".

TO HAVE AND TO HOLD Mortgaged Premises unto Lender, its successors and assigns, forever, for the uses and purposes herein set forth (Borrower hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois); **PROVIDED, HOWEVER**, that if and when Borrower shall pay Indebtedness and shall perform all of the terms, covenants, conditions and agreements contained herein and in Note and Other Loan Documents, this Mortgage, Note and Other Loan Documents shall be released, at the sole cost and expense of Borrower; otherwise, the same shall be and remain in full force and effect.

Borrower **HEREBY FURTHER COVENANTS AND AGREES AS FOLLOWS:**

1. **PRIORITY OF LIEN AND SUBORDINATE ENCUMBRANCES:** This Mortgage is and shall remain a first and valid lien on Mortgaged Premises until the payment in full of Indebtedness and Borrower shall keep Mortgaged Premises free and clear of all other superior or subordinate liens or claims of every nature and kind and shall not execute, deliver or grant any other mortgage, trust deed or security interest encumbering Mortgaged Premises.

2. **SUBROGATION:** To the extent that any part of Indebtedness is applied in payment of any existing lien against Mortgaged Premises, or any part thereof, or following the date hereof, Lender pays any sum due pursuant to any provision of law or any instrument or document establishing any lien prior or superior to the lien of this Mortgage, Lender shall have and be entitled to a lien on Mortgaged Premises equal in parity to that discharged and Lender shall be subrogated to, receive and enjoy all rights and liens possessed, held or enjoyed by the holder of such lien, which shall remain in existence and benefit Lender to secure the payment of Indebtedness. Lender shall be subrogated, notwithstanding its release of record, to mortgages, trust deeds, superior titles, vendors' liens, and other liens, charges, encumbrances, rights and equities on Mortgaged Premises to the extent that any obligation thereunder is paid or discharged from Indebtedness or other payments by Lender.

3. **PROMPT PAYMENT AND PERFORMANCE OF COVENANTS:** Borrower shall promptly pay Indebtedness as the same becomes due and shall duly and punctually perform and observe all of the terms, covenants, conditions and agreements to be performed and observed by Borrower as provided herein and in Note and Other Loan Documents, and, except as provided in Note, shall have no right to prepay Indebtedness.

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4. **TAX AND INSURANCE DEPOSITS AND APPLICATION:** In addition to the payment of Indebtedness, Borrower shall pay to Lender, concurrently with the payments required pursuant to Note, an amount equal to the real estate taxes and special assessments, if any, next due on Mortgaged Premises, together with the premiums which will next become due and payable on Insurance Policies, as estimated by Lender, less all sums previously paid therefor, divided by the number of months to elapse before one (1) month prior to the dates when such taxes, assessments and premiums will become delinquent. Any funds held by Lender, or its duly authorized agent, will be held in trust for the purpose of paying said real estate taxes, assessments and insurance premiums when the same become due and payable, without any obligation of Lender to pay interest thereon.

In the event that the amounts deposited with Lender shall not be sufficient to pay said real estate taxes, assessments or insurance premiums in full, when due, Borrower shall deposit with Lender, or its duly authorized agent, such additional amounts as shall be sufficient to pay the same and if Borrower shall default in making such payments for fifteen (15) days following written notice from Lender to Borrower, at the option of Lender, Indebtedness shall become immediately due and payable or Lender may pay such real estate taxes, assessment or insurance premiums and may add the amount of such payments to Principal Amount which added amount shall thereafter bear interest at Note Rate.

At such time as Indebtedness is paid in full, whether by reason of maturity or prepayment, as provided in Note, Lender shall apply, as a credit against Indebtedness, all funds held by it pursuant to this Paragraph 4.

If, as a result of a Monetary Default or Non-Monetary Default, Mortgaged Premises are sold, foreclosed upon or otherwise acquired by Lender, Lender shall, concurrently with the commencement of proceedings for sale or foreclosure or at the time Mortgaged Premises are otherwise acquired, apply the balance of the funds deposited by Borrower pursuant hereto as a credit against such part of Indebtedness as Lender may select.

5. **PAYMENT OF TAXES AND OTHER IMPOSITIONS:** Borrower shall promptly pay, when due and payable, all taxes and assessments (general and special), water and sewer charges, public impositions, levies, dues and other charges, of whatsoever nature (collectively "Impositions"), which are now or shall hereafter be levied or assessed or which may otherwise be or become a lien upon or against Mortgaged Premises, or any part thereof, PROVIDED THAT if Borrower is making the deposits required pursuant to Paragraph 4, those funds held by Lender in escrow shall be paid to the tax collector or the insurance company, as the case may be, for the payment of Impositions.

6. **INSURANCE POLICIES, PAYMENT AND APPLICATION OF PROCEEDS AND SETTLEMENT OF CLAIMS:** Until such time as Indebtedness shall have been paid in full, Borrower shall furnish Lender with the original or certified copies of policies and original Accord

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27 and Accord 25 (as to liability only) Certificates evidencing that the following insurance ("Insurance Policies") is in effect with respect to the Improvements and Personal Property:

- a. physical hazard insurance on an "all risks" basis with a Replacement Cost Endorsement, an Increased Cost of Construction Endorsement and an Agreed Amount Endorsement, covering the perils of fire, flood (if in a flood hazard zone), earthquakes (if in an earthquake zone) boiler and machinery (to include and major components of HVAC systems (if not already included in above coverage) and such other equipment as Lender may require), and extended coverage in an amount at least equal to the amount of the Indebtedness and not less than the full replacement cost of the Improvements and Personal Property. "Full replacement cost" shall mean the cost of replacing the Improvements and Personal Property without deduction for physical depreciation;
- b. comprehensive public liability insurance covering claims for bodily injury, death and property damage in an amount which Lender may reasonably require and sufficient to satisfy all tenant lease requirements; and
- c. business interruption or loss of rent insurance to cover actual loss sustained in an amount not less than twelve (12) months rent.

All Insurance Policies shall be written by a company or companies satisfactory to Lender. Insurance Policies must have no less than an A.M. Best Company's Key Rating Guide Class A VII category designation, and are to be obtained by Borrower and held by Baird & Warner, Inc., or such other entity designated by Lender. The Insurance Policies shall not contain a co-insurance clause or other clause limiting the amount of coverage under any conditions. The Insurance Policies must name the Lender and any participating Lender as first loss payee/Lender as to casualty and first loss payee/Lender and additional insured as to liability coverage and provide at least thirty (30) days written notice to the Lender prior to any modification, termination, cancellation, or non-renewal. All Improvements and Personal Property and easily removable real estate items or fixtures included as security in this Mortgage or any of the Other Loan Documents must be covered by Insurance Policies. Insurance Policies must be satisfactory to Lender in all respects and must conform in all respects to Lender's standard insurance criteria provided to Borrower by Lender.

In the event of a sale of Mortgaged Premises pursuant to foreclosure hereof or other transfer of title thereto and the extinguishment of Indebtedness, complete title to Insurance Policies and renewals thereof, together with all prepaid or unearned premiums thereon, in the possession of Lender shall pass to and vest in the purchaser or grantee of Mortgaged Premises. If any renewal Insurance Policy is not delivered to Lender within thirty (30) days prior to the expiration of any existing Insurance Policy, with evidence of premium paid, Lender may obtain the required insurance on behalf of Borrower (or in favor of Lender only) and pay the premiums therefor, in which event any monies so advanced shall be so much additional Indebtedness secured hereby and

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shall become immediately due and payable, with interest thereon at the percentage rate, per annum, of thirteen percent (13%) ("Default Rate"). Lender shall not, by reason of acceptance, rejection, approval or obtaining Insurance Policies, incur any liability for payment of losses.

If any part or all of Insurance Policies or other insurance coverage is furnished by Occupancy Tenants, Borrower shall furnish to Lender duplicate original insurance policies or, with the consent of Lender, certificates evidencing such coverage, which shall be subject to the approval of Lender. Insurance Policies shall be in form and content satisfactory to Lender and, at the option of Lender, contain mortgage clauses in favor of or name Lender as an additional insured and provide for not less than thirty (30) days' prior written notice to Lender in the event of cancellation or material modification thereof.

In the event of any loss sustained by Casualty for which Insurance Policies are in effect, Borrower may, with the written consent of Lender, settle, compromise and adjust any and all rights and claims pursuant to the provisions of Insurance Policies, PROVIDED THAT Proceeds shall be payable to Lender. In the absence of such consent, Lender is hereby authorized to settle, compromise and adjust such claims or rights and receive Proceeds. Any Proceeds paid to Lender at its election shall be applied on account of the cost of repair or restoration of that part of Mortgaged Premises damaged or destroyed ("Repair or Restoration") or Lender shall have the right, at its sole election, to apply Proceeds on account of Indebtedness.

Notwithstanding the availability of Proceeds for that purpose, that part of Mortgaged Premises so damaged or destroyed shall be repaired or rebuilt, in accordance with architectural and engineering plans and specifications therefor submitted to and approved by Lender (which approval shall not be unreasonably withheld) and all life, safety and environmental regulations, laws, ordinances (including zoning), rules and regulations of governmental authorities having jurisdiction there over (collectively "Applicable Laws"), so as to be as similar, as is reasonably possible, to the condition which existed prior to such Casualty.

If Proceeds are to be applied on account of the cost of Repair or Restoration, the same shall be paid to Borrower upon final completion of Repair or Restoration and upon the delivery to Lender of satisfactory evidence of the estimated cost of completing Repair or Restoration, together with such architect's certificates, contractor's sworn statements, waivers of lien, title insurance policies or certifications and other evidences of cost and payments as Lender may reasonably require and approve.

In the event that, in the opinion of Lender, Proceeds are insufficient to pay for all costs of Repair or Restoration, Borrower shall deposit with Lender an amount equal to such excess costs prior to the disbursement of any part of Proceeds to it. Any surplus Proceeds, following the payment of all costs of Repair or Restoration, shall, at the option of Lender, be applied on account of Indebtedness or paid to Borrower.

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If Lender elects to apply Proceeds on account of Indebtedness, such application of Proceeds shall be free from payment of the prepayment premium specified in Note ("Prepayment Premium"), PROVIDED THAT no Monetary Default or Non-Monetary Default shall have occurred and remain uncured.

7. CONDEMNATION: In the event that:

- a. Mortgaged Premises, or any part thereof, is taken by Condemnation, Lender is hereby empowered to collect and receive Awards, which shall, at the election of Lender in its sole discretion, be applied to the payment of Indebtedness or on account of rebuilding or restoring that part of Mortgaged Premises not so taken or damaged ("Rebuilding or Restoration");
- b. Mortgaged Premises, or any part thereof, is taken by condemnation, Borrower shall cause Mortgaged Premises to be so rebuilt or restored, in accordance with plans and specifications therefor submitted to and approved by Lender (which approval shall not be unreasonably withheld or delayed) and Applicable Laws, so as to be as similar, as is reasonably possible, to the condition which existed prior to Condemnation and all disbursements shall be paid in the same manner as provided in Paragraph 6 hereof with respect to a loss by Casualty;
- c. Awards are insufficient to pay for all costs of Rebuilding or Restoration, Borrower shall deposit with Lender an amount equal to such excess costs prior to any disbursement of Awards to it; or
- d. Awards are in excess of Rebuilding or Restoration, any surplus Awards, following payment in full of all costs of Rebuilding or Restoration shall, at the option of Lender, either be applied on account of Indebtedness or paid to Borrower.

In the event that Lender elects to apply Awards on account of Indebtedness, such application of Awards shall be free from Prepayment Premium, PROVIDED THAT no Monetary Default or Non-Monetary Default shall have occurred and remain uncured.

8. CASUALTY OR CONDEMNATION AFTER FORECLOSURE: In the event of Casualty or Condemnation following the institution of foreclosure proceedings, Proceeds or Awards, if not applied as specified in Paragraphs 6 and 7, shall be used to pay the amounts due in accordance with any decree of foreclosure which may be entered in any such proceedings and the balance, if any, shall either be paid to the owner of the equity redemption, if such owner shall be entitled to the same, or as the court may direct.

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9. LENDER'S LIABILITY FOR COLLECTION OF PROCEEDS OR AWARDS: Lender shall not be held responsible for any failure to collect Proceeds or Awards, regardless of the cause of such failure, and:

- a. the power and authority granted to Lender to collect Proceeds or Awards is irrevocable and coupled with an interest and shall, in no way, affect the security of this Mortgage or the liability of Borrower for payment of Indebtedness; and
- b. the entry of a decree of foreclosure of the lien hereof shall not affect or impair said power and authority.

10. USE, CARE OR WASTE: Borrower:

- a. shall constantly maintain and not diminish, in any respect, or materially alter Improvements (including landscaped and common areas) or the on-site paved parking area and/or structures comprising a part of Mortgaged Premises or materially change the use of Mortgaged Premises so long as Indebtedness, or any part thereof, remains unpaid and shall not erect any buildings or other improvements on Mortgaged Premises without the prior written consent of Lender (which consent shall not be unreasonably withheld). Without, in any way, limiting the generality of the foregoing, Borrower shall:
 - i. not abandon Mortgaged Premises or do or suffer anything to be done which would depreciate or impair the value thereof or the security of this Mortgage;
 - ii. not remove or demolish any material part of Improvements of a structural nature;
 - iii. pay promptly all services, labor and material necessary and required to refurbish and renovate Improvements pursuant to contracts therefor;
 - iv. maintain, preserve and keep Mortgaged Premises in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear and tear, damage, obsolescence or destruction;
 - v. not make any changes, additions or alterations to Mortgaged Premises of a structural nature or which would adversely affect the value thereof, except as required by any applicable statute, law or ordinance of any governmental authority having jurisdiction over Mortgaged Premises and the intended use thereof, or as otherwise approved in writing by Lender;

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- vi. promptly commence and diligently pursue Repair or Restoration or Rebuilding or Restoration, as the case may be;
- vii. not commit or permit to exist any waste of Mortgaged Premises;
- viii. maintain all interior or exterior planted or landscaped areas, adjoining plaza, if any, and abutting sidewalks in good and neat order and repair;
- ix. operate Mortgaged Premises at all times in accordance with Applicable Laws, whether municipal, county, state or federal, including the compliance in full with any legislation and regulations in respect of the handicapped and environmental protection.

b. represents to Lender that:

- i. to the best knowledge of Borrower based upon the phase I environmental assessment of Mortgaged Premises delivered to Mortgagee by Mortgagor after due and diligent inquiry, there are no materials, wastes or substances defined or classified as hazardous or toxic or similarly described, under any applicable federal, state or municipal law, regulation or ordinance (collectively "Hazardous Substances") presently stored or located on Mortgaged Premises and no part of Mortgaged Premises is contaminated by any Hazardous Substance;
- ii. any Hazardous Substance used by any person on Mortgaged Premises shall be used and stored only in accordance with all applicable legal and prudent industrial standards and requirements;
- iii. Mortgaged Premises will not be used for the purpose of storing any Hazardous Substance and no such storage or use will be allowed which may cause or increase the likelihood of the release of any Hazardous Substance on Mortgaged Premises; and
- iv. Borrower shall promptly notify Lender as soon as it knows of or suspects that any Hazardous Substance has been released or that there is any threatened release on Mortgaged Premises, and it shall take such action, at its sole expense and with due diligence, as is necessary to ensure timely compliance with all legislative requirements;

which representations shall survive satisfaction of Indebtedness whether by payment or by foreclosure of the lien of this Mortgage or by acceptance of a deed conveying Mortgaged Premises to Lender in lieu of foreclosure.

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- c. except for matters which are the result of the sole conduct of Lender, shall, in addition to the indemnification specified in Paragraph 34 hereof, indemnify and hold Lender harmless of and from all loss, cost (including reasonable attorneys', experts' and consultants' fees), liability and damage whatsoever incurred by Lender by reason of any violation of any applicable statute or regulation for the protection of the environment which occurs upon Mortgaged Premises or by reason of the imposition of any governmental lien for the recovery of environmental cleanup costs expended by reason of such violation; PROVIDED, HOWEVER, that to the extent Lender is strictly liable pursuant to any such statute, Borrower's obligations to Lender pursuant to this indemnity shall likewise be without regard to fault on the part of Borrower with respect to the violation of law which results in liability to Lender.
- d. shall comply with and cause Mortgaged Premises, and the use and condition thereof, to comply with Applicable Laws, and with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises, easements which are either appurtenant to Mortgaged Premises or are a part of Mortgaged Premises, and concessions (including, without limitation, those relating to the operation of Mortgaged Premises as a "first-class" office/warehouse building and relating to development, construction, access, water rights, noise and pollution) which are applicable to Borrower or have been granted for Mortgaged Premises, or the use thereof.

11. LENDER'S PERFORMANCE OF BORROWER'S OBLIGATIONS: In the event of a default by Borrower in:

- a. the prompt discharge of any lien or encumbrance;
- b. defending the title to Mortgaged Premises;
- c. the payment of any Imposition;
- d. diligently and continuously pursuing Repair or Restoration or Rebuilding or Restoration, as the case may be;
- e. the proper maintenance and preservation of Mortgaged Premises; or
- f. the performance by Borrower of any obligation specified in Paragraph 10 above;

and said default is not cured to the satisfaction of Lender or other satisfactory security is furnished to Lender within thirty (30) days following written notice by Lender to Borrower (PROVIDED

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THAT in the event of a default which is not capable of being cured within said thirty (30) day period, the same shall not be considered a default if the Borrower shall, within said thirty (30) day period, initiate and diligently pursue a course of action necessary and required to cure the same but, in all events, such default must be cured within sixty (60) days following the occurrence thereof), or if Borrower shall fail to procure and maintain Insurance Policies, Lender may, at its election and without further demand or notice, pay and discharge such lien or encumbrance, defend the title to Mortgaged Premises, pay such Impositions (plus any interest and penalties thereon), perform Rebuilding or Restoration or any obligation of Borrower specified in Paragraphs 6 and 7 hereof, procure Insurance Policies and maintain and preserve Mortgaged Premises. All expenditures therefor, including attorneys' fees incurred by Lender, shall forthwith become due and payable to Lender, together with interest thereon at Default Rate, which shall be added to and become a part of Indebtedness and shall be secured by the lien of this Mortgage, all without prejudice to the right of Lender to declare Indebtedness immediately due and payable by reason of Borrower's default and breach of the terms, covenants, conditions and agreements herein contained. Lender shall have the sole right of determination as to the validity of any lien, encumbrance or Imposition attributable to or assessed against Mortgaged Premises and payment thereof by Lender shall establish its right to recover the amount so paid, with interest at Default Rate, subject to the provisions of Paragraph 12 following.

12. CONTEST OF LIENS OR ENCUMBRANCES: In the event Borrower desires to contest the validity of any lien, encumbrance or Imposition attributable to or assessed against Mortgaged Premises, it shall:

- a. on or before fifteen (15) days prior to the due date thereof, notify Lender, in writing, that it intends to so contest the same;
- b. on or before the due date thereof, on demand, deposit with Lender security (in form and content satisfactory to Lender) for the payment of the full amount of such lien, encumbrance or Imposition, or any balance thereof then remaining unpaid (or provide to Lender such other indemnity as may be reasonably acceptable to it); and
- c. from time to time, deposit additional security or indemnity, so that, at all times, adequate security or indemnity will be available for the payment of the full amount of the lien, encumbrance or Imposition remaining unpaid, together with all interest, penalties, costs and charges accrued or accumulated thereon.

If the foregoing deposits are made and Borrower continues, in good faith, to contest the validity of such lien, encumbrance or Imposition, by appropriate legal proceedings which shall operate to prevent the collection thereof and the sale of Mortgaged Premises, or any part thereof, to satisfy the same, Borrower shall be under no obligation to pay such lien, encumbrance or Imposition until such time as the same has been decreed, by court order, to be a valid lien on Mortgaged Premises. Lender shall have full power and authority to reduce any such security or

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indemnity to cash and apply the amount so received to the payment of any unpaid lien, encumbrance or Imposition to prevent the sale or forfeiture of Mortgaged Premises or non-payment of such lien, encumbrance or imposition, without liability on Lender for any failure to apply the security or indemnity so deposited, unless Borrower, in writing, requests the application thereof to the payment of the particular lien, encumbrance or Imposition for which such deposit was made. Any surplus deposit retained by Lender, after the payment of the lien, encumbrance or Imposition for which the same was made, shall be repaid to Borrower, unless Monetary Default or Non-Monetary Default exists, in which event, such surplus shall be applied by Lender to cure such default.

13. **WAIVERS:** To the full extent permitted by law, Borrower:

- a. shall not, at any time, insist upon or plead or, in any manner whatsoever, claim, or take advantage of any stay, exemption or extension law or any so-called "Moratorium Law" (now or at any time hereafter in force) nor claim, take or insist upon any benefit or advantage of or from any law (now or hereafter in force) providing for the valuation or appraisal of Mortgaged Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained or to any decree, judgment or order of any court of competent jurisdiction or after such sale or sales, claim or exercise any rights pursuant to any statute now or hereafter in force to redeem Mortgaged Premises so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof;
- b. hereby expressly waives any and all statutory rights of reinstatement or redemption, pursuant to 735 ILCS 5/15-1601 or any similar reinstatement or redemption rights now or hereafter available to Borrower, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Borrower and on behalf of each and every person acquiring any interest in or title to Mortgaged Premises subsequent to the date hereof, it being the intent of Borrower hereby that any and all such statutory rights of redemption of Borrower and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by Applicable Laws;
- c. agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Lender but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws has, have been or will have been made or enacted; and
- d. for itself and all who or which claim by, through or under Borrower, waives any and all right to have Mortgaged Premises marshaled upon any foreclosure

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of the lien hereof and agrees that any court having jurisdiction to foreclose the lien of this Mortgage may order Mortgaged Premises sold as an entirety.

14. **UNPERMITTED TRANSFERS:** For the purpose of protecting Lender's security, keeping Mortgaged Premises free from subordinate financing liens and/or permitting Lender to increase Note Rate and to collect assumption fees. If:

- a. there is a voluntary or involuntary transfer of all or any part of the beneficial interest of any trust which holds title to Mortgaged Premises;
- b. the Mortgaged Premises or any part thereof or any interest in the Mortgaged Premises or the Borrower (other than limited partnership interests, if applicable) is sold or conveyed;
- c. title to the Mortgaged Premises or any interest therein is divested;
- d. the Mortgaged Premises or any ownership interest in Borrower or Beneficiary is further encumbered or pledged;
- e. any lease which gives the lessee any option to purchase the Mortgaged Premises or any part thereof is entered into; or
- f. the ownership of shares of the Borrower or Beneficiary or any corporate general partner or the general partnership interests in any partnership which is a general partner of Borrower or any beneficial interest in any Borrower or Beneficiary which is a trust or trustee is sold or conveyed;

the Lender shall at its sole discretion be entitled to accelerate the indebtedness and declare the then unpaid principal balance and all accrued interests and other sums due and payable under the Note due and payable and exercise all remedies available to Lender under this Mortgage or Other Loan Documents.

The Borrower and Beneficiary acknowledge that the present ownership of the Mortgaged Premises and Improvements was a material inducement to Lender in the making of the Loan requested by the Commitment. Any consent by Lender to an unpermitted transfer may be conditioned upon payment of a transfer fee equal to one percent (1%) of the then balance of Principal Amount for processing such request for consent, upon an increase in the rate of interest on the unpaid balance of the indebtedness to a then-current market rate, and/or other terms and conditions as Lender may impose in its sole discretion.

In the event of an Unpermitted Transfer, Lender may declare Indebtedness immediately due and payable in full, together with the prepayment premium specified in Note, the date of the Unpermitted Transfer being deemed to be the date of the prepayment.

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15. **PERMITTED TRANSFERS:** Lender, for itself and its successors and assigns, agrees that, notwithstanding Unpermitted Transfers, the following transfers or assignments, upon written notice to Lender and subject to the conditions hereafter stated will be permitted (collectively "Permitted Transfers"):

- a. Lender will permit a one-time transfer of Mortgaged Premises; provided:
 - i. the transferee has a financial and credit standing and management expertise acceptable to Lender as equal or greater than that of Borrower and Beneficiary at the time of the original loan approval;
 - ii. assumption documents in form and substance satisfactory to Lender are executed by the transferee;
 - iii. Lender is paid a transfer fee equal to one percent (1%) of the then outstanding Principal Amount and Borrower reimburses Lender all fees and expenses associated with the transfer including legal fees;
 - iv. Lender receives an endorsement to the Mortgagee's title policy, in form and substance acceptable to lender; and
 - v. at Lender's option, Lender receives opinions of counsel and Borrower and transferee authorization documents in form and substance acceptable to Lender.

Further, Lender, in its sole discretion, may require individuals specifically named by Lender to deliver to Lender an Environmental Indemnity Agreement on Lender's standard form. The rights granted to Borrower in this section are personal to Borrower, shall be extinguished after the exercise thereof, and shall not inure to the benefit of any subsequent transferee. Such transfer and assumption will not, however, release the Borrower or any guarantors from any liability to the Lender without the prior written consent of Lender, which consent may be given or withheld in Lender's sole discretion, and if given, may be conditioned upon, without limitation, the execution of new guaranties from principals of the transferee as Lender deems necessary, execution by the principals of the transferee of Lender's standard Environmental Indemnity Agreement and such other requirements as Lender may require in its discretion.

- b. Notwithstanding the foregoing, transfers of ownership interests in the Mortgaged Premises and transfers of beneficial interests in the Borrower among the beneficiaries of the Borrower or their immediate family members (for purposes herein, "immediate family members" shall mean the spouse, children, grandchildren, siblings, and the children of siblings, as of the dates the Loan is

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made, or trust for the benefit of one or more of any such persons), provided that at all times prior to complete and final pay-off of Indebtedness, DANIEL DVORKIN or trust for his benefit maintains a beneficial ownership interest in the Mortgaged Premises of not less than fifty-one percent (51%), shall be exempt from any Due on Sale provision and/or transfer fees.

PROVIDED, HOWEVER, that i) prior to any Permitted Transfer, the proposed documents of transfer are submitted to Lender and, within ten (10) business days following such transfer, copies of the executed documents of transfer are delivered to Lender, and ii) Permitted Transfers are not intended to circumvent Unpermitted Transfers.

16. PROHIBITION AGAINST SUBMITTING MORTGAGED PREMISES TO CONDOMINIUM PROPERTY ACT: Borrower shall not, without the prior written consent of Lender, submit Mortgaged Premises to the Condominium Property Act of the State of Illinois or to any similar act or statute or otherwise permit cooperative ownership or the further subdivision thereof.

17. DEFAULT: If Borrower shall default in the punctual payment of any part of Indebtedness when due pursuant to Note, this Mortgage or Other Loan Documents and such default shall continue for five (5) days ("Monetary Default"), or in the event that:

- a. Borrower shall default in the performance of any of the terms, agreements, covenants or conditions contained herein or in Other Loan Documents (other than a Monetary Default), and such default shall continue for thirty (30) days following written notice to Borrower (PROVIDED THAT in the event of a default which is not capable of being cured within said thirty (30) day period, the same shall not be considered a default if the Borrower shall, within said thirty (30) day period, initiate and diligently pursue a course of action necessary and required to cure the same but, in all events, such a default must be cured within sixty (60) days following the occurrence thereof);
- b. Borrower shall file a petition in voluntary bankruptcy or pursuant to any provision of the Federal Bankruptcy Act or similar state or federal law, whether now or hereafter existing, or an answer admitting insolvency or inability to pay its debts;
- c. Borrower shall be adjudicated a bankrupt or a trustee or receiver shall be appointed for Borrower for all or the major part of its property, in any involuntary proceeding, or any court shall have taken jurisdiction of all or the major part of the property of Borrower, in any involuntary proceeding, for the reorganization, dissolution, liquidation or winding up of Borrower and such trustee or receiver shall not be discharged or such jurisdiction relinquished, vacated or stayed within sixty (60) days thereafter;

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- d. Borrower shall make an assignment for the benefit of creditors or shall admit, in writing, its inability to pay its debts generally as the same become due or shall consent to the appointment of a receiver, trustee or liquidator of all or the major part of its property;
- e. Borrower or Beneficiary shall default in the performance of any obligation contained in any document evidencing any indebtedness due and owing to Lender, which is secured by any part or all of Mortgaged Premises, and such default is not be cured within the time permitted pursuant thereto; or
- f. an Unpermitted Transfer shall occur;

[a. through f. collectively "Non-Monetary Defaults"] (for convenience, Monetary Defaults and Non-Monetary Defaults are herein sometimes generally referred to as "Events of Default"), then, or at any time thereafter during the continuance of a Monetary Default or Non-Monetary Default, Indebtedness shall, at the sole election of Lender and without further notice, demand or presentment, bear interest at Default Rate and become immediately due and payable in full, anything contained herein or in Note or Other Loan Documents to the contrary notwithstanding.

Upon acceleration of the payment of Indebtedness, Lender shall be entitled to collect and Borrower shall pay Prepayment Premium, the date of the decree of foreclosure is entered shall be deemed to be the date of prepayment.

18. **REMEDIES NOT EXCLUSIVE:** No remedy or right of Lender hereunder or pursuant to Note or Other Loan Documents or otherwise available under applicable law, shall be exclusive of any other remedy or right but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing at law or in equity pursuant thereto. No delay in the exercise of or omission to exercise any remedy or right accruing by reason of a Monetary Default or a Non-Monetary Default shall impair any such remedy or right or be construed to be a waiver of any such default or an acquiescence therein nor shall the same affect any subsequent Monetary Default or Non-Monetary Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, when and as often as may be deemed expedient by Lender. All obligations of Borrower and all rights, powers and remedies of Lender expressed herein shall be in addition to and not in limitation of those provided by law, this Mortgage and Other Loan Documents.

19. **REMEDIES:** Upon the occurrence of a Monetary Default or a Non-Monetary Default, Lender shall have the right to immediately foreclose this Mortgage. Upon the filing of any complaint by reason thereof, the court in which the same is filed may:

- a. upon application of Lender or at any time thereafter;

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- b. either before or after foreclosure sale and with notice to Borrower or to any party claiming under Borrower;
- c. without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of Indebtedness, or any part thereof;
- d. without regard to the then value of Mortgaged Premises or whether the same shall then be occupied in whole or in part, as a homestead by the owner of the equity of redemption; and
- e. without requiring any bond from the complainant in such proceedings;

appoint a receiver for the benefit of Lender, with power to take possession, charge and control of Mortgaged Premises, to lease the same, keep Mortgaged Premises insured and in good repair and collect all rentals during the pendency of such foreclosure suit and, in the event of foreclosure sale and a deficiency in the proceeds received therefrom, during any period of redemption. The court may, from time to time, authorize such receiver to apply the net amounts remaining in his possession, after deducting reasonable compensation for himself and his counsel to be allowed by the court, in payment (in whole or in part) of any part or all of Indebtedness, including, without limitation, the following, in such order of application as Lender may elect: i) to the payment of Indebtedness, ii) to any amount due upon any decree entered in any suit foreclosing this Mortgage, iii) to costs and expenses of foreclosure and litigation upon Mortgaged Premises, iv) to the payment of premiums due on Insurance Policies or costs of Repair or Restoration, Rebuilding or Restoration, Impositions (and any interest, penalties and costs thereon) or any other lien or charge upon Mortgaged Premises which may be or become superior to the lien of this Mortgage or of any decree foreclosing the same, and v) to the payment of all sums advanced by Lender to cure or attempt to cure any Monetary Default or Non-Monetary Default, to protect the security provided herein and in Note and Other Loan Documents, with interest on such advances at Default Rate.

Any overplus of the proceeds of foreclosure sale shall then be paid to Borrower. This Mortgage may be foreclosed at any one time against all or successively against any part or parts of Mortgaged Premises, as Lender may elect and this Mortgage and the right of foreclosure hereunder shall not be impaired or exhausted by one or any foreclosure or by one or any sale and may be foreclosed successively and in parts until all of Mortgaged Premises shall have been foreclosed and sold. In the event of any foreclosure of Mortgaged Premises (or commencement of or preparation for the same) in any court, all expenses of every kind paid or incurred by Lender for the enforcement, protection or collection of this security, including reasonable costs, attorneys' fees, stenographers' fees, costs of advertising, title charges and other costs and expenses shall be paid by Borrower.

It is further agreed that in the event of a Monetary Default or Non-Monetary Default as an alternative to the right of foreclosure for the full secured Indebtedness after acceleration thereof,

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Lender shall have the right to institute partial foreclosure proceedings with respect to the portion of said Indebtedness so in default, as if under a full foreclosure, and without declaring the entire secured Indebtedness due (such proceeding being hereinafter referred to as a "Partial Foreclosure"), and provided that if foreclosure sale is made by reason of a Monetary Default of a part of Indebtedness such sale may be made subject to the continuing lien of this Mortgage for the unmatured part of the secured Indebtedness; and it is agreed that such sale pursuant to a Partial Foreclosure, if so made, shall not in any manner affect the unmatured part of the secured Indebtedness, but as to such unmatured part this Mortgage and the lien thereof shall remain in full force and effect just as though no foreclosure sale has been made under the provisions of this paragraph. Notwithstanding the filing of any Partial Foreclosure or entry of a decree of sale therein, Lender may elect at any time prior to a foreclosure sale pursuant to such decree, to discontinue such Partial Foreclosure and to accelerate the secure Indebtedness by reason of any Monetary Default or Non-Monetary Default upon which such Partial Foreclosure was predicted or by reason of any other Monetary or Non-Monetary Default and proceed with full foreclosure proceedings. It is further agreed that several foreclosure sales may be made pursuant to Partial Foreclosures without exhausting the right of full or Partial Foreclosure sale for any unmatured part of the secured Indebtedness, it being the purpose to provide for a Partial Foreclosure sale of the secured Indebtedness for any mature portion of the secured Indebtedness without exhausting the power to foreclose and to sell the premises pursuant to any such Partial Foreclosure for any other.

Lender may bid for and purchase any part of Mortgaged Premises at any foreclosure sale.

20. **POSSESSORY RIGHTS OF LENDER:** Upon the occurrence of a Monetary Default or a Non-Monetary Default, whether before or after the institution of legal proceedings to foreclose the lien of this Mortgage or any sale thereunder, Lender shall be entitled, in its sole discretion, to perform any of the following:

- a. enter and take actual possession of Mortgaged Premises, Leases and the rents payable pursuant thereto, personally or by its agents or attorneys and excluding Borrower therefrom;
- b. with or without process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Borrower relating thereto;
- c. as attorney-in-fact or agent of Borrower, or in its own name as Lender and pursuant to the powers herein granted, hold, operate, manage and control Mortgaged Premises and Leases and collect all rentals payable pursuant thereto and conduct the business, if any, thereof, either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as, in its discretion, may be deemed proper or necessary to enforce the terms and conditions of Leases and the rentals payable pursuant thereto

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(including actions for the recovery of rents, actions in forcible detainer and actions in distress of rent);

- d. cancel or terminate any Lease or sublease for any cause or for any reason which would entitle Borrower to cancel the same;
- e. elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof;
- f. make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to Mortgaged Premises which, in Lender's sole discretion, may seem appropriate;
- g. insure and re-insure Mortgaged Premises against all risks incidental to Lender's possession, operation and management thereof; and
- h. perform such other acts in connection with the management and operation of Mortgaged Premises as Lender, in its sole discretion, may deem proper;

Borrower hereby granting full power and authority to Lender to exercise each and every of the rights, privileges and powers contained herein at any and all times following the occurrence of a Monetary Default or a Non-Monetary Default, without notice to Borrower.

Lender, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the rentals collected by it to the payment or on account of the following, in such order as it may determine: i) operating expenses of Mortgaged Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Lender and its agents or contractors, if management be delegated to agents or contractors, and leasing commissions and other compensation and expenses in seeking and procuring Occupancy Tenants and entering into Leases), established claims for damages, if any, and premiums on Insurance Policies, ii) Impositions, costs of repairs, decorating, renewals, replacements, alterations, additions or betterments and improvements of Mortgaged Premises, including the cost, from time to time, of installing, replacing or repairing Mortgaged Premises and of placing Mortgaged Premises in such condition as will, in the judgment of Lender, make the same readily rentable, and iii) Indebtedness, or any part thereof.

21. **OTHER REMEDIES:** In the event of a Monetary Default or a Non-Monetary Default, Lender may exercise, from time to time, any rights and remedies available to it pursuant to applicable law. Borrower shall, promptly upon request by Lender, assemble Personal Property and make the same available to Lender at such place or places reasonably convenient for Lender and Borrower, as Lender shall designate. Any notification required by law of intended disposition by Borrower of any part of Mortgaged Premises shall be deemed reasonably and properly given if served as herein provided at least ten (10) days prior to such disposition. Without limiting the

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foregoing, whenever a default is existing, Lender may, with respect to Personal Property, without further notice, advertisement, hearing, or process of law of any kind:

- a. notify any person obligated on Personal Property to perform, directly for Lender, its obligations thereunder;
- b. enforce collection of any part of Personal Property by suit or otherwise and surrender, release or exchange all or any part thereof or compromise, extend or renew, for any period (whether or not in excess of the original period), any obligations of any nature of any party with respect thereto;
- c. endorse any checks, drafts or other writings in the name of Borrower to permit collection of Personal Property and control of any proceeds thereof;
- d. enter upon any part of Mortgaged Premises where Personal Property may be located and take possession of and remove the same;
- e. sell any part or all of Personal Property free of all rights and claims of Borrower therein and thereto, at any public or private sale; and
- f. bid for and purchase any part or all of Personal Property at any such sale.

Any proceeds of any disposition by Lender of any part of Personal Property may be applied by Lender to the payment of expenses incurred in connection therewith, including reasonable attorneys' fees and legal expenses, and any balance of such proceeds shall be applied by Lender in the payment of such part of Indebtedness and in such order of application as Lender may, from time to time, elect. Lender may exercise, from time to time, any rights and remedies available to it pursuant to the Uniform Commercial Code, other applicable laws in effect from time to time or otherwise available to it by reason of any applicable law. Borrower hereby expressly waives presentment, demand, notice of dishonor and protest in connection with Indebtedness and, to the fullest extent permitted by applicable law, any and all other notices, advertisements, hearings or process of law in connection with the exercise by Lender of any of its rights and remedies hereunder.

Borrower hereby constitutes Lender its attorney-in-fact, with full power of substitution, to take possession of Personal Property upon the occurrence of any default hereunder, as Lender, in its sole discretion (reasonably exercised) deems necessary or proper, to execute and deliver all instruments required by Borrower to accomplish the disposition of Personal Property, or any part thereof, which power of attorney is a power coupled with an interest, irrevocable until such time as Indebtedness is paid in full.

22. **NON-LIABILITY OF LENDER:** Notwithstanding anything contained herein, Lender shall not be obligated to perform or discharge, and does not hereby undertake to perform or

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discharge, any obligation, duty or liability of Borrower pursuant to Leases or otherwise and Borrower shall and does hereby agree to indemnify and hold Lender harmless of and from any and all liability, loss or damage which it may or might incur pursuant thereto or by reason of its exercise of its rights hereunder and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings, on its part, to perform or discharge any of the terms, covenants or agreements with respect to Mortgaged Premises. Lender shall not have responsibility for the control, care, management or repair of Mortgaged Premises nor shall Lender be responsible or liable for any negligence in the management, operation, upkeep, repair or control of Mortgaged Premises resulting in loss, injury or death to any Occupancy Tenant, licensee, employee or stranger upon Mortgaged Premises. No liability shall be enforced or asserted against Lender in the exercise of the powers herein granted to it and Borrower expressly waives and releases any such liability. In the event Lender incurs any such liability, loss or damage pursuant hereto and to any Lease or in the defense of any claim or demand, Borrower agrees to reimburse Lender, immediately upon demand, for the amount thereof, including costs, expenses and reasonable attorneys' fees.

23. **USURY:** Borrower represents and agrees that Loan will be used for business purposes and this Mortgage is exempt from limitations upon lawful interest, pursuant to the terms of 815 ILCS 2054.

24. **CHANGE OF LAW:** In the event of the enactment, following the date hereof, of any law in the State of Illinois deducting from the value of Mortgaged Premises, for the purpose of taxation, the amount of any lien, encumbrance or Imposition or imposing upon Lender the payment of the whole or any part thereof or changing, in any way, the laws relating to the taxation of mortgages or debts secured by mortgages or the manner of collection of liens, encumbrances or Impositions, so as to affect this Mortgage, Indebtedness of Lender, Borrower shall, in any such event, upon demand by Lender, pay such liens, encumbrances or impositions or reimburse Lender therefor; PROVIDED, HOWEVER, that if, in the opinion of counsel for Lender, it may be unlawful to require Borrower to make such payment or the making of such payment may result in the payment of interest beyond the maximum amount permitted by law, then, and in such event, Lender may elect, by notice in writing given to Borrower, to declare Indebtedness and all interest due and owing thereon to be and become due and payable within six (6) months from the giving of such notice. Notwithstanding the foregoing, it is understood and agreed that Borrower is not obligated to pay any part of Lender's federal or state income tax.

25. **COMPLIANCE WITH AGREEMENTS:** Borrower shall pay promptly and keep, observe, perform and comply with all covenants, terms and provisions of operating agreements, Leases, instruments, easement agreements and other documents relating to or appurtenant to Mortgaged Premises or evidencing or securing any indebtedness secured thereby and shall observe all covenants, conditions and restrictions affecting the same.

26. **ASSIGNMENT OF LEASES, RENTS AND PROFITS:** To further secure Indebtedness and the performance of all of the terms, covenants, conditions and agreements contained herein

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and in Note and Other Loan Documents, Borrower hereby sells, assigns and transfers to Lender all of its right, title and interest in and to Leases and all rentals, issues, proceeds and profits now due and which may hereafter become due pursuant thereto, it being the intention hereby to establish an absolute transfer and assignment thereof to Lender. Borrower hereby irrevocably appoints Lender its agent, in its name and stead (with or without taking possession of Mortgaged Premises, as provided in Paragraph 20 hereof), to rent, lease or let all or any part of Mortgaged Premises to any party or parties, at such rental and upon such terms as Lender shall, in its discretion, determine and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter and all presently due or which may hereafter become due pursuant to each and every Lease, written or oral, or other tenancy existing or which hereafter exist on Mortgaged Premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Lender would have upon a taking of possession pursuant to the provisions of Paragraph 20 hereof. Borrower represents and agrees that no rent has been or will be paid by any person in possession of any part of Mortgaged Premises for more than one (1) installment in advance and that the payment of no part of the rents to accrue for any part of Mortgaged Premises has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Borrower. Borrower waives any rights of set-off against any person in possession of any part of Mortgaged Premises and agrees that it will not assign any of the rents or profits from Mortgaged Premises except with the consent of Lender.

Nothing herein contained shall be construed as constituting Lender a Lender in possession in the absence of the taking of actual possession of Mortgaged Premises by Lender pursuant to Paragraph 20 hereof. In the exercise of the powers granted herein to Lender, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Borrower. Borrower further agrees to assign and transfer Leases to Lender and to execute and deliver, at the request of Lender, all such further assurances and assignments in Mortgaged Premises as Lender shall, from time to time, require. Although it is the intention of Borrower and Lender that the assignment contained in this paragraph shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Lender shall not exercise any of the rights or powers conferred upon it pursuant hereto until a Monetary Default or a Non-Monetary Default shall exist. Within thirty (30) days following Lender's written request therefor, Borrower will furnish to Lender executed copies of Leases, which shall be in form and content satisfactory to Lender. In the event that Lender requires the same, Borrower shall execute and record a separate Collateral Assignment of Rents or separate Assignment of Leases, in form and content satisfactory to Lender, and the terms and provisions of said Assignments shall control in the event of a conflict between the terms hereof and the terms thereof.

27. **SECURITY AGREEMENT:** Borrower and Lender agree that:

- a) this Mortgage shall constitute a security agreement within the meaning of the Illinois Uniform Commercial Code (810 ILCS 5) ("Code") with respect to any

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and all sums at any time on deposit for the benefit of or held by Lender (whether deposited by or on behalf of Borrower or others) pursuant to any provision of this Mortgage, Note or Other Loan Documents and any personal property included in the granting clauses of this Mortgage, which may not be deemed to be affixed to Mortgaged Premises or may not constitute a "fixture" (within the meaning of Section 9-313 of Code) and all replacements thereof, substitutions therefor, additions thereto and the proceeds thereof (collectively "Collateral");

- i) all building materials, fittings, appliances, furniture, furnishings, carpeting, supplies, motor vehicles and all other personal property and all replacements of any of the foregoing, now or at any time hereafter affixed, attached, incorporated or intended to be incorporated in, place upon or used in any way in connection with Mortgaged Premises, regardless of whether situated in or upon Mortgaged Premises or in the possession of any third party for purposes of the manufacture, storage, fabrication or transportation thereof, or otherwise, and now owned or hereafter owned by Debtor or in which Debtor now has or may hereafter have any interest, including, without limitation, goods which are now or shall become fixtures and all proceeds of all of the foregoing and all of the rights, titles and interest of Debtor in the good-will relating thereto and in the trade names, trade-marks, service marks and registrations thereof and in all of the good-will of the business symbolized thereby and used in connection with the operation of Mortgaged Premises (collectively "Goods");
- ii) all of Debtor's right, title and interest in and to all income, rents, issues and profits arising by reason of the operation of Mortgaged Premises (collectively "Rents");
- iii) all of Debtor's right, title and interest, as lessee or vendee, in and to lease agreements or conditional sales contracts relative to Goods (collectively "Contracts");
- iv) all of Debtor's right, title and interest, as landlord, in and to Leases;
- v) all of Debtor's right, title and interest in and to any and all other lease agreements, rental agreements and other contracts or instruments now or at any time hereafter affecting Mortgaged Premises or relating to the use or construction thereof;
- vi) all of Debtor's right, title and interest in and to all "Proceeds" and "Awards";

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- vii) all of Debtor's right, title and interest in and to all licenses, permits, authorizations and agreements necessary and required for the operation of Mortgaged Premises;
- viii) all of Debtor's right, title and interest in and to the "building name" applicable to Mortgaged Premises; and
- ix) any and all sums at any time on deposit for the benefit of or held by Lender (whether deposited by or on behalf of Borrower or others) pursuant to any provision of this Mortgage, Note or Other Loan Documents and any personal property included in the granting clauses of this Mortgage, which may not be deemed to be affixed to Mortgaged Premises or may not constitute a "fixture" (within the meaning of Section 9-313 of Code) and all replacements thereof, substitutions therefor, additions thereto and the proceeds thereof,

(collectively "Collateral");

- b) a security interest in and to Collateral is hereby granted to Lender;
- c) Collateral and all of Borrower's right, title and interest therein are hereby assigned to Lender to secure the payment of Indebtedness;
- d) all of the terms, provisions, conditions and agreements contained herein shall pertain and apply to Collateral as fully and to the same extent as the same apply to any other property comprising Mortgaged Premises; and
- e) the following provisions shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:
 - i) Borrower (being the "Debtor", as such term is defined in Code) is and will be the true and lawful owner of Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefitting Lender only and liens and encumbrances, if any, expressly permitted pursuant hereto and to Note and Other Loan Documents;
 - ii) Collateral shall be used by Borrower solely for business purposes;
 - iii) Collateral shall be kept at Mortgaged Premises and, except for obsolete Collateral which shall be replaced with collateral of equal or better utility and value, will not be removed therefrom without the prior consent of Lender;

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- iv) no financing statement (other than financing statements indicating Lender as the sole "Secured Party" (as such term is defined in Code) or except as permitted in writing by Lender or with respect to liens or encumbrances, if any, expressly permitted pursuant hereto and to Note and Other Loan Documents) applicable to any part of Collateral or any proceeds thereof is on file in any public office;
- v) Borrower shall, upon demand and at its sole cost and expense, furnish to Lender such further information, execute and deliver such financing statements and other documents (in form satisfactory to Lender) and do all such acts and things as Lender may, at any time or from time to time, request or as may be necessary or appropriate to establish and maintain a perfected security interest in Collateral as security for Indebtedness, free and clear of all liens or encumbrances other than liens or encumbrances benefitting Lender only and liens and encumbrances, if any, expressly permitted hereby or pursuant to Note or Other Loan Documents and Borrower will pay the cost of filing or recording this instrument and such financing statements or other documents in all public offices wherever filing or recording is deemed necessary or desirable by Lender;
- vi) in the event of the occurrence of a Monetary Default or a Non-Monetary Default, Lender:
- (a) shall have the remedies of a Secured Party pursuant to Code, including, without limitation, the right to take immediate and exclusive possession of Collateral, or any part thereof and, for that purpose, may, insofar as Borrower can give authority therefor, with or without judicial process, enter (if the same can be done without breach of the peace) upon any place in which Collateral, or any part thereof, may be situated and remove the same therefrom (provided that if Collateral is affixed to real estate, such removal shall be subject to the conditions stated in Code);
 - (b) shall be entitled to hold, maintain, preserve and prepare Collateral for sale (until disposed of) or may propose to retain the same subject to Borrower's right of redemption, in satisfaction of Borrower's obligations, as provided in Code;
 - (c) may render Collateral unusable without removal and may dispose of the same on Mortgaged Premises;

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- (d) may require Borrower to assemble Collateral and make the same available to Lender for its possession at a place to be designated by Lender which is reasonably convenient to both Lender and Borrower;
- (e) will furnish to Borrower not less than ten (10) days' prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition thereof is made and the requirements of reasonable notice shall be met if such notice is mailed by certified United States mail (or equivalent), postage prepaid, to the address of Borrower hereafter set forth;
- (f) may purchase, at any public sale and, if Collateral is of a type customarily sold in a recognized market or the subject of widely distributed standard price quotations, Lender may purchase Collateral at private sale, which sale may be held as a part of and in conjunction with any foreclosure sale of Mortgaged Premises and Collateral and Mortgaged Premises may be sold as one lot, if Lender so elects, and the net proceeds realized upon any such disposition, after deduction for the expenses of re-taking, holding, preparing for sale, selling or the like, and reasonable attorneys' fees and legal expenses incurred by Lender shall be applied against Indebtedness in such order or manner as Lender shall select; and
- (g) will account to Borrower or any surplus realized on such disposition.
- vii) the terms and provisions contained in this Paragraph 27 shall, unless the context otherwise requires, have the meanings contained and be construed as provided in Code;
- viii) this Mortgage is intended to be a financing statement within the purview of Section 9-402(6) of Code with respect to Collateral and the goods described herein, which are or may become fixtures relating to Mortgaged Premises; and
- (a) the addresses of Borrower (Debtor) and Lender (Secured Party) are hereafter set forth;
- (b) this Mortgage shall be recorded with the Recorder of Deeds of Cook County, Illinois; and

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- (c) Borrower is the record owner of Mortgaged Premises; and
- ix) to the extent permitted by applicable law, the security interest established hereby is specifically intended to cover and include all of the right, title and interest of Borrower, as landlord, in and to Leases, including all extended terms and extensions and renewals thereof, together with any amendments to or replacements thereof and all right, title and interest of Borrower, as landlord thereunder, including, without limitation, the present and continuing right to:
- (a) make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, profits and monies payable as damages or, in lieu of the rents and moneys payable, as the purchase price of Mortgaged Premises, or any part thereof or of awards or claims of money and other sums of money payable or receivable thereunder, howsoever payable;
 - (b) bring actions and proceedings thereunder or for the enforcement thereof; and
 - (c) do any and all things which Borrower or any landlord is or may become entitled to do pursuant to Leases.

28. EXECUTION OF SEPARATE SECURITY AGREEMENT AND FINANCING STATEMENT: In addition to this Mortgage being deemed a security agreement, Borrower shall, upon the written request of Lender, as additional security for the payment of Indebtedness and the performance of all of the terms, covenants, conditions and agreements set forth herein and in Note and Other Loan Documents, execute and deliver to Lender a security agreement, granting to Lender a security interest in and to Collateral, all right, title and interest of Borrower, as landlord, in and to Leases and all rents, issues and profits due or which may hereafter become due and payable pursuant to the terms and provisions thereof; and, further, execute and deliver Financing Statements pursuant to the Uniform Commercial Code, State of Illinois. Borrower agrees, from time to time, to execute such additional Security Agreements and Financing Statements as may be necessary to vest in Lender a security interest in and to Collateral and Leases until Indebtedness is paid in full.

29. FINANCIAL STATEMENTS: Within ninety (90) days following the close of each fiscal year applicable to the operation of Mortgaged Premises, Lender shall be furnished with unaudited annual financial reports prepared on a cash basis, including balance sheets, income statements and cash flow statements covering the operation of Mortgaged Premises for the previous fiscal year and a current rent roll identifying each tenant, the square footage of each leased premises, the current rent, (identified as gross, semi-gross or net) lease expiration dates, rental concessions and options, if any, all of which shall be certified by one of the individuals

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comprising Beneficiary to Lender to be complete, correct and accurate. Lender shall have the right, upon five (5) days' prior written notice, to inspect and make copies of the books, records and income tax returns of Beneficiary with respect to Mortgaged Premises, for the purpose of verifying any such statement. Notwithstanding the aforesaid, during the term of the Loan, Lender shall have the right to request quarterly income and expense statements, which shall include current cash flow and up-to-date payable and receivables for Mortgaged Premises, and to request periodic updates on the rent roll so as to reflect Tenant leasing.

30. **PAYMENT AND PERFORMANCE BY Lender:** In the event that Borrower shall fail to pay or perform any of its obligations contained herein and in Note and Other Loan Documents (including the payment of expenses of foreclosure and court costs), Lender may, but need not, following the expiration of any applicable grace period provided therein, pay or perform (or cause to be paid or performed) any obligation of Borrower pursuant thereto, in any form and manner deemed reasonably expedient by Lender, as agent or attorney-in-fact of Borrower, and any amount so paid or expended (plus reasonable compensation to Lender for its out-of-pocket and other expenses for each matter for which it acts hereunder), with interest thereon at Default Rate, shall be and become a part of Indebtedness and shall be paid to Lender upon demand. By way of illustration and not in limitation of the foregoing, Lender may, but need not:

- a) collect rentals due and owing pursuant to Leases and prosecute the collection of Collateral or the proceeds thereof;
- b) purchase, discharge, compromise or settle any Imposition, lien or any other lien, encumbrance, suit, proceeding, title or claim thereof;
- c) redeem from any tax sale or forfeiture affecting Mortgaged Premises or contest any Imposition; and
- d) perform any act or deed reasonably necessary and required to protect the value of Mortgaged Premises and the security given for Indebtedness.

In making any payment or securing any performance relating to any obligation of Borrower hereunder, Lender, so long as it acts in good faith, shall have the sole discretion as to the legality, validity and amount of any lien, encumbrance or Imposition and of all other matters necessary to be determined in satisfaction thereof. No such action of Lender shall be considered a waiver of any right accruing to it on account of the occurrence of any default by Borrower pursuant hereto or to Note or Other Loan Documents.

31. **RELEASE:** Upon payment in full of Indebtedness, at the time and in the manner herein provided, this conveyance shall be null and void and, upon demand therefor following such payment, an appropriate instrument of reconveyance or release shall, in due course, be made by Lender to Borrower, at Borrower's expense.

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32. **BORROWER'S CONTINUING LIABILITY:** This Mortgage is intended only as security for Indebtedness and the performance of the terms, covenants, conditions and agreements contained herein and in Note and Other Loan Documents. Borrower shall be and remain liable to perform all of the obligations assumed by it pursuant hereto and Lender shall have no obligation or liability by reason of or arising out of this Mortgage and shall not be required or obligated, in any manner, to perform or fulfill any of the obligations of Borrower pursuant hereto, anything contained herein or in Note and Other Loan Documents to the contrary notwithstanding.

33. **INSPECTIONS:** Lender, by any authorized agent or employee and for the protection of its interest in Mortgaged Premises, is hereby authorized and empowered to enter in and upon Mortgaged Premises at any and all reasonable times, for the purpose of inspecting the same and ascertaining the condition thereof.

34. **INDEMNIFICATION:** Borrower shall indemnify Lender from all losses, damages and expenses, including reasonable attorneys' fees, incurred in connection with any suit or proceeding in or to which Lender may be made a party for the purpose of protecting the lien of this Mortgage.

35. **LATE CHARGE:** In addition to the payment of Indebtedness, Lender shall have the right to demand and Borrower shall pay a late charge equal to four percent (4%) of payments due and owing on account of Indebtedness not made within fifteen (15) days following the respective due dates thereof.

36. **CORRECTIVE DOCUMENTS:** Borrower shall, at the request of Lender, promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in the execution or acknowledgment hereof or in any other instrument executed in connection herewith or in the execution or acknowledgment of such instrument and will execute and deliver any and all additional instruments as may be requested by Lender to correct such defect, error or omission.

37. **CONSENT OR APPROVAL:** The consent by Lender in any single instance shall not be deemed or construed to be Lender's consent in any like matter arising at a subsequent date and the failure of Lender to promptly exercise any right, power, remedy or consent provided herein, or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Lender be estopped from exercising such right, power, remedy or consent at a later date. Any consent or approval required of and granted by Lender pursuant hereto shall:

- a) be narrowly construed to be applicable only to Borrower and the facts identified in such consent or approval and no third party shall claim any benefit by reason thereof; and

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- b) not be deemed to constitute Lender a venturer or partner with Borrower or Beneficiary whatsoever nor shall privity of contract be presumed to have been established with any such third party.

If, to consider a request by Borrower or Beneficiary, it is necessary, in the sole discretion of Lender, to retain the assistance of any person, firm or corporation (e.g. attorneys, appraisers, engineers, surveyors, etc.), Borrower or Beneficiary shall reimburse Lender for all reasonable costs incurred in connection with the employment of such parties.

38. **GOVERNING LAW:** This Mortgage shall be construed in accordance with and governed pursuant to the laws of the State of Illinois, without regard to its conflict of law principles. Whenever possible, each provision of this Mortgage shall be interpreted in such a manner as to be effective and valid pursuant to applicable law; PROVIDED, HOWEVER, that if any part hereof shall be prohibited by or invalid thereunder, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder hereof or the remaining provisions of this Mortgage.

39. **TIME OF THE ESSENCE:** It is specifically agreed that time is of the essence of this Mortgage and that a waiver of the options or obligations secured hereby shall not, at any time thereafter, be held to be abandonment of such rights. Notice of the exercise of any option granted to Lender pursuant hereto or to Note or Other Loan Documents is not required to be given.

40. **NOTICES:** Any notice, consent or other communication to be served hereunder or pursuant to Note or Other Loan Documents shall be deemed properly delivered if delivered personally or by Federal Express or comparable "over-night" courier service (which shall be deemed received on the date of delivery thereof) or by United States certified or registered mail, postage prepaid (which shall be deemed received three [3] days following the postmark date thereof), to Borrower, Lender and the parties to whom copies of notices, consents or other communications are to be mailed at the addresses set forth below or to such other address as Borrower, Lender or such other parties may direct in writing:

If to Borrower, at 850 West Jackson Boulevard, Chicago, Illinois 60607, Attn: Land Trust Department, with a copy thereof to Beneficiary c/o Daniel Dvorkin, Dan Management Company, 10 East 22nd Street, Lombard, Illinois 60148;

If to Lender, c/o ING Investment Management, Inc., 300 Galleria Parkway, Suite 1200, Atlanta, Georgia 30339-5949, Attn: Mortgage Loan Servicing Department.

41. **CAPTIONS:** The headings or captions of the paragraphs or subparagraphs hereof are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms of this Mortgage.

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42. **BENEFIT:** All grants, conditions and provisions hereof shall apply, extend to and be binding upon Borrower and all persons claiming any interest in Mortgaged Premises by, through or under Borrower, and shall inure to the benefit of Lender, its successors and assigns.

43. **OTHER LEASE REQUIREMENTS; LEASE TERMINATIONS:** All New Leases of five thousand (5,000) or more square feet of floor space executed after the date hereof shall be submitted to Lender for its review and approval. Borrower and Beneficiary shall not terminate or modify any Lease without the prior written consent of Lender. Borrower shall use only a lease form approved by Lender, without limitation. Future Leases shall be for a minimum term of 12 months, shall be bonafide, arm's length Tenants, shall not contain any rental or other concessions not approved by Lender, and shall provide that each Tenant pay a prorata share of, or increases in, insurance or other operating expenses.

44. **RECOURSE LIABILITY.** Subject to the terms of the next succeeding sentences and notwithstanding anything to the contrary otherwise contained in the Note, but without in any way releasing, impairing or otherwise affecting this Mortgage, the Note or any Other Loan Documents (including without limitation any guaranties or indemnification agreements) or the validity hereof or thereof, or the lien of this Mortgage, it is agreed that Lender's source of satisfaction of the Indebtedness and of Borrower's and Beneficiary's other obligations hereunder and under this Mortgage, Note and Other Loan Documents is limited to (a) Mortgaged Premises and proceeds thereof, (b) rents, income, issues, proceeds, and profits arising out of Mortgaged Premises, and (c) any separate guaranty or indemnification agreements guaranteeing or indemnifying Lender with respect to the payment of any amounts due hereunder and under this Mortgage, the Note and Other Loan Documents and/or Borrower's performance hereunder and under Note and Other Loan Documents; provided, however, that nothing herein contained shall be deemed to be a release or impairment of Indebtedness or the security therefore intended by Mortgage, or be deemed to preclude Lender from foreclosing Mortgage or from enforcing any of Lender's rights or remedies in law or in equity thereunder, or in any way or manner affecting Lender's rights and privileges under this Mortgage, the Note or any of the Other Loan Documents or any separate guaranty or indemnification agreements guaranteeing Borrower's payment and/or performance hereunder and/or under the Other Loan Documents. Notwithstanding the foregoing limitation of liability provision, it is expressly understood and agreed that DANIEL DVORKIN, BRUCE TEITELBAUM and THE ARTHUR J. JACKSON REVOCABLE TRUST shall be jointly and severally liable for the payment to the Lender of:

- i. the application of rents, security deposits, or other income, issues, profits, and revenues derived from Mortgaged Premises after the occurrence of an Event of Default to anything other than (a) normal and necessary operating expenses of Mortgaged Premises, or (b) the Indebtedness. It is understood that any rents collected more than one (1) month in advance as of the time of the Event of Default shall be considered to have been collected after the Event of Default;

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- ii. any loss, cost or damages arising out of or in connection with fraud or material misrepresentations to Lender by Borrower (or by any of its general partners, officers, shareholders, members, or their agents, if applicable);
- iii. any loss, cost or damages arising out of or in connection with Borrower's use or misapplication of (a) any proceeds paid under any insurance policies by reason of damage, loss or destruction to any portion of Mortgaged Premises, or (b) proceeds or awards resulting from the condemnation or other taking in lieu of condemnation of any portion of Mortgaged Premises, for purposes other than those set forth in Mortgage (such liability with respect to the foregoing matters is limited to the actual amount of the misapplied proceeds or awards);
- iv. any loss, cost or damages arising out of or in connection with any waste of Mortgaged Premises or any portion thereof and all reasonable costs incurred by Lender in order to protect Mortgaged Premises;
- v. any taxes, assessments and insurance premiums for which Borrower is liable under this Mortgage, the Note or any of the Other Loan Documents and which are paid by Lender up until the declaration of any of an Event of Default and taking control of Mortgaged Premises by Lender or an appointed receiver, provided, Borrower shall not be liable for taxes, assessments and insurance premiums accruing after the date of foreclosure or acceptance of deed-in-lieu;
- vi. any loss, costs or damages arising out of or in connection with the covenants, obligations, and liabilities under the hazardous substance indemnification and hold harmless agreement and the Borrower's hazardous substances covenants, warranties and representations provisions contained in the Environmental Indemnity Agreement;
- vii. any loss, cost or damages to Lender arising out of or in connection with any construction lien, mechanic's lien, materialmen's lien or similar lien against Mortgaged Premises arising out of acts or omissions of Borrower;
- viii. any and all losses, costs or damages arising out of or incurred in order to cause the Improvements to comply with the accessibility provisions of The Americans with Disabilities Act;
- ix. all costs and fees including without limitation reasonable attorneys fees incurred by Lender in the enforcement of subparagraphs (i) through (viii) hereinabove.

Nothing contained herein or in Note and Other Loan Documents to the contrary notwithstanding shall be deemed to release, affect or impair Indebtedness or the rights of Lender

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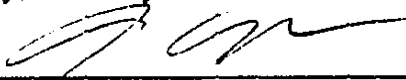
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to enforce its remedies pursuant hereto and to Note and Other Loan Documents, including, without limitation, the right to pursue any remedy for injunctive or other equitable relief.


IN WITNESS WHEREOF, Borrower has caused these presents to be signed by its duly authorized officers and its corporate seal to be hereunto affixed on the day and year first above written.

COLE TAYLOR BANK, as Successor Trustee to
HARRIS TRUST AND SAVINGS BANK, not
personally, but solely as Trustee of Trust No. 94834

By:  _____

Title: Vice-President

ATTEST:



Title: Assistant Secretary

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the County and State aforesaid, DOES HEREBY CERTIFY that KENNETH E. PIEKOP personally known to me to be the VICE PRESIDENT COLE TAYLOR BANK, as Successor Trustee to Harris Trust and Savings Bank, a national banking association, as Trustee aforesaid ("Borrower"), appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts and as the free and voluntary act of Borrower, for the uses and purposes therein set forth; and the said VICE PRESIDENT then and there acknowledged that he/she/they, as custodian(s) of the corporate seal of Borrower, caused the same to be affixed to said instrument as his/her/their own free and voluntary act and as the free and voluntary act of Borrower, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11th day of December, 1996.

Martiza Castillo
Notary Public
My Commission Expires 10-21-98



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EXHIBIT "A" LEGAL DESCRIPTION OF LAND

THAT PART OF OUT-LOT 'E' IN "SCHAUMBURG INDUSTRIAL PARK," BEING A SUBDIVISION OF THE SOUTHEAST 1/4 OF SECTION 11, PART OF THE NORTHEAST 1/4 OF SECTION 11, PART OF THE SOUTHWEST 1/4 OF SECTION 12, PART OF THE NORTHWEST 1/4 OF SECTION 13, AND PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, THE PLAT OF WHICH WAS RECORDED JUNE 10, 1969 AS DOCUMENT 20866510, BOUNDED BY A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID OUT-LOT 'E' LOCATED ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 11, A DISTANCE OF 480 FEET SOUTH OF (AS MEASURED ALONG SAID EAST LINE, WHICH BEARS SOUTH 00 DEGREES 01 MINUTES 10 SECONDS WEST) THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 11; THENCE SOUTH 00 DEGREES 01 MINUTES 10 SECONDS WEST ALONG THE LAST MENTIONED EAST LINE, 590 FEET TO THAT CORNER OF SAID OUT-LOT 'E' COMMON WITH THE SOUTHWEST CORNER OF SCHAUMBURG INDUSTRIAL PARK UNIT 3, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 27, 1966 AS DOCUMENT NO. 19979938; THENCE SOUTH 89 DEGREES 53 MINUTES 20 SECONDS WEST, 691.86 FEET TO A POINT IN THE WESTERLY LINE OF SAID OUT-LOT 'E'; THENCE NORTHWESTERLY ALONG SAID WESTERLY LINE (SAID LINE ALSO BEING EAST OF THE EASTERLY LINE OF STATE PARKWAY), BEING THE ARC OF A CIRCLE CONVEX TO THE NORTHEAST AND HAVING A RADIUS OF 660 FEET, AN ARC DISTANCE OF 73.05 FEET (THE CHORD OF WHICH ARC BEARS NORTH 22 DEGREES 42 MINUTES 37 SECONDS WEST AND MEASURED 73.01 FEET) TO A CORNER OF SAID OUT-LOT 'E'; THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF SAID OUT-LOT 'E' (SAID LINE ALSO BEING THE SOUTHEASTERLY LINE OF TOWER ROAD), BEING THE ARC OF A CIRCLE CONVEX TO THE SOUTHEAST AND HAVING A RADIUS OF 560 FEET, AN ARC DISTANCE OF 385.64 FEET (THE CHORD OF WHICH ARC BEARS NORTH 47 DEGREES 13 MINUTES 02 SECONDS EAST AND MEASURES 378.35 FEET) TO A POINT OF REVERSE CURVE; THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE OF OUT-LOT 'E', BEING THE ARC OF A CIRCLE CONVEX TO THE NORTHWEST, TANGENT TO THE LAST DESCRIBED CURVE LINE AND HAVING A RADIUS OF 500 FEET, AN ARC DISTANCE OF 543.10 FEET TO A POINT OF TANGENCY AND THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

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ATTACHED LAND TRUST MORTGAGE EXONERATION RIDER

This MORTGAGE is executed by The Land Trustee, not personally but as trustee as aforesaid in the exercise of the power and authority conferred upon vested in it as such Trustee (and said Land Trustee, hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in said Note contained shall be construed as creating any liability on the said Trustee or on said Land Trustee personally to pay the said Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either expressed or implied herein contained, or on account of any warranty or indemnification made hereunder, all such liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as the trustee and its successors and said Land Trustee personally are concerned, the legal holder or holders of said Note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby conveyed for the payment thereof, by the enforcement of the lien hereby created, in the manner herein and in said Note provided or by action to enforce the personal liability of the guarantor, if any.

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