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REVERE DRIVE

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Document prepared by and after recording return to:

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COOK COUNTY RECORDER

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AMENDED AND RESTATED MORTGAGE (ILLINOIS FORM)

THIS AMENDED AND RESTATED MORTGAGE (this "Mortgage") made this 18th day of June, 1997, by 255 REVERE DRIVE LIMITED PARTNERSHIP, an Illinois limited partnership, f/k/a Rosenheim Limited Partnership (herein, whether one or more, and if more than one jointly and severally, called the "Mortgagor"), whose address is c/o JFMC Facilities Corporation, One South Franklin Street, Chicago, Illinois 60606, Attn: Executive Director to CANADA LIFE INSURANCE COMPANY OF AMERICA (herein, together with its successors and assigns, including each and every from time to time holder of the Note hereinafter referred to, called the "Mortgagee"), whose address is c/o Mid-North Financial Services, Inc., 205 West Wacker Drive, Suite 202, Chicago, Illinois 60606-1296.

WHEREAS, National Boulevard Bank of Chicago made a loan ("Original Loan") to National Boulevard Bank of Chicago, as trustee under Trust Agreement dated December 20, 1978 and known as Trust No. 6187, which Original Loan is evidenced by that certain Note dated September 20, 1979 ("Original Note"), and secured by among other things that certain Mortgage dated September 20, 1979 ("Original Mortgage") and recorded September 24, 1979 with the Recorder of Deeds of Cook County, Illinois ("Recorder") as Document No. 25159225 and Assignment of Leases and Rents dated March 13, 1980 ("Original Assignment of Rents") and recorded March 14, 1980 with the Recorder as Document No. 25392426.

WHEREAS, the Original Note, Original Mortgage, Original Assignment of Rents and other documents evidencing and securing the Original Loan (collectively, "Original Loan Documents") were (a) assigned to Massachusetts Mutual Life Insurance Company ("Massachusetts") pursuant to that certain Assignment of Note and Mortgage dated March 13,

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1980 and recorded on March 14, 1980 with the Recorder as Document No. 25392059 and (b) amended pursuant to Mortgage and Note Modification Agreement dated June 26, 1981 and Loan Modification Agreement No. 2 dated February 1, 1994.

WHEREAS, Mortgagor is the owner of the Premises (as hereinafter defined) subject to the Original Loan Documents.

WHEREAS, Mortgagee has purchased the Original Note, Original Mortgage, Original Assignment of Rents and all of the other Original Loan Documents from Massachusetts pursuant to that certain Assignment and Acceptance of Loan Documents of even date herewith between Massachusetts and Mortgagee.

WHEREAS, on even date herewith, Mortgagee and Mortgagor amend, restate and replace in their entirety the Original Loan Documents with, among other things, this Mortgage, the Note (as hereinafter defined) and the Assignment (as hereinafter defined).

WHEREAS, Mortgagor has, concurrently herewith, executed and delivered to Mortgagee, that certain Amended and Restated Promissory Note (herein called the "Note") dated the date hereof, in the principal sum of \$1,300,000 bearing interest at the rate specified therein, due in installments and in any event on July 1, 2022 payable to the order of the Mortgagee, and otherwise in the form of Note attached hereto as Exhibit A and incorporated herein and made a part hereof by this reference with the same effect as if set forth at length; and

WHEREAS, the indebtedness evidenced by the Note, including the principal thereof and interest and premium, if any, thereon, and any extensions and renewals thereof, in whole or in part, and any and all other sums which may be at any time due or owing or required to be paid as herein or in Note provided, are herein called the "Indebtedness Hereby Secured."

NOW, THEREFORE, THIS MORTGAGE WITNESSETH:

That to secure the payment of the principal of and interest and premium, if any, on the Note according to its tenor and effect and to secure the payment of all other Indebtedness Hereby Secured and the performance and observance of all the covenants, provisions and agreements herein and in the Note contained (whether or not the Mortgagor is personally liable for such payment, performance and observance) and in consideration of the premises and Ten Dollars (\$10) in hand paid by the Mortgagee to the Mortgagor, and for other good and valuable considerations, the receipt and sufficiency of all of which is hereby acknowledged by the Mortgagor, the Mortgagor does hereby **GRANT, RELEASE, REMISE, ALIEN, MORTGAGE** and **CONVEY** unto the Mortgagee all and sundry rights, interests and property hereinafter described (all herein together called the "Premises"):

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- (a) All of the real estate (herein called the "Real Estate") described in Exhibit B attached hereto and made a part hereof;
- (b) All buildings and other improvements now or at any time hereafter constructed or erected upon or located at the Real Estate, together with and including, but not limited to, all fixtures, equipment, machinery, appliances and other articles and attachments now or hereafter forming part of, attached to or incorporated in any such buildings or improvements (all herein generally called the "Improvements");
- (c) All privileges, reservations, allowances, hereditaments, tenements and appurtenances now or hereafter belonging or pertaining to the Real Estate or Improvements;
- (d) All leasehold estates, right, title and interest of Mortgagor in any and all leases, subleases, arrangements or agreements relating to the use and occupancy of the Real Estate and Improvements or any portion thereof, now or hereafter existing or entered into (all herein generally called "Leases"), together with all cash or security deposits, advance rentals and other deposits or payments of similar nature given in connection with any Leases;
- (e) All rents, issues, profits, royalties, income, avails and other benefits now or hereafter derived from the Real Estate and Improvements, under Leases or otherwise (all herein generally called "Rents"), subject to the right, power and authority given to the Mortgagor in the Assignment hereinafter referred to, to collect and apply the Rents;
- (f) All right, title and interest of Mortgagor in and to all options to purchase or lease the Real Estate or Improvements, or any portion thereof or interest therein, or any other rights, interests or greater estates in the rights and properties comprising the Premises, now owned or hereafter acquired by Mortgagor;
- (g) Any interests, estates or other claims, both in law and in equity, which Mortgagor now has or may hereafter acquire in the Real Estate and Improvements or other rights, interests or properties comprising the Premises now owned or hereafter acquired;
- (h) All right, title and interest of Mortgagor now owned or hereafter acquired in and to (i) any land or vaults lying within the right-of-way of any street or alley, open or proposed, adjoining the Real Estate; (ii) any and all alleys, sidewalks, strips and gores of land adjacent to or used in connection with the Real Estate and Improvements; (iii) any and all rights and interests of every name or nature forming part of or used in connection with the Real Estate and/or the operation and maintenance of the Improvements; (iv) all easements, rights-of-way and rights

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used in connection with the Real Estate or Improvements or as a means of access thereto, and (v) all water rights and shares of stock evidencing the same;

- (i) All right, title and interest of Mortgagor in and to all tangible personal property (herein called "Personal Property"), owned by Mortgagor and now or at any time hereafter located in, on or at the Real Estate or Improvements or used or useful in connection therewith, (whether or not affixed thereto) including, but not limited to:
- (i) all furniture, furnishings and equipment furnished by Mortgagor to tenants of the Real Estate or Improvements;
 - (ii) all building materials and equipment located upon the Real Estate and intended to be incorporated in the Improvements now or hereafter to be constructed thereon, whether or not yet incorporated in such Improvements;
 - (iii) all machines, machinery, fixtures, apparatus, equipment or articles used in supplying heating, gas, electricity, air-conditioning, water, light, power, sprinkler protection, waste removal, refrigeration and ventilation, and all fire sprinklers, alarm systems, electronic monitoring equipment and devices;
 - (iv) all window or structural cleaning rigs, maintenance equipment and equipment relating to exclusion of vermin or insects and removal of dust, dirt, debris, refuse or garbage;
 - (v) all lobby and other indoor and outdoor furniture, including tables, chairs, planters, desks, sofas, shelves, lockers and cabinets, wall beds, wall safes, and other furnishings;
 - (vi) all rugs, carpets and other floor coverings, draperies, drapery rods and brackets, awnings, window shades, venetian blinds and curtains;
 - (vii) all lamps, chandeliers and other lighting fixtures;
 - (viii) all recreational equipment and materials;
 - (ix) all office furniture, equipment and supplies;
 - (x) all kitchen equipment, including refrigerators, ovens, dishwashers, range hoods and exhaust systems and disposal units;

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- (xi) all laundry equipment, including washers and dryers;
- (xii) all tractors, mowers, sweepers, snow removal equipment and other equipment used in maintenance of exterior portions of the Real Estate and Improvements; and
- (xiii) all maintenance supplies and inventories;

provided that the enumeration of any specific articles of Personal Property set forth above shall in no way exclude or be held to exclude any items of property not specifically enumerated; but provided that there shall be excluded from and not included within the term "Personal Property" as used herein and hereby mortgaged and conveyed, any equipment, trade fixtures, furniture, furnishings or other property of tenants of the Premises;

- (j) All the estate, interest, right, title or other claim or demand which Mortgagor now has or may hereafter have or acquire with respect to (i) the proceeds of insurance in effect with respect to the Premises, and (ii) any and all awards, claims for damages and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Premises, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for severance damages (all herein generally called "Awards").

TO HAVE AND TO HOLD all and sundry the Premises hereby mortgaged and conveyed or intended so to be, together with the rents, issues and profits thereof, unto the Mortgagee forever, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois (which rights and benefits are hereby expressly released and waived), for the uses and purposes herein set forth, together with all right to re-entr possession of the Premises after any default in the payment of all or any part of the Indebtedness Hereby Secured, or the breach of any covenant or agreement herein contained, or upon the occurrence of any Event of Default as hereinafter defined.

FOR THE PURPOSE OF SECURING:

- (a) Payment of the indebtedness with interest thereon evidenced by the Note and any and all modifications, extensions and renewals thereof, and all other Indebtedness Hereby Secured;
- (b) Performance and observance by Mortgagor of all of the terms, provisions, covenants and agreements on Mortgagor's part to be performed and observed under the Assignment referred to in Section 26 hereof and under every other

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agreement evidencing or securing the loan evidenced by the Note (the "Loan") (such documents together with the Note, this Mortgage and the Assignment shall be referred to herein collectively as the "Loan Documents"); and

- (c) Performance by any Guarantor of its obligations under any Guaranty or other instrument given to further secure the payment of the Indebtedness Hereby Secured or the performance of any obligation secured hereby;

provided that the aggregate of the Indebtedness Hereby Secured shall at no time exceed \$100,000,000.

PROVIDED, NEVERTHELESS, and these presents are upon the express condition that if all of the Indebtedness Hereby Secured shall be duly and punctually paid and all the terms, provisions, conditions and agreements herein contained on the part of the Mortgagor to be performed or observed shall be strictly performed and observed, then this Mortgage and the estate, right and interest of the Mortgagee in the Premises shall cease and become void and of no effect:

AND IT IS FURTHER AGREED THAT:

1 Payment of Indebtedness. The Mortgagor will duly and promptly pay each and every installment of the principal of and interest and premium, if any, on the Note, and all other Indebtedness Hereby Secured, as the same become due, and will duly perform and observe all of the covenants, agreements and provisions herein or in the Note provided on the part of the Mortgagor to be performed and observed.

2. Maintenance, Repair, Restoration, Prior Liens, Parking. The Mortgagor will:

- (a) Promptly repair, restore or rebuild any Improvements now or hereafter on the Premises which may become damaged or be destroyed, whether or not proceeds of insurance are available or sufficient for the purpose;
- (b) Keep the Premises in good condition and repair, without waste and free from mechanics', materialmen's or like liens or claims or other liens or claims for lien not expressly subordinated to the lien hereof;
- (c) Pay when due any indebtedness which may be secured by a lien or charge on the Premises on a parity with or superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to the Mortgagee;
- (d) Complete within a reasonable time any Improvements now or at any time in the process of erection upon the Premises;

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- (e) Comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof;
- (f) Make no structural alterations in the Premises, except as required by law or municipal ordinance without Mortgagee's prior written consent, which consent shall not be unreasonably withheld or delayed;
- (g) Suffer or permit no change in the use or general nature of the occupancy of the Premises, without the Mortgagee's prior written consent unless such change is permitted under that certain Lease dated June 18, 1997 ("Master Lease") between Mortgagor and JFMC Facilities Corporation, an Illinois not-for-profit corporation ("JFMC");
- (h) Pay when due all operating costs of the Premises;
- (i) Initiate or acquiesce in no zoning reclassification with respect to the Premises, without the Mortgagee's prior written consent unless said zoning reclassification is to permit a school and/or a day care facility in the Premises;
- (j) Provide, improve, grade, surface and thereafter maintain, clean, repair, mark, stripe, police and adequately light parking areas within the Premises of sufficient size to accommodate not less than 110 standard-size American-made automobiles, or as may be required by law, ordinance or regulation (whichever may be greater), together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof;
- (k) Reserve and use all such parking areas solely and exclusively for the purpose of providing ingress, egress and parking facilities for automobiles and other passenger vehicles of Mortgagor and tenants of the Premises and their invitees and licensees;
- (l) Not reduce, build upon, obstruct, redesignate or relocate any such parking areas, sidewalks, aisles, streets, driveways, sidewalk cuts or paved areas or rights-of-way, or lease or grant any rights to use the same to any other person except tenants and invitees of tenants of the Premises, without the prior written consent of the Mortgagee;
- (m) Cause the Premises at all times to be operated in compliance with all federal, state, local and municipal environmental, health and safety laws, statutes, ordinances, rules and regulations (herein called "Environmental Regulations"), so that no cleanup, claim or other obligation or responsibility arises from a violation of any such laws, statutes, ordinances, rules and regulations;

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- (n) From time to time at the direction of Mortgagee, provided in the sole opinion of Mortgagee either there is a credible reason to suspect an adverse change to the environmental condition at the Premises or Mortgagor is in default hereunder, obtain and furnish to Mortgagee at Mortgagor's expense, an environmental audit or survey from an expert satisfactory to Mortgagee with respect to the Premises; and
- (o) Comply and cause the Premises to comply with all requirements and recommendations relating to compliance with Environmental Regulations and comply and cause the Premises to comply with the recommendations set forth in any environmental audit or survey with respect to the Premises, whether made or obtained by or at the request or direction of Mortgagee, Mortgagor or any federal, state or local governmental authority or agency, or otherwise.

3. **Taxes.** The Mortgagor will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), whether or not assessed against the Mortgagor, if applicable to the Premises or any interest therein, or the Indebtedness Hereby Secured, or any obligation or agreement secured hereby; and Mortgagor will, upon written request, furnish to the Mortgagee duplicate receipts therefor; provided that (a) in the event that any law or court decree has the effect of deducting from the value of land for the purposes of taxation any lien thereon, or imposing upon the Mortgagee the payment in whole or any part of the Taxes or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the interest of the Mortgagee in the Premises or the manner of collection of Taxes, so as to affect this Mortgage or the Indebtedness Hereby Secured or the Holder thereof, then, and in any such event, the Mortgagor upon demand by the Mortgagee will pay such Taxes, or reimburse the Mortgagee therefor; and (b) nothing in this Section 3 contained shall require the Mortgagor to pay any income, franchise or excise tax imposed upon the Mortgagee, excepting only such which may be levied against such income expressly as and for a specific substitute for Taxes on the Premises, and then only in an amount computed as if the Mortgagee derived no income from any source other than its interest hereunder.

4. **Insurance Coverage.** The Mortgagor will insure and keep insured the Premises and each and every part and parcel thereof against such perils and hazards as the Mortgagee may from time to time require, and in any event including:

- (a) Insurance against loss to the Improvements and Personal Property caused by fire, lightning and risks covered by the so-called "Extended Coverage" endorsement together with "vandalism and malicious mischief" and "sprinkler leakage" endorsements, or by the so-called "all perils" endorsement and such other risks as the Mortgagee may reasonably require, in amounts (but in no event less than the initial stated principal amount of the Note) equal to the full replacement value

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of the Improvements and Personal Property, plus the cost of debris removal, with full replacement cost endorsement, "agreed amount" endorsement, and "contingent liability from operations of building laws" endorsement;

- (b) Commercial general public liability insurance against bodily injury and property damage in any way arising in connection with the Premises with such limits as the Mortgagee may reasonably require and in any event not less than \$1,000,000 single limit coverage (or greater if required by any lease of the Premises);
- (c) Rent and rental value insurance (or, at the discretion of Mortgagee, business interruption insurance) in amounts sufficient to pay during any period of up to one (1) year in which the Improvements may be damaged or destroyed (i) all projected annual rents derived from the Premises but in no event less than \$250,000, and (ii) all amounts (including, but not limited to, all taxes, assessments, utility charges, operating expenses and insurance premiums) required herein to be paid by the Mortgagor or by tenants of the Premises;
- (d) Broad form boiler and machinery insurance on all equipment and objects customarily covered by such insurance (if any thereof are located at the Premises), providing for full repair and replacement cost coverage, and other insurance of the type and in amounts as the Mortgagee may reasonably require, but in any event not less than that customarily carried by persons owning or operating like properties;
- (e) During the making of any alterations or improvements to the Premises (i) insurance covering claims based on the owner's contingent liability not covered by the insurance provided in subsection (b) above, and (ii) Workmen's Compensation insurance covering all persons engaged in making such alterations or improvements;
- (f) Federal Flood Insurance in the maximum obtainable amount up to the amount of the Indebtedness Hereby Secured evidenced by the Note, if the Premises is in a "flood plain area" as defined by the Federal Insurance Administration pursuant to the Federal Flood Disaster Protection Act of 1973, as amended;
- (g) If any part of the Premises is now or hereafter used for the sale or dispensing of beer, wine, spirits or any other alcoholic beverages, so-called "dram shop" or "innkeeper's liability" insurance against claims or liability arising directly or indirectly to persons or property on account of such sale or dispensing of beer, wine, spirits or other alcoholic beverages, including in such coverage loss of means of support, all in amounts as may be required by law or as the Mortgagee may specify, but in no event less than \$3,000,000 single limit coverage;

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- (h) Such other insurance of the types and in amounts as the Mortgagee may reasonably require, but in any event not less than the types and coverages of insurance customarily carried by persons owning and operating like properties;

and Mortgagor shall at its own expense furnish such insurance appraisals as may be required by Mortgagee from time to time (and in any event not less often than once every 5 years) to ascertain the full replacement cost of the Improvements for the purposes of Subsection (a) above.

5. **Insurance Policies.** All policies of insurance to be maintained and provided as required by Section 4 hereof shall:

- (a) Be issued by company(ies) having a most current rating by Best's Rating Guide of A-VII or better, be written for a term not less than one(1) year with premiums prepaid, be in forms, companies and amounts reasonably satisfactory to Mortgagee, and all policies of casualty insurance shall have attached thereto mortgage clauses or endorsements in favor of and with loss payable to Mortgagee.
- (b) Contain endorsements that no act or negligence of the insured or any occupant and no occupancy or use of the Premises for purposes more hazardous than permitted by the terms of the policies will affect the validity or enforceability of such policies as against Mortgagee;
- (c) Be written in amounts sufficient to prevent Mortgagor from becoming a co-insurer;
- (d) Provide for thirty (30) days' prior written notice of cancellation to Mortgagee;
- (e) Contain no deductible amount in excess of \$5,000.
- (f) Provide that any waiver of the insured's subrogation rights shall not void coverage;

and Mortgagor will deliver all policies, including additional and renewal policies, to Mortgagee, and in case of insurance policies about to expire, the Mortgagor will deliver renewal policies or certificates not less than thirty (30) days prior to the respective dates of expiration. Notwithstanding anything provided herein to the contrary, any policy required to be provided may be in the form of blanket policies provided that any such blanket policy shall specify, except in the case of public liability insurance, the portion of the total coverage of such policy that is allocated to the Premises and any sublimit in such blanket policy applicable to the Premises, and shall comply in all other respects with the requirements of Sections 4 and 5 hereof and be subject to the review and approval of Mortgagee and Mortgagee's legal counsel.

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6. **Deposits for Taxes and Insurance Premiums.** In order to assure the payment of Taxes and insurance premiums payable with respect to the Premises as and when the same shall become due and payable:

(a) The Mortgagor shall deposit with the Mortgagee on the first day of each and every month, commencing with the date the first payment of interest and/or principal and interest shall become due on the Indebtedness Hereby Secured, an amount equal to:

(i) One-Twelfth (1/12) of the Taxes next to become due upon the Premises; provided that, in the case of the first such deposit, there shall be deposited in addition, an amount as estimated by Mortgagee which, when added to monthly deposits to be made thereafter as provided for herein, shall assure to Mortgagee's satisfaction that there will be sufficient funds on deposit to pay Taxes as they come due; plus

(ii) One-Twelfth (1/12) of the annual premiums on each policy of insurance upon the Premises; provided that, with the first such deposit there shall be deposited in addition, an amount equal to one-twelfth (1/12) of such annual insurance premiums multiplied by the number of months elapsed between the date premiums on each policy were last paid to and including the date of deposit.

provided that the amount of such deposits (herein generally called "Tax and Insurance Deposits") shall be based upon Mortgagee's reasonable estimate as to the amount of Taxes and premiums of insurance next to be payable;

(b) The aggregate of the monthly Tax and Insurance Deposits, together with monthly payments of interest and/or principal and interest payable on the Note, shall be paid in a single payment each month, to be applied to the following items in the order stated:

(i) Taxes and insurance premiums;

(ii) Indebtedness Hereby Secured other than principal and interest on the Note;

(iii) Interest on the Note;

(iv) Amortization of the principal balance of the Note.

(c) The Mortgagee will, out of the Tax and Insurance Deposits, upon the presentation to the Mortgagee by the Mortgagor of the bills therefor, pay the insurance

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premiums and Taxes or will, upon presentation of receipted bills therefor, reimburse the Mortgagor for such payments made by the Mortgagor: provided that (i) if the total Tax and Insurance Deposits on hand shall not be sufficient to pay all of the Taxes and insurance premiums when the same shall become due, then the Mortgagor shall pay to the Mortgagee on demand any amount necessary to make up the deficiency, and (ii) if the total of such Deposits exceed the amount required to pay the Taxes and insurance premiums, such excess shall be credited on subsequent payments to be made for such items;

- (d) In the event of a default in any of the provisions contained in this Mortgage, in the Note or in other Loan Documents, the Mortgagee, at its option, without being required so to do, may apply any Tax and Insurance Deposits on hand on any of the Indebtedness Hereby Secured, in such order and manner as the Mortgagee may elect, and in such case the Mortgagor will replenish any Tax and Insurance Deposits so applied within 5 days after Mortgagee's demand; provided that when the Indebtedness Hereby Secured has been fully paid, then any remaining Tax and Insurance Deposits shall be paid to the Mortgagor;
- (e) All Tax and Insurance Deposits are hereby pledged as additional security for the Indebtedness Hereby Secured, and shall be held in trust to be irrevocably applied for the purposes for which made as herein provided, and shall not be subject to the direction or control of the Mortgagor;
- (f) Notwithstanding anything to the contrary herein contained, the Mortgagee shall not be liable for any failure to apply to the payment of Taxes and insurance premiums any amounts deposited as Tax and Insurance Deposits unless the Mortgagor, while no default exists hereunder, and within a reasonable time prior to the due date, shall have requested the Mortgagee in writing to make application of such Deposits on hand to the payment of the particular Taxes or insurance premiums for the payment of which such Deposits were made, accompanied by the bills therefor;
- (g) All Tax and Insurance Deposits in the hands of Mortgagee shall be held without allowance of interest and need not be kept separate and apart but may be commingled with any funds of the Mortgagee until applied in accordance with the provisions hereof.

7. **Proceeds of Insurance.** The Mortgagor will give the Mortgagee prompt notice of any damage to or destruction of the Premises, and:

- (a) In case of loss covered by policies of insurance, the Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust

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any claim under such policies without the consent of the Mortgagor, or (ii) allow the Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss; provided that the Mortgagor may itself adjust losses aggregating not in excess of Twenty-Five Thousand Dollars (\$25,000); provided further that in any case the Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds; and the expenses incurred by the Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness Hereby Secured, and shall be reimbursed to the Mortgagee upon demand;

- (b) In the event of any insured damage to or destruction of the Premises or any part thereof (herein called an "Insured Casualty") and if, (i) there is no default under that certain Master Lease, (ii) JFMC confirms and acknowledges its obligations under the Lease and its agreement to rebuild the Premises to an architectural and economic unit of the same character than the same was prior to the Insured Casualty, (iii) the Jewish Federation of Metropolitan Chicago, the guarantor of the Master Lease, acknowledges and reconfirms its obligations under its guaranty of the Master Lease, (iv) the insurers do not deny liability to the insureds, (v) no Event of Default, as hereinafter defined, shall have occurred and be then continuing, and (vi) there was no Event of Default, whether continuing or not, at the time of occurrence of damage or destruction, which resulted in said loss, then the proceeds of insurance shall be applied to reimburse the Mortgagor for the cost of restoring, repairing, replacing or rebuilding (herein generally called "Restoring") the Premises or any part thereof subject to Insured Casualty, as provided for in Section 9 hereof;
- (c) Notwithstanding the foregoing, proceeds of rent and rental value insurance or business interruption insurance provided as set forth in section 4(c) hereof collected by the Mortgagee, shall be held and applied as follows:
- (i) So long as no Event of Default shall have occurred, such proceeds shall be applied in payment of periodic installments of principal and interest provided for in the Note and to payment of any Tax and Insurance Deposits required by Section 6 hereof, and any surplus shall be remitted to Mortgagor; and
- (ii) Upon the occurrence of an Event of Default, such proceeds shall be applied as set forth in Subsection (e) below.
- (d) If, in the reasonable judgment of Mortgagee, the Premises cannot be restored as provided for in Subsection (b) above, then at any time from and after the Insured Casualty, upon thirty (30) days' written notice to Mortgagor, Mortgagee may declare the entire balance of the Indebtedness Hereby Secured to be, and at the

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expiration of such thirty (30) day period the Indebtedness Hereby Secured shall be and become, immediately due and payable;

- (e) Except as provided for in this Section 7, Mortgagee shall apply the proceeds of insurance (including amounts not required for Restoring effected in accordance with Subsection (b) above) consequent upon any Insured Casualty upon the Indebtedness Hereby Secured, in such order or manner as the Mortgagee may elect; provided that no premium or penalty shall be payable in connection with any prepayment of the Indebtedness Hereby Secured made out of insurance proceeds as aforesaid;
- (f) In the event that proceeds of insurance, if any, shall be made available to the Mortgagor for the Restoring of the Premises, Mortgagor hereby covenants to restore the same to be of at least equal value and of substantially the same character as prior to such damage or destruction; all to be effected in accordance with plans and specifications to be first submitted to and approved by the Mortgagee;
- (g) Any portion of insurance proceeds remaining after payment in full of the Indebtedness Hereby Secured shall be paid to Mortgagor or as ordered by a court of competent jurisdiction;
- (h) No interest shall be payable by Mortgagee on account of any insurance proceeds at any time held by Mortgagee;
- (i) Nothing contained in this Mortgage shall create any responsibility or liability upon the Mortgagee to (i) collect any proceeds of any policies of insurance, or (ii) Restore any portion of the Premises damaged or destroyed through any cause.

8. **Condemnation.** The Mortgagor will give Mortgagee prompt notice of any proceedings, instituted or threatened, seeking condemnation or taking by eminent domain or any like process (herein generally called a "Taking"), of all or any part of the Premises, including damages to grade, and;

- (a) Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any Award consequent upon any Taking;
- (b) If, in the reasonable judgment of the Mortgagee, the Premises can be restored to an architectural and economic unit of the same character and not less valuable than the Premises prior to such Taking and adequately securing the outstanding balance of the Indebtedness Hereby Secured, then if no Event of Default, as hereinafter defined, shall have occurred and be then continuing, the Award shall

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be applied to reimburse Mortgagor for the cost of Restoring the portion of the Premises remaining after such Taking as provided for in Section 9 hereof;

- (c) If, in the reasonable judgment of Mortgagee, the Premises cannot be restored to an architectural and economic unit as provided for in Subsection (b) above, then at any time from and after the Taking, upon thirty (30) days' written notice to Mortgagor, Mortgagee may declare the entire balance of the Indebtedness Hereby Secured to be, and at the expiration of such thirty (30) day period the Indebtedness Hereby Secured shall be and become, immediately due and payable;
- (d) Except as provided for in Subsection (b) of this Section 8, Mortgagee shall apply any Award (including the amount not required for Restoration effected in accordance with Subsection (b) above) upon the Indebtedness Hereby Secured in such order or manner as the Mortgagee may elect; provided that no premium or penalty shall be payable in connection with any prepayment of the Indebtedness Hereby Secured made out of any Award as aforesaid;
- (e) In the event that any Award shall be made available to the Mortgagor for Restoring the portion of the Premises remaining after a Taking, Mortgagor hereby covenants to Restore the remaining portion of the Premises to be of at least equal value and of substantially the same character as prior to such Taking, all to be effected in accordance with plans and specifications to be first submitted to and approved by the Mortgagee;
- (f) Any portion of any Award remaining after payment in full of the Indebtedness Hereby Secured shall be paid to Mortgagor or as ordered by a court of competent jurisdiction;
- (g) No interest shall be payable by Mortgagee on account of any Award at any time held by Mortgagee.

9. Disbursement of Insurance Proceeds and Condemnation Awards In the event the Mortgagor is entitled to reimbursement out of insurance proceeds or any Award held by the Mortgagee, such proceeds shall be disbursed from time to time upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion of the Restoring, with funds (or assurances satisfactory to the Mortgagee that such funds are available) sufficient in addition to the proceeds of insurance or Award, to complete the proposed Restoring, and with such architect's certificates, waivers of lien, contractor's sworn statements and such other evidence of costs and payments as the Mortgagee may reasonably require and approve; and the Mortgagee may, in any event, require that all plans and specifications for such Restoring be submitted to and approved by the Mortgagee prior to commencement of work: and in each case:

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- (a) No payment made prior to the final completion of the Restoring shall exceed ninety percent (90%) of the value of the work performed from time to time;
 - (b) Funds other than proceeds of insurance or the Award shall be disbursed prior to disbursement of such proceeds or Award; and
 - (c) At all times the undisbursed balance of such proceeds or Award remaining in the hands of the Mortgagee, together with funds deposited for the purpose or irrevocably committed to the satisfaction of the Mortgagee by or on behalf of the Mortgagor for the purpose, shall be at least sufficient in the reasonable judgment of the Mortgagee to pay for the cost of completion of the Restoring, free and clear of all liens or claims for lien.
10. **Stamp Tax.** If, by the laws of the United States of America, or of any state having jurisdiction over the Mortgagor, any tax is due or becomes due in respect of the issuance of the Note, the Mortgagor shall pay such tax in the manner required by such law.
11. **Prepayment Privilege.** At such time as the Mortgagor is not in default under the terms of the Note, or under the terms of this Mortgage, the Mortgagor shall have the privilege of making prepayments on the principal of the Note (in addition to the required payments thereunder) in accordance with the terms and conditions, if any, set forth in the Note, but not otherwise.
12. **Effect of Extensions of Time, Amendments on Junior Liens and Others.** Mortgagor covenants and agrees that:
- (a) If the payment of the Indebtedness Hereby Secured, or any part thereof, be extended or varied, or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability, if any, and the lien and all provisions hereof shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding any such extension, variation or release;
 - (b) Any person, firm or corporation taking a junior mortgage or other lien upon the Premises or any interest therein, shall take such lien, subject to the rights of the Mortgagee to amend, modify and supplement this Mortgage, the Note, the Assignment, or any of the other Loan Documents and to vary the rate of interest and the method of computing the same, and to impose additional fees and other charges, and to extend the maturity of the Indebtedness Hereby Secured, in each and every case without giving notice to, or obtaining the consent of, the holder

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of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien;

- (c) Nothing in this Section contained shall be construed as waiving any provision of Section 17 hereof which provides, among other things, that it shall constitute an Event of Default if the Premises be sold, conveyed or encumbered.

13. **Effect of Changes In Tax Laws.** In the event of the enactment after the date hereof by any legislative authority having jurisdiction of the Premises of any law deducting from the value of land for the purposes of taxation, any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Premises, or the method of collecting taxes, so as to affect this Mortgage or the Indebtedness Hereby Secured, or the holder thereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided that if in the opinion of counsel for the Mortgagee the payment by Mortgagor of any such taxes or assessments shall be unavailing, then the Mortgagee may, by notice to the Mortgagor, declare the entire principal balance of the Indebtedness Hereby Secured and all accrued interest to be due and payable on a date specified in such notice, not less than 180 days after the date of such notice, and the Indebtedness Hereby Secured and all accrued interest shall then be due and payable without premium or penalty on the date so specified in such notice.

14. **Mortgagee's Performance of Mortgagor's Obligations.** In case of default therein, the Mortgagee, either before or after acceleration of the Indebtedness Hereby Secured or the foreclosure of the lien hereof, and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein or in any other Loan Documents, required of the Mortgagor (whether or not the Mortgagor is personally liable therefor) in any form and manner deemed expedient to the Mortgagee; and in connection therewith:

- (a) The Mortgagee may, but shall not be required to, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien, title, or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises, or contest any tax, assessment, lien or claim;
- (b) Mortgagee may, but shall not be required to, complete construction, furnishing and equipping of the Improvements upon the Premises and rent, operate and manage the Premises and such Improvements and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Premises, Improvements and Personal Property shall be operational and usable for their intended purposes;

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- (c) All monies paid for any of the purposes herein authorized or authorized by any other instrument evidencing or securing the Indebtedness Hereby Secured, and all expenses paid or incurred in connection therewith, including attorneys fees and any other monies advanced by the Mortgagee to protect the Premises and the lien hereof, or to complete construction, furnishing and equipping, or to rent, operate and manage the Premises and such Improvements, or to pay any such operating costs and expenses thereof, or to keep the Premises, Improvements and Personal Property operational and usable for their intended purposes, shall be so much additional Indebtedness Hereby Secured, whether or not they exceed the amount of the Note, and shall become immediately due and payable without notice, and with interest thereon at the Default Rate specified in the Note (herein called the "Default Rate");
- (d) Waiver of the Mortgagee shall never be considered a waiver of any right accruing to it on account of any default on the part of the Mortgagor;
- (e) The Mortgagee, in making any payment hereby authorized (i) relating to taxes and assessment, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof, (ii) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted, or (iii) in connection with the completion of construction, furnishing or equipping of the Improvements or the Premises or the rental, operation or management of the Premises or the payment of operating costs and expenses thereof, Mortgagee may do so in such amounts and to such persons as Mortgagee may deem appropriate, and may enter into such contracts therefor as Mortgagee may deem appropriate or may perform the same itself.

15. **Inspection of Premises.** The Mortgagee shall have the right to inspect the Premises at all reasonable times upon reasonable prior notice, and access thereto shall be permitted for that purpose.

16. **Financial Statements.** The Mortgagor will, (i) within one hundred eighty (180) days after the end of each fiscal year of the Mortgagor, furnish to the Mortgagee at the place where interest on the Note is then payable, a current rent schedule which incorporates the information set forth in subsection (c) below, with copies of all leases attached thereto, and, if applicable, a schedule of gross receipts collected from each tenant obligated to pay additional rent based on a percentage of gross receipts or any other tenant contributions, and (ii) within 180 days after the end of each fiscal year of Mortgagor, JFMC and Federation (as hereinafter defined), as applicable, furnish to Mortgagee at the place where interest under the Note is then payable, financial and operating statements of the Premises, JFMC and Federation for such fiscal year, all in reasonable detail and in any event including such itemized statement of receipts and

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disbursements as shall enable Mortgagee to determine whether any default exists hereunder or under the Note; and in connection therewith:

- (a) Such rent roll and financial and operating statements for the Premises and JFMC shall be prepared and certified by Mortgagor and by JFMC and for Federation shall be prepared and certified by Federation, all at the expense of Mortgagor in such manner as may be acceptable to Mortgagee.
- (b) If the statements furnished shall not be prepared in accordance with generally accepted accounting principles consistently applied, or if Mortgagor fails to furnish the same when due, Mortgagee may audit or cause to be audited the books of the Premises and/or the Mortgagor and/or JFMC and/or the Federation, at Mortgagor's expense, and the costs of such audit shall be so much additional indebtedness Hereby Secured bearing interest at the Default Rate until paid, and payable upon demand.
- (c) The rent roll shall include the name of the tenants, square footage occupied, annual rental, and lease term, shall detail any free rent periods or other tenant inducements, shall indicate whether any rental payments are in default, shall specify that the leases are on a triple net basis with the landlord expenses limited to a management fee and all other operating expenses and all structural repairs payable by the tenants and shall provide the details of annual rental increments, all option periods and terms, lease operation rights or termination rights, as applicable, and otherwise reasonably satisfactory in form and content to Mortgagee.

17. **Restrictions on Transfer.** Subject to the provisions of Section 18 hereof, it shall be an immediate Event of Default hereunder if, without the prior written consent of the Mortgagee, any of the following shall occur, and in any event Mortgagee may condition its consent upon such increase in rate of interest payable upon the Indebtedness Hereby Secured, change in monthly payments thereon, change in maturity thereof and/or the payment of a fee, all as Mortgagee may in its sole discretion require:

- (a) If the Mortgagor shall create, effect, contract for, commit to or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Premises or any part thereof, or interest therein (whether legal or equitable), excepting only sales or other dispositions of Collateral as defined in Section 19 (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises; provided that prior to the sale or other disposition thereof, such Obsolete Collateral shall have been replaced by Collateral, subject to the first and prior lien hereof, of at least equal value and utility;

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- (b) If the Mortgagor is a trustee, then if any beneficiary of the Mortgagor shall create, effect, contract for, commit to or consent to, or shall suffer or permit, any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of such beneficiary's beneficial interest in the Mortgagor;
- (c) If the Mortgagor is a corporation, or if any corporation is a beneficiary of a trustee mortgagor, then if any shareholder of such corporation shall create, effect, contract for, commit to or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage security interest or other encumbrance or alienation of any such shareholder's shares in such corporation; provided that if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "Over The Counter" market, then this Section 17(c) shall be inapplicable;
- (d) If the Mortgagor is a partnership, joint venture or limited liability company, or if any beneficiary of a trustee Mortgagor is a partnership, joint venture or limited liability company, then if any general partner, joint venturer or member in such partnership, joint venture or limited liability company shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any part of the partnership interest, joint venture interest or membership interest, as the case may be, of such partner, joint venturer or member; or
- (e) If there shall be any change in control (by way of transfers of stock ownership, partnership interests or otherwise) in any general partner which directly or indirectly controls or is a general partner of a partnership or joint venture beneficiary as described in Subsection 17(a) above;

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided that provisions of this Section 17 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon the Premises, or such beneficial interest in, share of stock of or partnership or joint venture interest in the Mortgagor or any beneficiary of a Trustee Mortgagor; and provided further that no consent by Mortgagee to, or any waiver of, any event or condition which would otherwise constitute an Event of Default under this Section 17, shall constitute a consent to or a waiver of any other or subsequent such event or condition or a waiver of any right, remedy or power of Mortgagee consequent thereon.

18. **Permitted Transfers.** The provisions of Section 17 hereof shall not apply to any of the following:

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- (a) Liens securing the Indebtedness Hereby Secured.
- (b) The lien of current real estate taxes and assessments not in default.
- (c) Transfers of the Premises, or part thereof, or interest therein or any beneficial interests, shares of stock, or partnership, joint venture or membership interests, as the case may be, in the Mortgagor, or any beneficiary of a Trustee Mortgagor by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives and/or committee, provided that ownership of the Mortgagor and management of the Premises does not change and that such death or incompetency does not result in the dissolution of the Mortgagor.
- (d) Transfers required by law (but specifically excepting transfers as a result of foreclosure sale or bankruptcy or insolvency proceedings);
- (e) Transfers of partnership interests of Mortgagor (i) by and among limited partners or (ii) between limited partners and general partners or (iii) to (A) such partner's respective spouse, parents or lineal descendants or (B) a trust established for the benefit of such partner's spouse, parent or lineal descendant, provided that after any transfer set forth in (i), (ii) or (iii) above, JFMC remains as general partner of the Mortgagor maintaining not less than fifty-one percent (51%) interest (measured by both percentage of capital and allocation of profits) in the Mortgagor.
- (f) Transfers of the Premises to (i) Jewish Federation of Metropolitan Chicago, an Illinois not-for-profit corporation ("Federation"), (ii) JFMC or (iii) any affiliate of Federation. For purposes of this subsection, "affiliate" shall mean any corporation or other entity which, directly or indirectly, controls or is controlled by or is under common control with Mortgagor. For this purpose, "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation or entity, whether through the ownership of voting securities or by contract or otherwise.
- (g) a Second Loan (as hereinafter defined) closing at any time after July 1, 2000, provided that at the time of closing of the Second Loan:
 - (i) the quotient obtained by dividing at the time of the closing of the Second Loan (A) the Annual Net Operating Income (as hereinafter defined) by (B) the then aggregate annual payments of principal and interest payable under the Note and the note evidencing the Second Loan (the "Second Note"), shall exceed 1.25. As used herein, "Annual Net Operating Income" shall equal (a) base rental

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due under the Master Lease for the twelve (12) month period immediately preceding the month of the opening of the Second Loan (if tenant under Master Lease is in default, rental thereunder shall not be included when calculating income) less (b) projected operating expenses (excluding principal and interest payments under the Note and the Second Note and amounts expended for depreciation and capital improvements) paid by Mortgagor as provided in the Master Lease for said immediately following twelve (12) month period. All of the foregoing shall be determined by Mortgagee (and approved by Mortgagor) based upon the rent roll and operating statements for the Premises delivered to Mortgagee by Mortgagor in accordance with Section 16 of this Mortgage;

- (ii) the aggregate outstanding balance of principal under the Note and the Second Note (as if all were fully disbursed without holdback) shall not, at any time any Second Loan is in effect, exceed seventy five percent (75%) of the then current fair market value of the Premises as determined by Mortgagee in its sole discretion and at Mortgagor's expense;
- (iii) the lender under the Second Loan is a substantial and reputable financial institution and not an individual;
- (iv) Mortgagee and Mortgagor shall enter into an agreement, in form and content satisfactory to Mortgagee, whereby the Loan Documents shall be amended to provide that any default under the Second Loan Documents (as hereinafter defined) shall be a default under the Loan Documents;
- (v) no default or Event of Default shall have occurred and be then continuing at the time of the closing of any Second Loan;
- (vi) the Second Loan shall be expressly subject and subordinate in all respects to this Mortgage and other instruments given to secure the payment of the Indebtedness Hereby Secured and the lender under the Second Loan shall execute and deliver Mortgagee's standard form of Subordination Agreement;
- (vii) all instruments evidencing and securing such Second Loan (the "Second Loan Documents") shall be in form and content reasonably satisfactory to Mortgagee in all respects;

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- (viii) the lender under the Second Loan shall specifically agree in the aforesaid Subordination Agreement that it will not take any action (including the naming of any lessee as defendant in any foreclosure action) which could result in the termination or cancellation of any of the leases of the Premises;
- (ix) Mortgagor shall pay to Mortgagee all attorneys' fees and costs incurred by Mortgagee in connection with the Second Loan, including but without limitation the preparation and negotiation of the aforesaid Subordination Agreement, review and approval of the Second Loan Document and aforesaid revisions to Loan Documents; and
- (x) Mortgagor shall pay a review and processing fee in the amount of \$2,500.00 to Mortgagee and a review and processing fee in the amount of \$2,500.00 to Mortgagee's then existing loan servicing agent.

As a condition precedent to Mortgagee's consent to any transfer not otherwise permitted by this Section 18 hereunder ("Requested Transfer"), which consent may be withheld in Mortgagee's sole and absolute discretion, Mortgagor shall pay to Mortgagee concurrently with Mortgagor's written request for said consent an assumption fee of one and one-half percent (1½%). If Mortgagee withholds its consent to such Requested Transfer, all fees shall be returned to the Mortgagor, less a \$2,500.00 processing fee.

With respect to any transfer provided for in subsections 18(c)-(f) or if Mortgagee consents to a Requested Transfer, immediately upon closing of such transfer, Mortgagor shall provide Mortgagee with each of the following, to the extent required by Mortgagee: (a) a copy of the deed or other instrument or document conveying title to the Premises, (b) an Assumption Agreement in form and substance satisfactory to Mortgagee and its counsel, assuming all of the obligations and liabilities of Mortgagor under the Loan Documents (subject to any exculpation provisions), (c) an agreement in form and content satisfactory to Mortgagee and its counsel substantially similar to that certain Indemnity Agreement from Mortgagor and JFMC delivered to Mortgagee in connection with the Loan, (d) a new Mortgagee's Policy of Title Insurance subject only to those matters approved by Mortgagee at the time of the initial funding of the Loan, and the lien of general taxes not due and payable, insuring the continued priority of the lien of the Mortgage, and (e) any other documents that Mortgagee or its counsel shall require to protect Mortgagee's right, title and interest in and to the Loan Documents and in all or any part of the Premises. Mortgagor shall pay to Mortgagee all reasonable attorney's fees and costs incurred by Mortgagee in connection with any such transfer (including, but not limited to, the preparation and/or approving of documentation thereafter and Mortgagee's title charges).

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Notwithstanding the foregoing, subsequent to a transfer, Mortgagee should not be estopped or shall not have waived any right, remedy or power of Mortgagee to withhold its consent on a subsequent occasion to a transaction not otherwise permitted by the provisions of this Section 18.

19. **Uniform Commercial Code.** This Mortgage constitutes a Security Agreement under the Uniform Commercial Code of the State in which the Premises is located (herein called the "Code") with respect to any part of the Premises which may or might now or hereafter be or be deemed to be personal property, fixtures or property other than real estate as set forth in Exhibit C attached hereto and incorporated by this reference (all herein called "Collateral"); all of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises, and the following provisions of this Section 19 shall not limit the generality or applicability of any other provision of this Mortgage, but shall be in addition thereto:

- (a) The Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof;
- (b) The Collateral is to be used by the Mortgagor solely for business purposes, being installed upon the Premises for Mortgagor's own use or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Premises;
- (c) The Collateral will be kept at the Real Estate and will not be removed therefrom without the consent of the Mortgagee (being the Secured Party as that term is used in the Code) by Mortgagor or any other person; and the Collateral may be affixed to the Real Estate but will not be affixed to any other real estate;
- (d) The only persons having any interest in the Premises are the Mortgagor, Mortgagee and persons occupying the Premises as tenants only;
- (e) No Financing Statement covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and Mortgagor will at its own cost and expense, upon demand, furnish to the Mortgagee such further information and will execute and deliver to the Mortgagee such financing statement and other documents in form satisfactory to the Mortgagee, and will do all such acts and things as the Mortgagee may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness Hereby Secured, subject to no adverse liens or encumbrances; and the Mortgagor will pay the cost of filing the same or filing or recording such financing statements or other documents, and this instrument, in all public offices whenever filing or recording is deemed by the Mortgagee to be necessary or desirable;

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- (f) Upon the occurrence of any Event of Default hereunder (regardless of whether the Code has been enacted in the jurisdiction where rights or remedies are asserted) and at any time thereafter (such Event of Default not having previously been cured), the Mortgagee at its option may declare the Indebtedness Hereby Secured immediately due and payable, all as more fully set forth in Section 20 hereof, and thereupon Mortgagee shall have the remedies of a secured party under the Code, including without limitation the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as the Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code);
- (g) The Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral, subject to the Mortgagor's right of redemption, if any, in satisfaction of the Mortgagor's obligations as provided in the Code; provided that (i) the Mortgagee without removal may render the Collateral unusable and dispose of the Collateral on the Premises, and (ii) the Mortgagee may require the Mortgagor to assemble the Collateral and make it available to the Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties;
- (h) The Mortgagee will give Mortgagor at least five (5) days' notice of the time and place of any public sale thereof 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 mail or equivalent, postage prepaid, to the address of the Mortgagor determined as provided in Section 42 hereof, at least five (5) days before the time of the sale or disposition;
- (i) The Mortgagee may buy at any public sale, and if the Collateral is a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee may buy at any private sale, and any such sale may be held as part of and in conjunction with any foreclosure sale of the Real Estate comprised within the Premises, the Collateral and Real Estate to be sold as one lot if Mortgagee so elects;
- (j) The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like, and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied in satisfaction of the Indebtedness Hereby Secured; and the Mortgagee will account to the Mortgagor for any surplus realized on such disposition;

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- (k) The remedies of the Mortgagee hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other remedies of the Mortgagee, including having the Collateral deemed part of the realty upon any foreclosure thereof, so long as any part of the Indebtedness Hereby Secured remains unsatisfied; and
- (l) The terms and provisions contained in this Section 19 shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

20. **Events of Default.** If one or more of the following events (herein called "Events of Default") shall occur:

- (a) If default is made in the payment of the Note or any installment thereof, either principal or interest, within five (5) days from the date the same is due and payable, or if default is made in the making of any payment of any other monies required to be made hereunder or under the Note, and any applicable period of grace specified in the Note shall have elapsed; or
- (b) If an Event of Default pursuant to Section 17 hereof shall occur and be continuing without notice or grace of any kind; or
- (c) If default is made in the maintenance and delivery to Mortgagee of insurance required to be maintained and delivered hereunder, without notice or grace of any kind; or
- (d) If (and for the purpose of this Section 20(d) only), the term Mortgagor shall mean and include not only Mortgagor but any beneficiary of a Trustee Mortgagor and each person who, as guarantor, co-maker or otherwise shall be or become liable for or obligated upon all or any part of the Indebtedness Hereby Secured or any of the covenants or agreements contained herein:
 - (i) The Mortgagor shall file a petition in voluntary bankruptcy under the Bankruptcy Code of the United States or any similar law, state or federal, now or hereafter in effect, or
 - (ii) The Mortgagor shall file an answer admitting insolvency or inability to pay its debts, or
 - (iii) Within sixty (60) days after the filing against Mortgagor of any involuntary proceedings under such Bankruptcy Code or similar law, such proceedings shall not have been vacated or stayed, or

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- (iv) The Mortgagor shall be adjudicated a bankrupt, or a trustee or receiver shall be appointed for the Mortgagor or for all or the major part of the Mortgagor's property, or the Premises, in any involuntary proceeding, or any court shall have taken jurisdiction of all or the major part of the Mortgagor's property or the Premises in any involuntary proceeding for the protection, reorganization, dissolution, liquidation or winding up of the Mortgagor, and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within sixty (60) days, or
- (v) The Mortgagor shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its property, or the Premises; or
- (e) If any default shall exist under the provisions of Section 26 hereof, or under the Assignment referred to therein or under any of the other Loan Documents; or
- (f) If any representation made by or on behalf of Mortgagor in connection with the Indebtedness Hereby Secured shall prove untrue in any material respect; or
- (g) If default shall continue for 30 days after notice thereof by Mortgagee to Mortgagor in the due and punctual performance or observance of any other agreement or condition herein or in the Note contained; provided that if such default is not susceptible of cure within such 30-day period, such 30-day period shall be extended to the extent necessary to permit such cure if, but only if, (i) Mortgagor shall commence such cure within such 30-day period and shall thereafter prosecute such cure to completion, diligently and without delay, and (ii) no other Event of Default shall occur; or
- (h) If the Premises shall be abandoned;

then the Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of the Mortgagee hereunder, to declare, without further notice all Indebtedness Hereby Secured to be immediately due and payable, whether or not such default is thereafter remedied by the Mortgagor, and the Mortgagee may immediately proceed to foreclose this Mortgage and/or exercise any right, power or remedy provided by this Mortgage, the Note, the Assignment or any of the other Loan Documents or by law or in equity conferred.

21. **Foreclosure.** When the Indebtedness Hereby Secured, or any part thereof, shall become due, whether by acceleration or otherwise, the Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and:

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- (a) In any suit or proceeding to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale, all expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title, as the Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Premises; and
- (b) All expenditures and expenses of the nature in this Section mentioned, and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by the Mortgagee in any litigation or proceedings affecting this Mortgage, the Note or the Premises or the rights of Mortgagee hereunder or as to which Mortgagee may be made a party by virtue of its interest in the Premises pursuant to this Mortgage or otherwise, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall constitute so much additional Indebtedness Hereby Secured, and shall be immediately due and payable by the Mortgagor, with interest thereon at the Default Rate.

22. **Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority. First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Section 21 hereof. Second, all other items which, under the terms hereof, constitute Indebtedness Hereby Secured additional to that evidenced by the Note, with interest on such items as herein provided. Third, to interest remaining unpaid upon the Note; Fourth, to the principal remaining unpaid upon the Note; and lastly, any overplus to the Mortgagor, and its successors or assigns, as their rights may appear.

23. **Receiver.** Mortgagor consents and agrees that:

- (a) Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises;
- (b) Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of the Mortgagor at the time of application for such receiver, and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and the

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Mortgagee hereunder, or any holder of the Note, may be appointed as such receiver;

- (c) Such receiver shall have the power to collect the Rents during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when the Mortgagor, except for the intervention of such receiver, would be entitled to collection of such Rents and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period;
- (d) The court may, from time to time, authorize the receiver to apply the net income from the Premises in his hands in payment in whole or in part of:
 - (i) The Indebtedness Hereby Secured or the indebtedness secured by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or such decree, provided such application is made prior to the foreclosure sale: or
 - (ii) The deficiency in case of a sale and deficiency.

24. **Insurance Upon Foreclosure.** In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in Restoring the Improvements, as aforesaid, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct; and:

- (a) In the case of foreclosure of this Mortgage, the court, in its decree, may provide that the Mortgagee's clause attached to each of the casualty insurance policies may be canceled and that the purchaser at foreclosure sale may cause a new loss clause to be attached to each of said casualty insurance policies making the loss thereunder payable to said purchaser and any such foreclosure decree may further provide that in case of a redemption under said decree as provided by statute, such redepton may cause the preceding loss clause attached to each casualty insurance policy to be canceled and a new loss clause to be attached thereto, making the loss thereunder payable to such redepton; and
- (b) In the event of foreclosure sale, the Mortgagee is hereby authorized, without the consent of the Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as the Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies.

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25. **Waiver.** The Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatever claim or take any 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 the benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

- (a) The Mortgagor hereby expressly waives any and all rights of redemption from sale, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15 - 1601 or other applicable law or replacement statutes;
- (b) The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise granted or delegated to the Mortgagee but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and
- (c) If the Mortgagor is a trustee, Mortgagor represents that the provisions of this Section (including the waiver of redemption rights) were made at the express direction of Mortgagor's beneficiaries and the persons having the power of direction over Mortgagor, and are made on behalf of the Trust Estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other persons mentioned above.

26. **Assignment.** As further security for the Indebtedness Hereby Secured, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee a separate instrument (herein called the "Assignment") dated as of the date hereof, wherein and whereby, among other things, the Mortgagor has assigned to the Mortgagee all of the rents, issues and profits, and/or any and all Leases and/or the rights of management of the Premises, all as therein more specifically set forth, which said Assignment is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length; and in connection with the foregoing:

- (a) The Mortgagor agrees that it will duly perform and observe all of the terms and provisions on its part to be performed and observed under the Assignment;

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- (b) The Mortgagor agrees that it will duly perform and observe all of the terms and provisions on lessor's part to be performed and observed under any and all Leases to the end that no default on the part of lessor shall exist thereunder; and
- (c) Nothing herein contained shall be deemed to obligate the Mortgagee to perform or discharge any obligation, duty or liability of lessor under any Lease, and the Mortgagor shall and does hereby indemnify and agree to defend and hold the Mortgagee harmless of and from any and all liability, loss or damage which the Mortgagee may or might incur under any Lease or by reason of the Assignment; and any and all such liability, loss or damage incurred by the Mortgagee, together with the costs and expenses, including reasonable attorneys' fees, incurred by the Mortgagee in the defense (including preparation for defense) of any claims or demands therefor (whether successful or not), shall be so much additional indebtedness Hereby Secured, and the Mortgagor shall reimburse the Mortgagee therefor on demand, together with interest thereon at the Default Rate from the date of demand to the date of payment.

27. **Priorities With Respect to Leases.** If the Mortgagee shall execute and record (or register) in the public office wherein this Mortgage was recorded (or registered) a unilateral declaration that this Mortgage shall be subject and subordinate, in whole or in part, to any Lease, then upon such recordation (or registration), this Mortgage shall become subject and subordinate to such Lease to the extent set forth in such instrument; provided that such subordination shall not extend to or affect the priority of entitlement to insurance proceeds or any Award unless such instrument shall specifically so provide.

28. **Mortgagee in Possession.** Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises by the Mortgagee.

29. **Business Loan.** Mortgagor represents and agrees that the loan evidenced by the Note and secured hereby is a business loan within the purview of Illinois Compiled Statutes 815 ILCS 205/4 (or any substitute, amended, or replacement statutes) and is transacted solely for the purpose of carrying on or acquiring the business of the Mortgagor or, if the Mortgagor is a trustee; for the purpose of carrying on or acquiring the business of the beneficiaries of the Mortgagor as contemplated by said Section.

30. **Intentionally deleted.**

31. **Contests.** Notwithstanding anything to the contrary herein contained, Mortgagor shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Premises or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Premises (all herein called

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"Contested Liens"), and no Contested Lien shall constitute an Event of Default hereunder, if, but only if:

- (a) Mortgagor shall forthwith give notice of any Contested Lien to Mortgagee at the time the same shall be asserted;
- (b) Mortgagor shall deposit with Mortgagee the full amount (herein called the "Lien Amount") of such Contested Lien or which may be secured thereby, together with such amount as Mortgagee may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment Mortgagor may furnish to Mortgagee a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to Mortgagee;
- (c) Mortgagor shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit Mortgagee to be represented in any such contest; Mortgagor shall pay all expenses incurred by Mortgagee, in so doing, including fees and expenses of Mortgagee's counsel (all of which shall constitute so much additional Indebtedness Hereby Secured bearing interest at the Default Rate until paid, and payable upon demand);
- (d) Mortgagor shall pay such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to Mortgagor, or (ii) forthwith upon demand by Mortgagee if, in the opinion of Mortgagee, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if Mortgagor shall fail so to do, Mortgagee may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Mortgagee to obtain the release and discharge of such liens; and any amount expended by Mortgagee in so doing shall be so much additional Indebtedness Hereby Secured bearing interest at the Default Rate until paid, and payable upon demand; and provided further that mortgagee may in such case use and apply for the purpose monies deposited as provided in Subsection 31(b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

32. **Indemnification.** Mortgagor does hereby covenant and agree that:

- (a) Mortgagee shall have no responsibility for the control, care, management or repair of the Premises and shall not be responsible or liable for any negligence (other than its own gross negligence or that of its agents, employees or contractors after Mortgagee obtains possession or control of the Premises) in the

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management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, immediate stranger or other person;

- (b) In the absence of the gross negligence or willful misconduct, no liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers hereby granted to the Mortgagee; and Mortgagor hereby expressly waives and releases any such liability;
- (c) Mortgagor shall and does hereby indemnify and hold Mortgagee harmless from any liability, loss or damage which Mortgagee may or might incur by reason of (i) exercise by Mortgagee of any right hereunder, and (ii) any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any violation of, or liability under any Environmental Regulation (other than to the extent due to an act or omission of Mortgagee or its agent or contractor after obtaining possession or control of the Premises) or of any alleged obligation or undertaking on Mortgagee's part to perform or discharge any of the terms, covenants or agreements contained herein or in any instrument evidencing, securing or relating to the Indebtedness Hereby Secured or in any contracts, agreements or other instruments relating to or affecting the Premises; any and all such liability, loss or damage incurred by the Mortgagee, together with the costs and expenses, including reasonable attorneys' fees incurred by Mortgagee in the defense (including preparation for defense) of any claims or demands therefor (whether successful or not) shall be so much additional Indebtedness Hereby Secured, and the Mortgagor shall reimburse the Mortgagee therefor on demand, together with interest thereon at the Default Rate from the date of demand to the date of payment.

33. **Mortgagor Not a Joint Venturer or Partner.** Mortgagor and Mortgagee acknowledge and agree that in no event shall Mortgagee be deemed to be a partner or joint venturer with Mortgagor or any beneficiary of Mortgagor; and without limiting the foregoing, Mortgagee shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document evidencing or securing any of the Indebtedness Hereby Secured, or otherwise.

34. **Subrogation.** To the extent that Mortgagee, on or after the date hereof, pays any sum due under or secured by any Senior Lien as hereinafter defined, or Mortgagor or any other person pays any such sum with the proceeds of the Indebtedness Hereby Secured:

- (a) Mortgagee shall have and be entitled to a lien on the Premises equal in priority to the Senior Lien discharged, and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such Senior Lien, which shall remain in existence and benefit Mortgagee in securing the Indebtedness Hereby Secured; and

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- (b) Notwithstanding the release of record of Senior Liens (as hereinafter defined) Mortgagee shall be subrogated to the rights and liens of all mortgages, trust deeds, superior titles, vendors' liens, mechanics' liens, or liens, charges, encumbrances, rights and equities on the Premises having priority to the lien of this Mortgage (herein generally called "Senior Liens"), to the extent that any obligation secured thereby is directly or indirectly paid or discharged with proceeds of disbursements or advances of the Indebtedness Hereby Secured, whether made pursuant to the provisions hereof or of the Note or any document or instrument executed in connection with the Indebtedness Hereby Secured.

35. **Title In Mortgagor's Successors.** In the event that the ownership of the Premises or any part thereof becomes vested in a person or persons other than the Mortgagor (a) the Mortgagee may, without notice to the Mortgagor, deal with such successor or successors in interest of the Mortgagor with reference to this Mortgage and the Indebtedness Hereby Secured in the same manner as with the Mortgagor; and (b) the Mortgagor will give immediate written notice to the Mortgagee of any conveyance, transfer or change of ownership of the Premises; but nothing in this Section 35 contained shall vary or negate the provisions of Section 17 hereof.

36. **Rights Cumulative.** Each right, power and remedy herein conferred upon the Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of the Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

37. **Successors and Assigns.** This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon the Mortgagor and its successors and assigns (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein) and shall inure to the benefit of the Mortgagee and its successors and assigns and (a) wherever herein the Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note, whether so expressed or not; and (b) each such from time to time holder of the Note shall have and enjoy all of the rights, privileges, powers, options, benefits and security afforded hereby and hereunder, and may enforce every and all of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such from time to time holder was herein by name specifically granted such rights, privileges, powers, options, benefits and security and was herein by name designated the Mortgagee.

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38. **Provisions Severable.** The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

39. **Waiver of Defense.** No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Note.

40. **Captions and Pronouns.** The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof, and whenever the context requires or permits, the singular number shall include the plural, the plural shall include the singular and the masculine, feminine and neuter genders shall be freely interchangeable.

41. **Commitment.** Mortgagor represents and agrees that the Indebtedness Hereby Secured represented by the Note represents the proceeds of a loan made and to be made by Mortgagee to Mortgagor pursuant to Commitment dated April 11, 1997, as amended by letter dated April 17, 1997 (herein, together, with any Application for Loan referred to therein, being called the "Commitment"); and in connection herewith:

- (a) The Commitment is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length;
- (b) If the Commitment runs to any person other than Mortgagor, Mortgagor hereby adopts and ratifies the Commitment and the Application referred to therein as its own act and agreement;
- (c) Mortgagor hereby covenants and agrees to duly and punctually do and perform and observe all of the terms, provisions, covenants and agreements to be done, performed or observed by the Mortgagor (or Borrower) pursuant to the Commitment (and the Application forming a part thereof) and further represents that all of the representations and statements of or on behalf of Mortgagor (or borrower) in the Commitment (and the Application forming a part thereof) and in any documents and certificates delivered pursuant thereto are true and correct.

42. **Addresses and Notices.** Any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the personal delivery thereof or electronic, facsimile transmission thereof, or the passage of three days after the mailing thereof by registered or certified mail, return receipt requested, or upon the next business day after timely and proper deposit, charges paid, with any overnight carrier with respect to next day service, to the addresses initially specified in the introductory paragraph hereof, or to such other

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place or places as any party hereto may by notice in writing designate, shall constitute service of notice hereunder.

43. **Compliance with Laws.** Mortgagor covenants and agrees at all times to cause the Mortgaged Property to comply with all federal, state, local and municipal laws, statutes, ordinances, rules and regulations.

44. **Interest at the Default Rate.** Without limiting the generality of any provision herein or in the Note contained, from and after the occurrence of any Event of Default hereunder, all of the Indebtedness Hereby Secured shall bear interest at the Default Rate until cured.

45. **Time.** Time is of the essence hereof and of the Note, Assignment, Construction Loan Agreement and all other instruments or Loan Documents delivered in connection with the Indebtedness Hereby Secured.

46. **Applicable Law.** This Document shall be construed in accordance with the laws of the State in which the Premises are located.

47. **Exculpation.** This Mortgage is executed by the Mortgagor, and is payable only out of the property specifically described in this Mortgage, by the enforcement of the provisions contained in the Loan Documents and out of any other property, security or guaranties given for the indebtedness evidenced by the Note, and accordingly:

(a) No personal liability shall be asserted or be enforceable against the Mortgagor personally or against its successors or assigns because of or in respect of the Note or this Mortgage, all such liability, if any, being expressly waived by each taker and holder of the Note;

(b) In case of default in the payment of the Note, or this Mortgage, the sole remedies of the Mortgagee shall be (i) foreclosure of this Mortgage in accordance with the terms and provisions in this Mortgage, (ii) sale of the Collateral as provided in this Mortgage, (iii) enforcement of the Assignment and other Loan Documents, (iii) enforcement or realization upon any other property and security given for such indebtedness, and/or (iv) enforcement of any obligation or liabilities of Mortgagor, the shareholder(s), partner(s) or beneficiary or beneficiaries of Mortgagor or other party, as the case may be, under any separate agreement (including without limitation the certain Indemnity Agreement of even date herewith from Mortgagor and JFMC);

(c) Nothing herein contained shall be deemed a waiver by any Mortgagee of any right which such Mortgagee may have pursuant to Sections 506(a), 506(b), 1111(b) or any other provision of the Bankruptcy Code of the United States to file a claim for the full amount of the Indebtedness Hereby Secured or to require that all collateral or

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security for the Indebtedness Hereby Secured shall continue to secure the entire amount of the Indebtedness Hereby Secured in accordance with the Loan Documents;

(d) Nothing herein contained shall limit the right of the Mortgagee to name Mortgagor as a party defendant in any action or suit judicial foreclosure and sale under this Mortgage so long as no judgment in the nature of the deficiency judgment shall be enforced against Mortgagor except to the extent of the Premises or such other Collateral or shall affect or impair the liability or obligation or any guarantor, co-maker or other person who by separate instrument (including without limitation that certain Indemnity Agreement of even date herewith from Mortgagor and JFMC) shall be or become liable upon or obligated for any of the Indebtedness Hereby Secured or any of the covenants or agreements contained in the Loan Documents.

IN WITNESS WHEREOF, Mortgagor has caused these presents to be signed, all as of the day, month and year first above written.

**255 REVERE DRIVE LIMITED
PARTNERSHIP**, an Illinois limited
partnership

By: **JFMC Facilities Corporation**, an
Illinois not-for-profit corporation, its
sole general partner

By: Richard Gordon Rae
Name: Richard Gordon Rae
Its: Executive Director

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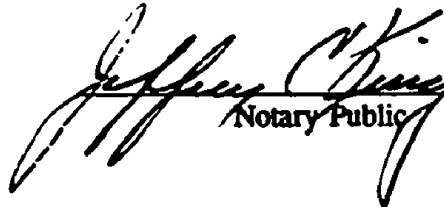
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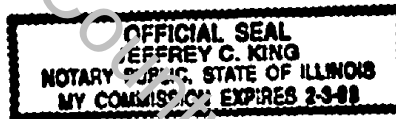
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Jeffrey C. King a Notary Public in and for said County in the State aforesaid. DO HEREBY CERTIFY that Richard G. Katz, Exec. Dir. of JFMC Facilities Corporation, an Illinois not-for-profit corporation, the general partner of 255 REVERE DRIVE LIMITED PARTNERSHIP, an Illinois limited partnership ("Partnership"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Exec. Dir. appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, on behalf of the Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of June, 1997.


Notary Public

My Commission Expires: _____



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EXHIBIT A

PROMISSORY NOTE

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REVERE DRIVE

AMENDED AND RESTATED PROMISSORY NOTE (ILLINOIS FORM)

\$1,300,000

Date: June __, 1997

1. **Definitions.** For the purposes hereof, the following terms shall have the following meanings:

(a) "**Borrower**" shall mean 255 Revere Drive Limited Partnership, an Illinois limited partnership, formerly known as Rosenheim Limited Partnership, and shall include its successors and assigns.

(b) "**Holder**" shall mean Canada Life Insurance Company of America and each successive owner and holder of this Note.

(c) "**Amortization Commencement Date**" shall mean August 1, 1997.

(d) "**Loan Amount**" shall mean \$1,300,000.

(e) "**Regular Rate**" shall mean an annual rate of interest of eight and six hundred twenty-five thousandths percent (8.625%).

(f) "**Default Rate**" shall mean an annual interest rate equal to the Regular Rate plus three percent (3%).

(g) "**Premises**" shall mean certain real property and improvements thereon located in and more fully described in the Mortgage hereinafter referred to.

(h) "**Maturity Date**" shall mean July 1, 2022.

(i) "**Governing State**" shall mean Illinois.

(j) "**Monthly Amortizing Payment**" shall mean Ten Thousand Five Hundred Seventy Seven and 69/100 Dollars (\$10,577.69).

and other terms herein defined shall have the meanings as so defined.

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2. Agreement to Pay.

(a) National Boulevard Bank of Chicago made a loan ("Original Loan") to National Boulevard Bank of Chicago, as trustee under Trust Agreement dated December 20, 1978 and known as Trust No. 6187, which Original Loan is evidenced by that certain Note dated September 24, 1979 ("Original Note"), and secured by among other things that certain Mortgage dated September 24, 1979 ("Original Mortgage") and recorded September 24, 1979 with the Recorder of Deeds of Cook County, Illinois ("Recorder") as Document No. 25159725 and Assignment of Leases and Rents dated March 13, 1980 ("Original Assignment of Rents") and recorded on March 14, 1980 with the Recorder as Document No. 25392426.

(b) The Original Note, Original Mortgage, Original Assignment of Rents and other documents evidencing and securing the Original Loan (collectively, "Original Loan Documents") were (a) assigned to Massachusetts Mutual Life Insurance Company ("Massachusetts") pursuant to that certain Assignment of Note and Mortgage dated March 13, 1980 and recorded on March 14, 1980 with the Recorder as Document No. 25391059 and (b) amended pursuant to Mortgage and Note Modification Agreement dated June 26, 1981 and Loan Modification Agreement No. 2 dated February 1, 1994.

(c) Borrower is the owner of the Premises (as hereinafter defined) subject to the Original Loan Documents.

(d) Holder has purchased the Original Note, Original Mortgage, Original Assignment of Rents and all of the other Original Loan Documents from Massachusetts pursuant to that certain Assignment and Acceptance of Loan Documents of even date herewith between Massachusetts and Holder.

(e) On even date herewith, Holder and Borrower amend, restate and replace in their entirety the Original Loan Documents with, among other things, this Note, the Mortgage (as hereinafter defined) and the Assignment (as hereinafter defined).

(f) **FOR VALUE RECEIVED**, The Borrower hereby promises to pay to the order of the Holder, in the manner provided for herein and in the Mortgage hereinafter referred to, a principal sum equal to the Loan Amount, together with interest upon the balance of principal remaining from time to time unpaid at the rates provided for in Sections 3 and 5 hereof.

3. **Interest Rate Prior to Default.** Outstanding principal balances hereof prior to default or maturity shall bear interest at the Regular Rate, in each case calculated daily on the basis of a 360-day year for each day all or any part of the principal balance hereof shall remain outstanding.

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4. Late Charge. Without limiting the provisions of Section 5 hereof, in the event any installment of interest and/or principal and interest is not paid on the due date thereof, the Borrower promises to pay a late charge of FOUR PERCENT (4%) of the amount due, to defray the expenses incident to handling any such delayed payment or payments.

5. Default Rate. In the event that there shall occur any default specified in Sections 10(a) and/or 10(b) hereof, then and in any such event the entire principal balance hereof and all indebtedness secured by the Mortgage shall thereafter bear interest at the Default Rate until such time as the default or Event of Default has been cured; and interest at the Default Rate as provided for in this Section shall be immediately due and payable to Holder and shall constitute additional indebtedness evidenced by this Note and secured by the Loan Documents.

6. Monthly Payments. Principal and interest on this Note shall be paid in installments (herein generally called "Monthly Payments") as follows:

(a) On the first day of the month next following the date hereof, and on the first day of each and every month thereafter to and including the first day of the month preceding the Amortization Commencement Date, interest only at the Regular Rate shall be paid on the outstanding principal balance hereof;

(b) On the Amortization Commencement Date, and on the first day of each and every month thereafter to and including the first day of the month preceding the Maturity Date there shall be paid on account of principal and interest hereon at the Regular Rate the Monthly Amortizing Payment;

(c) In all events, the entire principal balance hereof, together with all accrued and unpaid interest thereon, shall be due and payable on the Maturity Date.

7. Application of Payments. All payments on account of the indebtedness evidenced hereby shall be applied as follows:

(a) First, to amounts payable to the Holder pursuant to or secured by the Mortgage or other Loan Documents, other than principal and interest upon this Note;

(b) Second, to Late Charges payable pursuant to Section 4 hereof;

(c) Third, to interest on the unpaid principal balance hereof at the applicable rate specified in Sections 3 and 5 hereof; and

(d) The remainder shall be applied to principal;

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provided that from and after the occurrence of a default as specified in Sections 10(a) and/or 10(b) hereof, the Holder shall have the right, and shall be authorized, to apply payments made hereunder against any or all amounts payable hereunder or under the Mortgage or any of the Loan Documents, in such order or manner as the Holder may in its sole discretion elect. Funds paid hereunder shall be deemed received on the next business day if not received by 2:00 p.m. local time at the location where payments hereunder are to be made.

8. Method and Place of Payment. Payments upon this Note shall be made:

(a) In lawful money of the United States of America which shall be legal tender for public and private debts at the time of payment and in immediately available funds; and

(b) At such place as the Holder may from time to time in writing appoint, provided that in the absence of such appointment, all payments hereon shall be made to the Holder at the offices of Mid-North Financial Services, Inc., Suite 202, 205 West Wacker Drive, Chicago, Illinois 60606.

9. Security. This Note is the Note referred to in and secured by:

(a) A Mortgage (herein called the "Mortgage") from Borrower, as mortgagor, to the Holder, as mortgagee, bearing even date herewith, encumbering the Premises; and

(b) An Assignment of Rents and Leases (herein called the "Assignment") bearing even date herewith, made by Borrower, as assignor, to the Holder, as assignee, assigning to the Holder all of the rents, issues and profits of and from the Premises and the leases thereof;

(this Note, the Mortgage, the Assignment and any commitment letter of credit agreements, escrow agreement and other agreements in effect with respect to the indebtedness evidenced hereby and other instruments governing, securing or guaranteeing the indebtedness evidenced hereby or now or hereafter delivered to the Holder in connection therewith, being herein generally called the "Loan Documents"); and reference is hereby made to the Loan Documents, which are hereby incorporated herein by this reference as fully and with the same effect as if set forth herein at length, for a description of the Premises, a statement of the covenants and agreements of the Borrower, as mortgagor and assignor, a statement of the rights, remedies and security afforded thereby, and all other matters therein contained.

10. Default and Acceleration. At the election of the Holder and without notice, the outstanding principal balance hereof, together with accrued interest thereon, shall be and become at once due and payable at the place herein provided for payment:

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(a) In the case default shall occur in the payment of principal or interest within five (5) days from the date such payment is due in accordance with the terms and provisions hereof; or

(b) Upon the occurrence of any Event of Default (as such term is defined in the Mortgage) under the Mortgage or the occurrence of any Event of Default under any of the other Loan Documents;

whereupon the Holder may proceed to foreclose the Mortgage, to exercise any other rights and remedies available to the Holder under any of the Loan Documents and to exercise any other rights and remedies against Borrower or the Premises or with respect to this Note or the other Loan Documents which the Holder may have at law, in equity or otherwise.

11. Prepayment Privilege. Prepayment of the indebtedness evidenced hereby, other than Monthly Payments allocable to principal, may be made only in accordance with the provisions and conditions of this Section 11 and not otherwise:

(a) So long as no default or Event of Default shall have occurred and be then continuing, prepayment of the principal amount hereof in whole or in part may be made at any time out of proceeds of casualty insurance or out of awards consequent upon taking of the Premises by condemnation or conveyances in lieu thereof, as provided for in Sections 7 and 8 of the Mortgage. Any prepayments made pursuant to this Section 11(a) shall be made without Premium (as hereinafter defined).

(b) In addition to prepayments permitted pursuant to Section 11(a) hereof (and the Holder shall not be obligated to accept partial prepayments except as may be made pursuant to Section 11(a) hereof), the indebtedness evidenced hereby may be prepaid in whole (but not in part) at the times specified in Section 11(d) below, upon payment of the entire outstanding principal balance hereof, plus accrued interest thereon and all other sums payable pursuant to or secured by the Mortgage, plus a Premium calculated in accordance with the provisions of Section 11(c) below.

(c) The premium (herein called the "Premium") to be paid in connection with a prepayment hereof pursuant to Section 11(b) above shall be an amount which shall be the greater of: (i) one percent (1%) of the then outstanding indebtedness evidenced hereby at the Prepayment Date; or (ii) an amount which, together with the Prepayment, can be invested on the Prepayment Date at the Adjusted Current Yield to produce (a) payments on the first day of each month of the Remaining Term (except the first month) equal to the Monthly Amortizing Payment and (b) a payment on the Maturity Date equal to the unpaid principal due on the Maturity Date (assuming all Monthly Amortizing Payments due prior to the Maturity Date are made when due).

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Definitions

"Prepayment Date" means the date fixed for prepayment as such date is specified in the Prepayment Notice (as hereinafter defined).

"Prepayment" means the amount of principal repaid on the Prepayment Date.

"Current Yield" means the yield to maturity percentage for the United States Treasury Bond or Note closest in maturity to the Maturity Date (herein "Treasury Security") as published in the Wall Street Journal on the fifth (5th) business day preceding the Prepayment Date; provided that if (A) publication of the Wall Street Journal or the Current Yield of Treasury Securities in the Wall Street Journal is discontinued, the Holder shall, in its sole discretion, designate in lieu thereof some other financial or governmental publication of national circulation containing such information, and/or (B) if there is more than one Treasury Security with such a maturity date, the selection of the Treasury Security to be used in connection with the calculations provided for herein shall be in the sole discretion of the Holder.

"Adjusted Current Yield" means the Current Yield adjusted to reflect the difference in timing of semi-annual payments of interest on the Treasury Security and monthly payments under the Note.

"Remaining Term" means the number of days from and including the Prepayment Date to and including the Maturity Date.

[Monthly Amortizing Payment and Maturity Date are defined in other provisions of the Note]

(d) Any prepayment made hereon pursuant to Section 11(b) above may be made only upon sixty (60) days prior written notice to the Holder hereof at the place where payments hereon are then payable, of intention to make the prepayment.

(e) Any prepayment made during the last one hundred twenty (120) days of the term hereof may be made without Premium or penalty.

(f) No partial payment made hereon, whether pursuant to the provisions hereof or accepted by the Holder as a matter of grace, shall operate to defer or reduce the Monthly Payments provided for in Section 6 hereof, and each and every such Monthly Payment shall be paid in full when due until all indebtedness evidenced hereby or secured by the Mortgage shall have been paid in full.

(g) The Borrower expressly agrees that: (i) the Premium provided for herein is reasonable; (ii) the Premium shall be payable notwithstanding the then prevailing

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market interest rates existing at the time prepayment is made; (iii) there has been a course of conduct between the Holder and the Borrower giving specific consideration in this loan transaction for such agreement to pay the Premium; and (iv) the Borrower shall be estopped hereafter from claiming differently than as agreed to in this Section. The Borrower expressly acknowledges that its agreement to pay the Premium to the Holder as herein described is a material inducement to the Holder to enter into this Note.

12. Induced or Other Default. If upon the occurrence of any default specified in Sections 10(a) and/or 10(b) hereof, including, without limitation, a default under Section 17 of the Mortgage respecting a Prohibited Transfer (as defined in the Mortgage) and following the acceleration of the maturity hereof as herein provided, a tender of payment of the amount necessary to satisfy the indebtedness evidenced hereby is made by Borrower, its successors or assigns, or by anyone on its or their behalf, or the purchaser at a foreclosure sale, or the Holder if the Holder bids at such sale, such tender shall constitute an evasion of the prepayment terms hereof and shall be deemed to be a voluntary prepayment hereunder, and any such prepayment, to the extent permitted by law, will therefore be subject to and include the prepayment premium specified in Section 11 hereof, if prepayment is then permitted pursuant to Section 11 hereof, and such premium shall constitute liquidated damages payable to the Holder on account of the Borrower's breach of its agreements hereunder and Borrower's evasion of the prepayment provisions hereof and the Holder's loss of bargain; provided that Borrower hereby recognizes that any prepayment will result in loss and damage to the Holder through the occurrence of additional administrative expenses and possible frustration in meeting its other financial commitments and Borrower acknowledges that Holder's damages for such a default will be extremely difficult and impractical to ascertain and therefore agrees that the foregoing premium is a reasonable estimate of said loss and damage to Holder. The Borrower expressly waives the provisions of any present or future statute or law which prohibits or may prohibit the collection of said premium in connection with any such acceleration.

13. Business Loan. Borrower represents that the indebtedness evidenced hereby is a business loan within the purview and intent of the Illinois Interest Act (815 ILCS 205/4), transacted solely for the purpose of owning and operating the business of the Borrower or the beneficiary of the Borrower as contemplated by said Act.

14. Costs of Enforcement. In the event that (a) this Note is placed in the hands of an attorney-at-law for collection after maturity or upon default or to enforce any of the rights, requirements or remedies contained herein or in the other Loan Documents, or (b) proceedings at law, in equity, or bankruptcy, receivership or other legal proceedings are instituted or threatened in connection herewith or in connection with the Premises or any of the Holder's rights or interests, or (c) the Holder is made or is threatened with being made a party to any such proceeding, then and in any such event the Borrower hereby agrees to pay within five (5) days after demand all reasonable costs of collecting or attempting to collect this Note, or protecting or enforcing such rights, or evaluating, prosecuting or defending any such

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proceedings, including, without limitation, reasonable attorneys' fees (whether or not suit is brought), in addition to all principal, interest and other amounts payable hereunder; all of which shall be secured by the Loan Documents.

15. Notices. All notices required or permitted to be given hereunder to the Borrower shall be given in the manner and to the place provided in the Mortgage for notices to Mortgagor.

16. Time. Time is of the essence of this Note and each of the provisions hereof and of the Mortgage, Assignment and other Loan Documents.

17. No Usury. It is the intent of the Borrower and the Holder to comply with the laws of the Governing State with regard to the rate of interest charged hereunder, and accordingly, notwithstanding any provision to the contrary in this Note, the Mortgage, or any of the Loan Documents, no such provision in any such instrument, including without limitation any provision of this Note providing for the payment of interest or other charges and any provision of the Loan Documents providing for the payment of interest, fees, costs or other charges, shall require the payment or permit the collection of any amount (herein called "Excess Interest") in excess of the maximum amount of interest permitted by law to be charged for the use, detention, or forbearance in the collection, of all or any portion of the indebtedness evidenced by this Note; provided that if any Excess Interest is provided for, or is adjudicated as being provided for, in this Note, the Mortgage or any of the Loan Documents, then in such event:

- (a) The provisions of this Section shall govern and control;
- (b) Borrower shall not be obligated to pay any Excess Interest;
- (c) Any Excess Interest that the Holder may have received hereunder shall, at the option of the Holder be (i) applied as a credit against the then outstanding principal balance due under this Note, or accrued and unpaid interest thereon, not to exceed the maximum amount permitted by law, or both, (ii) refunded to the payor thereof, or (iii) any combination of the foregoing;
- (d) The applicable interest rate or rates shall be automatically subject to reduction to the maximum lawful rate allowed to be contracted for in writing under the applicable usury laws of the Governing State as at the date of disbursement of the indebtedness evidenced hereby; and this Note and all other Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in such interest rate or rates; and
- (e) Neither the Borrower nor any other person shall have any action or remedy against the Holder for any damages whatsoever or any defense to enforcement

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of any of the Loan Documents arising out of the payment or collection of any Excess Interest.

18. Disbursement. Funds representing the proceeds hereof, which are disbursed by any Holder by mail, wire transfer or other delivery to the Borrower or to escrows or otherwise for the benefit of the Borrower, shall for all purposes be deemed outstanding hereunder and to have been received by the Borrower as of the date of such mailing, wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such wire transfer, mailing or delivery and until repaid, notwithstanding the fact that such funds may not at any time have been received by the Borrower or applied for its benefit.

19. Waivers. The Borrower, each endorser, surety or guarantor hereof, and any and all others who are now or may become liable for all or part of the obligations of the Borrower under this Note or any of the Loan Documents (all of the foregoing being herein collectively called "Obligors") agree to be jointly and severally bound hereby and jointly and severally, to the fullest extent permitted by law:

(a) Waive and renounce any and all redemption and exemption rights and the benefit of all valuation and appraisal privileges against the indebtedness evidenced by this Note or by any extension or renewal hereof;

(b) Waive all notices in connection with the delivery and acceptance hereof and all other notices in connection with the performance, default or enforcement of the payment hereof or hereunder;

(c) Waive any and all demand, presentment for payment, notice of non-payment, protest and notice of protest, notice of dishonor and all lack of diligence and delays in the enforcement of the payment hereof;

(d) Agree that the liability of each or any Obligor shall be unconditional and without regard to the liability of any other person or entity for the payment hereof, and shall not in any manner be affected by any indulgence or forbearance granted or consented to by the Holder to any of them with respect hereto;

(e) Consent to any and all extensions of time, renewals, waivers, or modifications that may be granted by the Holder with respect to the payment or other provisions hereof, and to the release of any security at any time given for the payment hereof, or any part thereof, with or without substitution, and to the release of any person or entity liable for the payment hereof; and

(f) Consent to the addition of any and all other makers, endorsers, guarantors and other Obligors for the payment hereof, and to the acceptance of any and all other

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security for the payment hereof, and agree that the addition of any such Obligors or security shall not affect the liability of any of the Obligors for the payment hereof.

20. Holder's Actions. The remedies of the Holder as provided herein or in any of the Loan Documents shall be cumulative and concurrent, and may be pursued singularly, successively or together, at the sole discretion of the Holder, and may be exercised as often as occasion therefor shall arise; and in connection therewith:

(a) Failure of the Holder, for any period of time or on more than one occasion, to exercise its option to accelerate the Maturity Date of this Note shall not constitute a waiver of the right to exercise the same at any time thereafter or in the event of any subsequent default;

(b) No act of omission or commission of the Holder, including specifically and without limitation any failure to exercise any right, remedy or recourse, shall be deemed to be a waiver or release of the same and any such waiver or release may be effected only through a written document executed by the Holder and then only to the extent specifically recited therein;

(c) A waiver or release with reference to any one event shall not be construed as a waiver or release of any subsequent event, similar or dissimilar, or as a bar to any subsequent exercise of the Holder's rights or remedies hereunder; and

(d) Except as otherwise specifically required herein, no notice to the Borrower or any other person of the exercise of any right or remedy granted to the Holder by this Note shall be required.

21. Severability. The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions hereof unenforceable or invalid.

22. Captions. The captions to the Sections of this Note are for convenience only and shall not be deemed part of the text of the respective Sections and shall not vary, by implication or otherwise, any of the provisions of this Note.

23. Governing Law. This Note shall be governed by the laws of the Governing State.

24. Exculpation. This Note is executed by the Borrower and is payable only out of the property specifically described in the Mortgage, by the enforcement of the provisions contained in the Loan Documents and out of any other property, security or guaranties given for the indebtedness evidenced hereby; and accordingly:

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(a) No personal liability shall be asserted or be enforceable against the Borrower personally or against its successors or assigns because of or in respect of this Note, or the making, issue or transfer thereof, all such liability, if any, being expressly waived by each taker and Holder;

(b) In case of default in the payment of this Note, or any installment thereof, the sole remedies of the Holder shall be (i) foreclosure of the Mortgage in accordance with the terms and provisions in the Mortgage set forth, (ii) enforcement of the Assignment and other Loan Documents, (iii) enforcement of or realization upon any other property and security given for such indebtedness, and/or (iv) enforcement of any obligation or liabilities of the Borrower or any other party under any separate agreement (including, without limitation, under that certain Indemnity Agreement of even date herewith (the "Indemnity Agreement") from Borrower and JFMC Facilities Corporation, an Illinois not-for-profit corporation);

(c) Nothing herein contained shall be deemed a waiver by any Holder of any right which such Holder may have pursuant to Sections 506(a), 506(b), and 1111 (b) or any other provision of the Bankruptcy Code of the United States to file a claim for the full amount of the indebtedness evidenced hereby or to require that all collateral or security for the indebtedness evidenced hereby shall continue to secure the entire amount of the indebtedness evidenced hereby in accordance with the Loan Documents;

(d) Nothing herein contained shall affect or impair the liability or obligation of any guarantor, co-maker or other person who by separate instrument shall be or become liable upon or obligated for any of the indebtedness evidenced hereby or any of the covenants or agreements contained in the Loan Documents (including, without limitation, under the Indemnity Agreement).

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