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. COOK COUNTY RECORDER

97-0526

## MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT

Dated as of July 9, 1997

given by

**CHARTER NATIONAL BANK AND TRUST**  
as Mortgagor

for the benefit of

**NORTHWEST PARTNERS LIMITED PARTNERSHIP**  
an Illinois limited partnership  
as Beneficiary

to and in favor of

**ASSOCIATED BANK,**  
an Illinois banking corporation,  
as Mortgagee

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Recording of this instrument is requested.

This instrument contains 41 pages.

This instrument was prepared by and

is to be returned after recording to:

Bradley D. Kaplan, Esq.  
MASUDA, FUNAI, EIFERT & MITCHELL, LTD.  
One East Wacker Drive  
Suite 320

Chicago, Illinois 60601-1802  
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THIS INSTRUMENT SECURES PRESENT AND FUTURE INDEBTEDNESS IN THE ORIGINAL PRINCIPAL AMOUNT OF ONE MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 U.S. DOLLARS (U.S. \$1,250,000.00) TOGETHER WITH INTEREST THEREON AND COSTS, ALL AS SET FORTH IN THIS INSTRUMENT.

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT, dated as of July 9, 1997, is given by CHARTER NATIONAL BANK AND TRUST, not personally but as Trustee under Trust Agreement, dated May 30, 1997, and known as Trust Number 1672 (the "Mortgagor"), for the benefit of NORTHWEST PARTNERS LIMITED PARTNERSHIP (the "Beneficiary") and NORTHWEST SIGN CO., an Illinois general partnership (the "Ground Lessee"), to and in favor of ASSOCIATED BANK, an Illinois banking corporation (the "Mortgagee").

## WITNESSETH:

WHEREAS, the Mortgagee has made a loan in the original principal amount of One Million Two Hundred Fifty Thousand and No/100 Dollars (\$1,250,000.00) (the "Loan") to enable the Mortgagor and Beneficiary purchase the Land (as defined in Exhibit 1 hereto) and the residual interest in the signs (as defined in Exhibit 1 hereto) and the Mortgagor agreed, inter alia, to repay the Loan in accordance with the terms of the Note (as hereinafter defined) and the Loan Documents (as hereinafter defined), together with interest thereupon and costs related thereto all as provided in the Note and this Mortgage; and

WHEREAS, the Loan is evidenced by a promissory note, dated July 9, 1997 (the "Note"); and

WHEREAS, it is a condition precedent to the Loan that the Mortgagor execute and deliver this Mortgage and cause the same to be recorded and placed of public record with the appropriate governmental authorities; and

WHEREAS, it is also a condition precedent to the Loan that the Beneficiary and the Ground Lessee are joined and bound to this Mortgage by duly executing the Joinder attached hereto and made a part hereof; and

WHEREAS, to secure payment of all Indebtedness (as hereinafter defined) owed by the Mortgagor to the Mortgagee whether owed as of the date hereof or any time after the date hereof, and performance and observance of and compliance with the terms, conditions, covenants and provisions of this Mortgage and the Loan Documents (as hereinafter defined), the Mortgagor has executed and delivered and shall cause this Mortgage to be recorded and placed of public record with the appropriate governmental authorities against the Property (as hereinafter defined).

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged by the Mortgagor, the Mortgagor hereby MORTGAGES, GRANTS, BARGAINS, CONVEYS, RELEASES, ALIENATES and WARRANTS with general warranties and full covenants of title to the Mortgagee, with power of sale, under and pursuant to the terms and conditions hereinafter set forth, all of the rights, titles, interests, estates, powers and privileges that the Mortgagor has as of the date hereof or may acquire or come to have after the date hereof in and to the Property. To the extent permitted by and subject to law, this Mortgage shall attach, without further action, to any and all rights, titles, interests, estates, powers and privileges of the Mortgagor in and to property acquired by the Mortgagor after the date hereof.

IT IS MUTUALLY AGREED, that all of the Property (as hereinafter defined) shall so far as permitted by law be deemed to form a part of and be parcel to the Land (as hereinafter defined) and for purposes of this Mortgage to be real property and real estate covered by this Mortgage. As to such of the property aforesaid which is not or cannot be deemed to be real property or real estate, this Mortgage is hereby deemed to be a security agreement under the provisions of the Uniform Commercial Code as adopted by and in effect in the State in which such property is located for the purposes of creating and granting a security interest in said property, which security interest is hereby granted by the Mortgagor, as debtor, to the Mortgagee, as secured party, as further security for the Indebtedness and as is more fully set forth in Section 11 hereof. The Mortgagee shall have all of the rights, powers, remedies and recourses of a secured party under the laws of such State, including without limitation, the

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right to the possession of any of such property, or any part thereof and the right to enter with or without legal process any place where any such property may be found. Any requirement of applicable law for reasonable notification shall be satisfied by giving notice to the Mortgagor, at least ten (10) days prior to the sale or other event for which such notice is required. The expense of taking, selling or otherwise disposing of such property, including attorneys' fees and any other fees and expenses incurred in connection therewith shall constitute so much additional indebtedness secured hereby.

**AS ADDITIONAL COLLATERAL AND SECURITY** for the Indebtedness, the Mortgagor does further hereby transfer, hypothecate, pledge and assign to the Mortgagee from and after the date hereof all of the Mortgagor's rights, titles, interests, estates, powers and privileges: (I) in, under and to all and singular of all Leases; and (ii) in and to all and singular of the Rents (as hereinafter defined) under any and all Leases (as hereinafter defined).

**SUBJECT, HOWEVER,** only to the Permitted Encumbrances (as hereinafter defined). Except for Permitted Encumbrances, the Encumbrance (as hereinafter defined) created and imposed by this Mortgage shall be of first priority, prior and superior to all other Encumbrances.

**TO HAVE AND TO HOLD** the Property and all of the Mortgagor's rights, titles, interests, estates, powers and privileges in and to the Property unto the Mortgagee forever for the uses and purposes herein set forth, including for the purposes of securing and collateralizing:

1. payment of the Indebtedness; and
2. performance and observance of and compliance with all of the terms, conditions, covenants and provisions of this Mortgage and the Loan Documents.

**TO PROTECT THE SECURITY AND COLLATERAL PROVIDED BY THIS MORTGAGE, THE MORTGAGOR HEREBY FURTHER AGREES AS FOLLOWS:**

## 1. DEFINITIONS; INTERPRETATIONS.

1.1 **Definitions.** Except as otherwise expressly provided herein or unless the context hereof otherwise requires, all of the terms defined in the Preamble, Recitals, Granting Clauses and Exhibits (hereinafter defined) in this Mortgage shall have the same meanings herein. The following terms shall have the respective meanings specified in this Section.

"BENEFICIARY"	NORTHWEST PARTNERS LIMITED PARTNERSHIP, an Illinois limited partnership, is the beneficiary of Mortgagor, a Land trust validly existing in accordance with Illinois laws;
"CERCLA"	the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§9601 <u>et. seq.</u> ;
"Default Rate"	at any date, that rate of interest per annum equal to the total of: (I) the Prime Rate, as such rate from time to time is announced by the Mortgagee as the Mortgagee's prime rate for the Mortgagee's U.S. Dollar denominated commercial loans, which rate may not be the lowest or the best rate of interest charged by the Mortgagee; and (ii) two percent (2%) per annum;
"Dollar(s), "\$" and "U.S. \$"	lawful currency of the United States of America which is legal tender for the payment of public and private debts in the United States of America;

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- "Duties" all liabilities, obligations, indebtedness, responsibilities and duties;
- "Encumbrance" any mortgage, deed of trust, trust deed, lien, charge, hypothecation, security interest, pledge, collateral assignment or transfer, Lease, easement, covenant, restriction, exception to title, defect in title, right of way, condemnation, attachment or seizure, estate, action or cause of action, reversion, future interest, chose in action, lis pendens, tax, redemption right, right of first refusal or offer, option, sale or purchase contract or any other legal, contractual or equitable right, title, interest, estate, power or privilege in, to or against the Property or any interest therein or arising therefrom; excluding contracts of sale or purchase permitted pursuant to Section 14.1 hereof;
- "Environmental Laws" all laws, relating to, regulating or imposing liability or standards of conduct in connection with public and worker health and safety, protection and clean-up of the environment (both indoor and outdoor) or Hazardous, Material (as hereinafter defined), including CERCLA, the Hazardous Materials Transportation Act (49 U.S.C. §§1802 et. seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§6901 et. seq.) and the United States Department of Transportation Table (49 C.F.R. §172.101), all as amended, reenacted or in effect from time to time;
- "Event of Default" any one of the events, conditions, occurrences, circumstances, acts or omissions specified in Section 9;
- "Guaranties" the Guaranties, dated as of July 8, 1997, made by each of the Guarantors in favor of the Mortgagee with respect to the obligations of the Mortgagor under the Note and the other Loan Documents;
- "Guarantors" George M. Moser, an individual; George A. Moser, an individual; and Douglas C. Altenberger, an individual;
- "Hazardous Material" any "hazardous substance", "Hazardous Waste", "Pollutant" or "Contaminant" as defined by any Environmental Laws, including any substance designated pursuant to the Clean Water Act (33 U.S.C. §1321), any element, compound, mixture, solution or substance designated pursuant to CERCLA, any hazardous waste having the characteristics identified under or listed pursuant to the Solid Waste Disposal Act (42 U.S.C. §6921), any toxic pollutant or combination of pollutants listed under the Clean Water Act (33 U.S.C. §1317), any hazardous air pollutant listed under the Clean Air Act (42 U.S.C. §7412), or any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action pursuant to the Toxic Substances Control Act (15 U.S.C. §2606), and any petroleum or hydrocarbon product or by-product, any material containing asbestos, urea formaldehyde, radon or polychlorinated biphenyls, or any medical waste or medical hazardous waste, or any hazardous, dangerous, corrosive, radioactive, pesticidal, carcinogenic or toxic chemical, material, waste or substance;
- "Impositions" all taxes and duties of any and every kind whatsoever, general or special, ordinary or extra-ordinary, which may be imposed on or against the Property, the Mortgagor, this Mortgage, the Loan Documents, the Indebtedness or the Mortgagee by reason of or as holder of any of the foregoing, and premiums for the insurance required hereby;
- "Improvements" all of the improvements set forth in Exhibit 1;
- "Indebtedness" all of the obligations, indebtedness, duties and liabilities owed by the Mortgagor to the Mortgagee whether owed as of the date hereof or any time hereafter, including as arises

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from, is related to or caused by this Mortgage or the Loan Documents, all as may be from time to time renewed, amended, novated, continued, modified or extended;

- "Land" the parcel of Land, the description of which is set forth in Exhibit 1;
- "law" common or customary law and any constitution, decree, finding, opinion, judgment, legislation, code, order, ordinance, regulation, rule, statute, treaty or other legislative, administrative, judicial or regulatory measure, in each case, of any jurisdiction whatever, amended or reenacted from time to time, including any Environmental Law;
- "Leases" all leases set forth on Exhibit 3 hereto and hereby incorporated by reference, including but not limited to, any present and future, written and oral leases, subleases, tenancies, subtenancies, licenses, reservations, dispositions and other arrangements relative to the possession, control, operation, use occupancy or transfer of any interest less than fee or freehold in and to all or any portion of the Property and all modifications, amendments, riders and supplements thereto and guaranties, extensions or renewals thereof;
- "Loan Documents" the Note, this Mortgage, the Guaranties, the Environmental Indemnity Agreement and any other agreement, document or instrument evidencing or securing the Indebtedness, as each may from time to time be amended, modified or supplemented;
- "Mortgage" this mortgage, as the same may hereafter be amended, revised or supplemented;
- "net proceeds" with respect to any insurance or condemnation, taking or eminent domain award, the gross proceeds from any such insurance or condemnation award remaining after payment of and deduction for all expenses (including attorneys' and other fees, costs and other expenses) of the Mortgagee incurred in the collection of such gross proceeds;
- "notice" any notice, request, acceptance, approval, acknowledgment, waiver, estoppel, disclosure, advice, consent, assumption, direction, instruction, statement, demand or other communication;
- "Permitted Encumbrances" the Encumbrances set forth on Exhibit 2;
- "Person" any natural person or any recognized form of business organization, enterprise or entity;
- "Potential Event of Default" any event, act or condition which, with notice or lapse of time, or both, would constitute an Event of Default and, with respect to any other material lease, contract or commitment to which the Mortgagor is a party or by which the Property is bound, an event of default under such lease, contract or commitment;
- "Property" all of the property described in Exhibit 1 including the Land and Improvements;
- "Public Record" the official, public Land title/ownership records wherein ownership of the Property and any Encumbrance is and must be memorialized to give notice of such ownership and Encumbrance to third persons;
- "Rents" any rents, avails, income, reimbursements, reservations, franchises, issues, profits, revenues, royalties, bonuses, rights, fees, charges and benefits due, payable, accrued or accruing (including all deposits of property or funds as or for advance or final rent, security or damages);

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- "tax" any tax, levy, impost, assessment, fee, dues, duty or other charge (including any penalty or interest payable in connection with any late payment of the same) of any kind whatsoever, general or special, ordinary or extra-ordinary, which may be imposed on or against the Property, the Mortgagor, this Mortgage, the Loan Documents, the Indebtedness or the Mortgagee by reason of or as holder of any of the foregoing; and
- "Trustee" CHARTER NATIONAL BANK AND TRUST, acting as Mortgagor not personally, but as Trustee under a Land trust agreement for the benefit of Beneficiary;

## 1.2 Interpretation. In this Mortgage, any reference to:

- (i) each of the "Mortgagor" and the "Mortgagee" shall be construed to mean and include the successors and assigns of each;
- (ii) "Section" or "Exhibit" is a reference to a Section hereof and an Exhibit hereto;
- (iii) "written" or "in writing" shall be construed to mean and include any form of written communication, including if transmitted by means of a telecopier device, telegraph or cable;
- (iv) "and" and "or" shall be construed either conjunctively or disjunctively as necessary and wherever appropriate;
- (v) "hereto" "hereunder", "hereof" or "herein" shall be construed to mean this Mortgage;
- (vi) "includes", "including", or similar words shall be construed as if followed by the phrase: ", without limitation,";
- (vii) the singular form of any word used herein shall be interpreted to include the plural and vice versa; and
- (viii) the masculine, feminine or neuter form of any word used herein shall be interpreted to be that necessary for factual and grammatical accuracy.

## 2. REPRESENTATIONS AND WARRANTIES.

All representations and warranties contained herein are deemed and acknowledged by the Mortgagor and the Beneficiary to be materially important and significant to the Mortgagee and will be relied upon by the Mortgagee. The Mortgagor and the Beneficiary hereby represents and warrants as follows:

2.1 Ownership of Property. The Mortgagor is the true and lawful owner of the Property, is well seised of the Property in fee simple absolute, subject only to the Permitted Encumbrances and has the authority, capacity and power to grant, make, enter into, execute and deliver this Mortgage, perform hereunder and carry out the transaction described herein. The Mortgagor and the Beneficiary own all trade fixtures, chattels and articles of personal property now or hereafter affixed, used in connection with the operation of the Property, including substitutions and replacements thereof, free and clear of all Encumbrances other than as created hereby.

2.2 Enforceable Obligation. This Mortgage constitutes a legal, valid and binding obligation of the Mortgagor and the Beneficiary enforceable against the Mortgagor and the properties of the Mortgagor in accordance with the terms hereof. The execution and delivery of this Mortgage constitutes a valid conveyance by the Mortgagor

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and the Beneficiary binding upon the Mortgagor and the Beneficiary and creating an Encumbrance in accordance with the terms hereof.

**2.3 Litigation.** There are no actions or proceedings which are pending or threatened which might materially and adversely affect this Mortgage, the priority or validity of the Encumbrance created hereby or the operation, use and occupancy of the Property in the same manner as the Property is presently being operated, used and occupied.

**2.4 Environmental Matters.**

2.4.1 Neither the Property nor the ground or ground-water there underlying contain or are contaminated by, nor has the Property ever been utilized to emit, release, place, treat, dispose of, discharge, generate or store any Hazardous Material without being in full compliance with Environmental Laws.

2.4.2 The Property does not contain any underground storage tanks, silos, bins or containers, either in or not in use, which for any reason would constitute a violation of Environmental Laws including by reason of the failure to properly register, disclose, check, monitor, report, improve, maintain or remove the same.

2.4.3 There is no pending or threatened litigation or proceeding in which any person alleges (i) the unlawful or tortious presence, release, emission, escape, seepage, leakage, spillage, discharge or placement on or in the Property of any Hazardous Material or the threat or possibility of the same, or (ii) the unlawful or tortious generation, transportation, storage, treatment or disposal to or at the Property of any Hazardous Material.

2.4.4 No governmental authority has determined or threatened to determine that there is an unlawful presence, release, emission, escape, seepage, leakage, spillage, discharge or placement on or in the Property or the threat or possibility of the same, or generation, transportation, storage, treatment or disposal to or at the Property, of any Hazardous Material.

2.4.5 There have been no communications or agreements with any governmental authority or any private person including any prior owner of the Property, relating in any way to (i) the unlawful or tortious presence, release, emission, escape, seepage, leakage, spillage, discharge or placement on or in the Property of any Hazardous Material or the threat or possibility of the same, or (ii) the unlawful or tortious generation, transportation, storage, treatment or disposal to or at the Property of any Hazardous Material.

2.4.6 The Property has never appeared on any federal or state registry of inactive hazardous waste sites.

**2.5 Utilities.** There exists natural gas, electric, potable water, sanitary sewerage, disposal, storm sewerage, telephone and cable utility service to, at and for the Property, including specifically all of the Improvements, over and through public property, easements serving the Property, or the Property, adequate as to the Improvements for the continued operation, use and occupancy of the Improvements in the same manner as the same are presently being operated, used and occupied. The Mortgagor or the Beneficiary has not received notice and does not have any knowledge of any actual or threatened reduction or curtailment of any utility service presently being supplied to the Property.

**2.6 Covenants and Restrictions.** There are no covenants or restrictions affecting the Property not of public record.

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2.7 Zoning. The Property is in compliance and presently zoned in accordance with a zoning classification which will permit the continued operation, use and occupancy of the Property in the same manner as the Property is presently being operated, used and occupied and no proceedings are pending or threatened with respect thereto.

2.8 Taxes. Except as defined as Permitted Encumbrances, there are no taxes which are assessable or chargeable against the Mortgagee or the Beneficiary, this Mortgage or the Property, which are due or payable or which may or shall become due or payable because of existing annexation, public or private maintenance or improvements to or for the Property or in proximity of the Property or the attachment of this Mortgage as an Encumbrance, and which would be superior and prior in interest to this Mortgage and the Encumbrance created hereby.

2.9 Leases and Other Contracts. There exists no default or breach under or with respect to any Lease or contract relating to the Property to which the Mortgagor or the Beneficiary is a party, on the part of the Mortgagor or the Beneficiary or any other party thereto, nor does any Potential Event of Default exist. There exist no Leases not shown on Exhibit 3. Other than this Mortgage, and except as defined as Permitted Encumbrances, there are no operation, management, service, insurance, union, collective bargaining, pension, material, supply, labor, maintenance, cleaning, vending, security, utility, brokerage, listing, advertising, agency, construction, design or other type of contract with respect to the Property, crops growing or planted upon the Property or mineral rights or any right of other Persons to mine or extract minerals or material from the Property, either below or on ground level, not fully performed, paid for and disclosed to the Mortgagee which are or would be superior or prior in interest to this Mortgage and the Encumbrance created hereby.

2.10 Compliance with Laws. No violation of any health, safety, building, zoning, fire, tenant right, Environmental Law or other similar, applicable law exists with respect to the Property. The Property has never been utilized for any purpose, illegal or otherwise, which could result in liabilities being asserted against the Mortgagee.

2.11 Eminent Domain. No eminent domain or condemnation proceeding or undertaking with respect to the Property has been commenced, noticed or threatened by any government, quasi-government, public utility or any other Person having such power.

2.12 Access to Property. There exists full, unrestricted and practical means for and rights of ingress and egress by foot and by vehicle to and from the Property via open, improved and dedicated highways, roads and other rights-of-way abutting the Property, appropriate for the continued operation, use and occupancy of the Property in the same manner as the Property is presently being operated, used and occupied.

2.13 Improvements. All of the Improvements are in good working order and repair without any defects which will prevent the operation, use and occupancy thereof in a normal and expected manner. Each of the Improvements complies with all requirements of applicable law. The Improvements are not infested with termites or similar destructive pests, nor have the Improvements experienced any termite or similar damage that has not been completely repaired.

2.14 Licenses. All appropriate licenses, permits, consents, approvals and certificates which are required from any governmental or quasi-governmental authority having jurisdiction over the Property or from any Person to operate, use or occupy the Property in the same manner as the Property is presently being operated, used and occupied have been issued, have been disclosed to the Mortgagee and are in full force and effect with all fees with respect thereto having been paid. The Mortgagor and the Beneficiary does not have any knowledge of any actual or threatened cancellation or suspension of any license, permit, consent, approval or certificate required for the operation, use or occupancy of the Property in the same manner as the Property is presently being operated, used and occupied.

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**2.15 Absence of Conflicts.** The execution, delivery and performance by the Mortgagor and the Beneficiary of this Mortgage and creation of Encumbrances hereby have been duly authorized by all necessary corporate actions and do not violate any mortgage, agreement, instrument, charter, articles of incorporation, by-laws, partnership agreement, joint venture agreement, credit agreement, financing lease or any other material agreement, instrument or lease to which the Mortgagor or the Beneficiary is a party or by which the Property or any other properties of the Mortgagor may be bound or affected.

**2.16 Encumbrances.**

2.16.1 There exist no Encumbrances not defined as Permitted Encumbrances.

2.16.2 The Property is not encumbered by and is free and clear of and from any and all Encumbrances in favor of the United States of America or the State in which the Property is situated or any agencies, departments, or political subdivisions thereof and any and all security interests which are effectuated pursuant to the Uniform Commercial Code as adopted by the State in which the Property is situated or any other similar law, other than as may be or has been granted by the Mortgagor in accordance with this Mortgage.

2.16.3 The Mortgagor and the Beneficiary have not failed to disclose to the Mortgagee, any facts or circumstances which would give the Mortgagee actual notice or a basis for implied knowledge or put the Mortgagee on a duty of inquiry regarding unrecorded Encumbrances arising earlier in time than the Encumbrance created by this Mortgage.

2.16.4 The Property is free and clear of mechanic liens and claims thereof or rights thereto, either inchoate or consummate.

2.16.5 Any encroachments onto the Property of improvements on other Land are a trespass or private nuisance only and such improvements do not create any adverse or prescriptive rights or interests or claims of title or colorable title in favor of the owner of said improvements, which owner would be required, upon appropriate proceeding by the Mortgagor or the Beneficiary, to remove such improvements from the Property.

**2.17 Financial Condition.**

2.17.1 The Mortgagor and the Beneficiary have not incurred debts beyond the Mortgagor's ability to pay the same as the same become due.

2.17.2 The Mortgagor and the Beneficiary have not insolvent or the Mortgagor's financial condition so unstable as to make the Mortgagor's and the Beneficiary's insolvency imminent or prevent the Mortgagor and the Beneficiary from paying the Mortgagor's and the Beneficiary's liabilities as the same become due.

2.17.3 The Mortgagor and the Beneficiary are not presently nor is the Mortgagor and the Beneficiary about to become engaged in any business or transaction for which the net or unencumbered assets of the Mortgagor and the Beneficiary, after the granting of this Mortgage, are unreasonably small in relation to such business or transaction.

2.17.4 The Mortgagor and the Beneficiary have disclosed to the Mortgagee all of the Mortgagor's and the Beneficiary's creditors and this Mortgage is not made by the Mortgagor and the Beneficiary with any intent to hinder, defraud or frustrate the claims or collections of any of the Mortgagor's and the Beneficiary creditors.

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2.17.5 The Mortgagor and the Beneficiary have not within twelve (12) months immediately preceding the date hereof, removed any of the Mortgagor's and the Beneficiary's assets from the usual location thereof or concealed any of the Mortgagor's assets from any creditor of the Mortgagor and the Beneficiary.

2.18 **Legal Existence.** The Beneficiary is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Illinois and is qualified and permitted to transact and conduct business in the State in which the Property is situated.

The MORTGAGOR is a Trustee under a Trust duly organized validly existing and in good standing under the laws of the State and has complied with all conditions prerequisite to its doing business in the State.

### 3. COVENANTS.

So long as this Mortgage is in effect and until repayment of the Loan and the payment and performance of all of the Indebtedness, the Mortgagor and the Beneficiary shall perform and discharge the following covenants:

3.1 **Title and Encumbrances.** The Mortgagor and the Beneficiary shall:

3.1.1 forever warrant and defend the Mortgagor's fee title absolute ownership of the Property, the Mortgagor's peaceful possession, use and quiet enjoyment of the Property pursuant to said ownership (except with respect to any claim against such ownership or possession, use or quiet enjoyment made by the Mortgagee pursuant to this Mortgage) and the validity and priority of this Mortgage, against all claims of others, including present, contingent and foreseeable creditors of the Mortgagor;

3.1.2 not create or permit there to be created and promptly discharge or cause the discharge of all Encumbrances, except the Encumbrances created hereby, any other Encumbrance for the benefit of or in favor of the Mortgagee, any Encumbrance which is defined as a Permitted Encumbrance, or any Encumbrance the creation of which has been consented to in writing by the Mortgagee;

3.1.3 have the right to contest in good faith any Encumbrance except that created hereby provided that the Mortgagor or the Beneficiary deposits with the Mortgagee a bond or other security in such amount and form satisfactory to the Mortgagee and thereafter diligently proceeds to contest such Encumbrance;

3.1.4 not permit any use of the Property in any manner that might tend, in the Mortgagee's sole judgment, to impair the Mortgagor's title to or ownership of the Property, or to allow any claims to be made against the Property or this Mortgage or the Mortgagee, including money claims or claims for easement by prescription or implied dedication to the public use or the private use of others; and

3.1.5 not challenge or contest, or permit the challenging or contesting on any grounds of this Mortgage and the Encumbrance created hereby.

3.2 **Payment of Indebtedness.** The Mortgagor and the Beneficiary shall:

3.2.1 pay the Indebtedness and all other amounts that may become due hereunder in the manner and at the times set forth herein (including interest on all taxes, Impositions, and disbursements made and costs paid or incurred by the Mortgagee in connection herewith as additional indebtedness secured hereby with interest thereon accruing at the Default Rate from the date on which each such payment is made or cost is incurred by the Mortgagee until the date of repayment thereof by the Mortgagor); and

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3.2.2 duly and punctually perform, observe and comply with all of the terms, conditions, covenants and provisions hereof.

### 3.3 Compliance with Laws. The Mortgagor and the Beneficiary shall:

3.3.1 comply with all laws and private covenants, conditions and restrictions affecting the Property;

3.3.2 obtain and maintain all permits, rights, approvals, certificates, privileges, concessions, franchises, consents and licenses as required by law (including zoning variances, special exceptions and non-conforming and permitted uses) necessary for the occupancy, use and operation of the Property as the same is presently being operated, used and occupied;

3.3.3 not initiate or acquiesce in any zoning change or reclassification of the Property that would affect the legality of the signs or income from the signs without the written consent of the Mortgagee;

3.3.4 not use or permit the use of any part of the Property for any illegal purpose;

3.3.5 (i) use and operate all of its facilities and properties in material compliance with all Environmental Laws, (ii) keep all necessary permits, approvals, certificates, licenses and other authorizations relating to public and worker health and safety and protection of the environment in effect (iii) remain in material compliance therewith, and (iv) handle all Hazardous Materials in material compliance with all applicable Environmental Laws;

3.3.6 (I) immediately notify the Mortgagee (and provide copies to the Mortgagee with respect to written communications upon receipt) of all citations, summons, subpoenas, directives, injunctions, orders, suits, demands, claims, complaints, notices or inquiries relating to (I) the conditions of any facilities and properties owned, leased or operated by the Mortgagor or (II) compliance with Environmental Laws, and (ii) promptly cure and have dismissed with prejudice to the satisfaction of the Mortgagee any judicial, administrative, civil or criminal actions and proceedings against the Mortgagor, or the facilities or properties owned, leased or operated by the Mortgagor relating to compliance with Environmental Laws;

3.3.7 provide such information and certifications which the Mortgagee may reasonably request from time to time to evidence compliance with this Section 3.3;

3.3.8 permit the Mortgagee, at any time, upon reasonable advance notice to the Mortgagor, to inspect the facilities and properties owned, leased or operated by the Mortgagor and the records of the Mortgagor relating thereto in order to confirm compliance by the Mortgagor with the covenants contained in this Section 3.3 and the representations and warranties of the Mortgagor contained in Section 2.4; and, if any of the covenants contained in this Section 3.3 are activated and the Mortgagor is required to comply therewith, the Mortgagee shall have the right to monitor in any manner deemed reasonably appropriate by the Mortgagee, such compliance by the Mortgagor; and

3.3.9 immediately remove and abate, in accordance with all Environmental Laws relating to such removal or abatement, all material containing asbestos, urea, formaldehyde or polychlorinated biphenyls and all Hazardous Materials that might be located on, in, at or under any of the properties and facilities owned, leased or operated by the Mortgagor.

### 3.4 Maintenance of the Property. The Mortgagor and the Beneficiary shall:

3.4.1 not commit or suffer any waste or deterioration of the Property;

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3.4.2 refrain from taking and prevent the taking of any action that would impair or diminish, and take all actions necessary to preserve and protect, the value of the Property or the value, priority or validity of this Mortgage;

3.4.3 not abandon the Property or remove, demolish or substantially alter (except as may be required by law and then only after notice is given to the Mortgagee) any of the Improvements;

3.4.4 keep or cause the keeping of the Property free from any nuisance, in good and neat order and repair and good, safe and insurable condition to a standard consistent with first class properties of a type similar to the Property, ordinary wear and the tear excepted, and make or cause the making from time to time of all necessary or appropriate repairs, renovations, rehabilitations, renewals and replacements thereof; and

3.4.5 complete or cause completion within a reasonable time, of the construction, installation and equipping of the Improvements, now or at any time in the future being erected and pay from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, vendors, suppliers, contractors, architects, engineers and others that if unpaid might result in, or permit the creation of, Encumbrances.

3.5 Notice to Mortgagee. The Mortgagor and the Beneficiary shall promptly notify the Mortgagee of:

3.5.1 any damage to or destruction of the Property;

3.5.2 any notice from any governmental authority alleging violation by the Mortgagor or the Beneficiary or by or upon the Property of any law or any other event or condition which might adversely affect, impair, or reduce the integrity of the Property or the intended use or value thereof;

3.5.3 any taking or attempted taking (by eminent domain, condemnation or otherwise) of the Property or any threat of or any pending or threatened proceeding for such taking or attempted taking;

3.5.4 any Event of Default and any Potential Event of Default; and

3.5.5 any other fact, condition, circumstance or occurrence which may have a material effect or impact upon the Mortgagor, the Beneficiary, the Mortgagee, the Property or this Mortgage.

3.6 Legal Existence. The Beneficiary shall take all actions necessary or proper to maintain and preserve and keep in good standing the Beneficiary's organizational existence and qualification to transact or conduct business in the State in which the Property is situated.

3.7 Utilities. The Beneficiary shall timely pay in full for all utility services provided to or for the benefit of the Property including gas, electricity, telecommunications, sanitary and storm sewerage, potable water and cable signal.

3.8 Books and Records. The Beneficiary shall keep and maintain full, complete and accurate records showing in detail the income and expenses of and relating to the Property and hold and make such books and records and all supporting documentation and data therefor, available for examination by the Mortgagee or the Mortgagee's agents, representatives, attorneys or accountants at any time and from time to time upon the request of the Mortgagee, at the offices of the Mortgagee or at such other location as may be agreed upon between the Mortgagee and the Beneficiary.

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3.9 **Estoppel Letter.** The Mortgagor shall furnish from time to time within fifteen (15) days after the Mortgagee's request, a statement, made under oath and duly acknowledged, of the amount of the Indebtedness, whether any alleged set-offs or defenses exist against collection of the Indebtedness or enforcement of this Mortgage, whether any Events of Default exist or have occurred, whether this Mortgage has been amended, revised or supplemented and such other facts, statements or affirmations as the Mortgagee may so request.

3.10 **Subordination and Attornment.** The Mortgagor shall procure, deliver and record, to the satisfaction of and as directed by the Mortgagee at any time, an agreement of subordination and attornment in favor of the Mortgagee and this Mortgage and any Person succeeding the Mortgagor through foreclosure of this Mortgage and sale of the Property pursuant thereto or by deed in lieu of foreclosure, of any and all Encumbrances.

3.11 **Documentation.** The Mortgagee shall:

3.11.1 enter into, execute, attest, caused to be witnessed or acknowledged and deliver all and every further act, deed, agreement, conveyance, transfer, instrument, document and assurance necessary or advisable, in the sole judgment of the Mortgagee, to better assure and confirm unto the Mortgagee the mortgaging of the Property in accordance herewith, whether now owned by the Mortgagor or hereafter acquired, and accomplishing the purposes hereof;

3.11.2 cause this Mortgage and any and all other agreements, instruments and documents which the Mortgagee shall request, including Uniform Commercial Code financing statements and continuation statements thereof, to at all times be properly filed or recorded and placed of public record in and with such jurisdictions, authorities and offices as may be required by law to preserve and protect the rights and the priority of the claim of the Mortgagee hereunder, all at the Mortgagor's own cost and expense; and

3.11.3 upon request of the Mortgagee, promptly correct any defect, error or omission which may be discovered in the contents hereof or in the execution, attestation, witnessing, acknowledgment, delivery, filing or recording hereof.

3.12 **Stamps.** The Mortgagor shall, if the government of the United States or the State in which the Property is situated or any department, agency, bureau, subdivision or department thereof (including local political or governmental authorities) at any time require documentary, mortgage, transfer, intangible personal property or like stamps to be affixed to this Mortgage or impose any tax upon the Mortgage, the recording of this Mortgage, the enforcement of this Mortgage or the Mortgagee, pay for and purchase such stamps and pay such tax in the required amount and deliver such stamps and/or evidence of the payment of such tax to the Mortgagee, and further indemnify the Mortgagee against liability on account of such stamps or tax, regardless of whether such liability arises before or after full release of this Mortgage as to the whole of the Property.

3.13 **Inspection by Mortgagee.** The Mortgagor shall permit the Mortgagee or the Mortgagee's agents, attorneys or employees to enter and inspect, with or without notice to the Mortgagor, the Property and the records of the Mortgagor relating thereto in order to confirm compliance by the Mortgagor with the covenants and representations and warranties contained herein, on any day which the Property is generally open for business or staffed for the purpose of inspecting the Property and performing any act which the Mortgagee is authorized to perform hereunder. In the event of a condition which the Mortgagee deems to be of an emergency nature, the Mortgagee shall be permitted immediate access to the Property regardless of whether the same is generally open for business or staffed.

3.14 **Other Debts.** The Mortgagor or the Beneficiary shall not incur debts beyond the Mortgagor's ability to pay such debts as the same become due.

3.15 **Environmental Matters.** The Mortgagor shall:

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3.15.1 operate, use and occupy the Property and all other facilities and properties of the Mortgagor in compliance with Environmental Laws;

3.15.2 obtain and keep all necessary permits, approvals, certificates, licenses and other authorizations in compliance with Environmental Laws;

3.15.3 handle all Hazardous Material in compliance with Environmental Laws;

3.15.4 immediately notify the Mortgagee (and provide copies to the Mortgagee with respect to written communications upon receipt by the Mortgagor thereof) of all citations, summons, subpoenas, directives, injunctions, orders, suits, demands, claims, complaints, notices or inquires relating to the condition of the Property or any other facilities and properties owned, leased or operated by the Mortgagor or relating to compliance with Environmental Laws;

3.15.5 promptly cure and have dismissed with prejudice to the satisfaction of the Mortgagee any judicial, administrative, civil or criminal actions and proceedings against the Mortgagee, the Property, or any other facilities or properties owned, leased or operated by the Mortgagor relating to compliance with Environmental Laws;

3.15.6 immediately remove and abate, in accordance with Environmental Laws relating to such removal or abatement, all Hazardous Material and any underground storage tanks, silos, bins or containers that might be located on or in the Property and other property or facility owned, leased or operated by the Mortgagor; and

3.15.7 provide such information and certifications which the Mortgagee may reasonably request from time to time to evidence compliance herewith.

## 4. IMPOSITIONS.

4.1 **Payment of Impositions.** The Mortgagor shall pay or cause to be paid all Impositions, at least ten (10) days prior to the due date therefor and before the delinquency thereof or any fine, penalty or interest accrues or attaches thereto.

4.2 **Receipts.** The Mortgagor shall deliver to the Mortgagee within ten (10) days after the date on which payment of any Imposition is due and payable, official receipts from the appropriate payee or recipient of the payment of such Imposition, or other proofs satisfactory to the Mortgagee, evidencing the payment of such Imposition.

4.3 **Contest.** The Mortgagor may, prior to the time payment of any Imposition is due in accordance herewith, contest, challenge, appeal or object to any Imposition, by appropriate proceedings properly instituted and prosecuted in such manner as shall either be completed prior to the time payment of such Imposition is required hereby or which stays the collection of such Imposition and prevents any sale or forfeiture of the Property to collect such Imposition or assertion against the Property, the Mortgagor or the Mortgagee of any fine, penalty, interest, or cost arising from the nonpayment of such Imposition. Anything herein contained to the contrary notwithstanding, in the event any contest, challenge, appeal or objection is undertaken in accordance herewith by the Mortgagor with respect to any Imposition, at the sole discretion of the Mortgagee, the Mortgagee may at any time request the Mortgagor to establish a reserve, adequate in the Mortgagee's sole discretion for the payment of any such Imposition, together with all interest, penalties, fines, or costs arising from the nonpayment thereof, which would be due upon any adverse determination of any such contest, challenge, appeal or objection or to pay such Imposition in full under protest in the manner and to the extent provided by law.

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## 5. PERFORMANCE OR PAYMENT BY MORTGAGEE.

5.1 **Rights of Mortgagee.** If the Mortgagor or the Beneficiary shall fail to perform any covenants herein contained, the Mortgagee may, with or without notice to the Mortgagor, but need not: (i) make any payment or perform any act herein required of the Mortgagor in any form and manner deemed appropriate; (ii) make full or partial payments of principal or interest on obligations of the Mortgagor secured by other prior or subsequent Encumbrances; (iii) purchase, discharge, compromise, contest or settle any Imposition or other prior or subsequent Encumbrance; (iv) redeem the Property at any tax sale or forfeiture or contest any tax; (v) enter upon or take possession of the Property; (vi) make additions, alterations, repairs, replacements, renewals, renovations, rehabilitations and improvements to the Property which the Mortgagee may deem necessary and proper; and (vii) appear and participate in any action or proceeding affecting or which may affect the Property, this Mortgage, the Loan Documents or the rights, powers, remedies and recourses of the Mortgagee.

5.2 **Reimbursement by Mortgagor.** The Mortgagor shall immediately, upon demand therefor by the Mortgagee, pay the Mortgagee for all monies paid by the Mortgagee for any of the purposes herein authorized and all necessary and proper expenses paid or incurred in connection therewith (including costs of evidence of title, court costs, appraisals, surveys, attorneys' and other professional consultants' and other fees, costs and other expenses), all of which shall constitute additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon accruing at the Default Rate from the date on which such payment is made or such expense is incurred by the Mortgagee until the date of repayment thereof by the Mortgagor. The Mortgagee, in making any payment hereby authorized may do so according to any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy or validity of such bill, statement or estimate. The Mortgagee in taking action pursuant to this Section 5 shall be subrogated to all rights and claims of any party whose debt is discharged pursuant to this Section 5. The Mortgagor hereby irrevocably appoints the Mortgagee as the Mortgagor's true and lawful attorney-in-fact to do and cause to be done at the Mortgagee's election, all or any of the foregoing in the event the Mortgagee becomes entitled to take any or all of the actions provided in this Section 5.

## 6. INSURANCE.

6.1 **Procurement and Maintenance of Insurance.** The Mortgagor shall procure and continuously maintain in full force and effect, a policy or policies of insurance insuring the Property against loss or damage from fire, from flood (if the Property is located in and designated as a special flood hazard zone) and from such other hazards and risks customarily covered by the standard form of extended coverage endorsement available in the State of Illinois including risks of wind, storm, hail, vandalism and malicious mischief, and the Mortgagor shall further provide rent loss insurance and/or business interruption insurance in amounts deemed reasonably necessary by Mortgagee for payment of all obligations secured hereby for a period of twelve (12) months, employer's liability and workmen's compensation insurance in such amounts as Mortgagee may reasonably require, and boiler and pressure vessel insurance, plate glass and comprehensive general public liability and property damage insurance with such limits for personal injury and death and property damage as Mortgagee may reasonably require, and all such other appropriate insurance as the Mortgagee may, from time to time require, all in such amounts which shall not be less than one hundred percent (100%) of the full replacement cost of the Improvements and other insured Property, and shall include a so called "agreed value endorsement," as may be satisfactory to the Mortgagee.

6.2 **Other Conditions.** The insurance set forth in this Section 6 shall be written with and upon the following conditions:

6.2.1 the insurance must be provided by an insurer rated A or better by Best's Insurance Guide, licensed to do business in the State in which the Property is situated and acceptable to the Mortgagee;

6.2.2 the insurance must include a waiver of subrogation against all Persons insured thereunder, to the extent of the amount of coverage;

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6.2.3 a duplicate original policy and certificate for all of such insurance showing the premium for such insurance paid for one (1) year, all in form acceptable to the Mortgagee, must be furnished to the Mortgagee, prior to the date on which coverage under such insurance commences;

6.2.4 the aforesaid certificate evidencing such insurance must provide on the face thereof that the coverages afforded under such insurance shall not be canceled or terminated for non-payment, non-renewal or otherwise, the coverage limitation thereof reduced or the deductible thereunder, if any increased until thirty (30) days after notice thereof has been given to the Mortgagee;

6.2.5 in the event of any paid claim under such insurance, the Mortgagor shall be responsible for the payment of the amount of any deductible required thereunder;

6.2.6 the insurance must name the Mortgagee, as loss payee/mortgagee to the extent that the Mortgagee's interests may appear in a form and manner satisfactory to the Mortgagee and contain a standard non-contribution clause, and all insurance must name the Mortgagee, and any such other Person as the Mortgagee may from time to time request as an additional insured or co-insured;

6.2.7 the insurance must provide for automatic reinstatement of the sum insured without payment of an additional premium in the event that the insurer indemnifies loss or damage or pays upon a claim; and

6.2.8 upon acquisition by the Mortgagee in any manner whatsoever of absolute and outright fee simple title ownership of all or any portion of the Property, all of the insurance required by this Section 6 shall be deemed delivered and assigned to the Mortgagee and the Mortgagee shall be the sole insured and payee thereunder with the subsequent right to collect and retain all unearned premiums thereon;

6.2.9 upon failure of Mortgagor to pay the insurance premiums as they become due, Mortgagee may, but is not obligated to obtain the required insurance on behalf of Mortgagor (or insurance in favor of Mortgagee alone) and pay said premiums. Any monies so advanced shall be so much additional Indebtedness secured hereby and shall become immediately due and payable with interest thereon at the Default Rate.

6.3 Renewal Policy; Originals. Thirty (30) days prior to the expiration of any insurance policy required hereby, an original copy of an appropriate renewal policy with certificate or binding commitment therefor, indicating that the premium therefor has been paid in full for one (1) year, shall be deposited with the Mortgagee.

6.4 Proceeds. If the Mortgagee so elects, all payments of proceeds under any of the insurance described in this Section 6 shall be made directly to the Mortgagee.

## 7. DAMAGE OR DESTRUCTION TO THE PROPERTY.

7.1 Proceeds of Insurance. If, prior to full satisfaction and payment of all of the Indebtedness and full release of this Mortgage as to the whole of the Property, the Property is destroyed in whole or in part or damaged by fire or other casualty, the Mortgagee shall be entitled and authorized: (i) to collect all proceeds of insurance with respect to such damage or destruction; and (ii) to agree, settle, compromise and adjust any claims with any insurers with respect to the amount of such proceeds. All proceeds of insurance, shall be held by the Mortgagee.

7.2 Application of Proceeds. The Mortgagee may, in Mortgagee's sole discretion, apply the net proceeds of such insurance, either: (i) to the Indebtedness; or (ii) to the repair and restoration of the Property by following the steps set forth in Section 7.3. If the Mortgagee applies the net proceeds of such insurance to the Indebtedness and if such net proceeds are not sufficient to cause the Indebtedness be satisfied and paid in full, the

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Mortgagee may collect the balance of the Indebtedness by the exercise of any of the Mortgagee's rights, powers, remedies or recourses hereunder just as if an Event of Default had occurred.

**7.3 Repair and Restoration.** If the Mortgagee applies the net proceeds of such insurance to the repair, rebuilding or restoration of the Property, the steps hereinafter set forth shall be followed:

7.3.1 the Mortgagor shall promptly repair, rebuild or restore the Property damaged or destroyed to substantially the same condition as existed prior to the damage or destruction;

7.3.2 the Mortgagee shall from time to time apply the net proceeds of such insurance to the payment of the costs of such repair, rebuilding or restoration provided that (i) the Mortgagee is furnished with such application for payment, architect's or engineer's certificates, waivers of lien, contractors' sworn statements and other evidence of cost and of payment, properly completed and executed in form and substance satisfactory to the Mortgagee; (ii) no payment made prior to final completion of the work shall exceed ninety percent (90%) of the value of such work performed from time to time; and (iii) at all times the undisbursed balance of such net proceeds remaining with the Mortgagee shall be at least sufficient to pay for the completion of all of such work free and clear of any and all mechanic's, vendor's, contractor's, subcontractor's, laborer's or materialmen's liens or like Encumbrances; and

7.3.3 if the net proceeds of insurance are not sufficient to pay in full the cost of the aforesaid repair, rebuilding or restoration, the Mortgagor will nonetheless complete such repair, rebuilding or restoration and shall pay that portion of the costs thereof in excess of the amount of said net proceeds.

**7.4 Non-Material Damage.** Notwithstanding anything to the contrary contained in this Section 7.4, if the Mortgagee determines, in Mortgagee's sole discretion, that the damage or destruction to the Property is not of such a nature as to limit, prohibit, interfere with or prevent the operation, use and occupancy of the Property in the manner as prior to such damage or destruction then, the provisions of Section 7.1 shall apply and the net proceeds shall be used to reduce the Indebtedness by an amount equivalent to the reduction in value of the Property as security or collateral for the Indebtedness. If such net proceeds are not sufficient to so reduce the Indebtedness as aforesaid, the Mortgagor shall pay such deficiency if so instructed by the Mortgagee.

## 8. CONDEMNATION.

The Mortgagee shall have the right but not the duty to control the defense of and response to any proceeding for the taking by condemnation, eminent domain or otherwise of the Property. If the title to or the use of the Property is taken by condemnation or under exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority, the net proceeds from any compensation paid or award made in such condemnation or eminent domain proceedings, shall be collected by, paid to and held by the Mortgagee. The Mortgagee may, in the Mortgagee's sole discretion, apply such net proceeds either (i) to the indebtedness; or (ii) to the repair, rebuilding or restoration of the Property so affected by such condemnation proceedings in the same manner and procedure and subject to the same terms, conditions and limitations set forth in Section 7. If the Mortgagee applies the net proceeds from any condemnation or eminent domain proceeding to the Indebtedness and if such net proceeds are not sufficient to cause the Indebtedness to be satisfied and paid in full, the Mortgagee may collect the balance by the exercise of any of the Mortgagee's rights, powers, remedies or recourses hereunder just as if an Event of Default had occurred. If the Mortgagee applies the net proceeds to the repair, rebuilding or restoration of the Property and if such net proceeds are not sufficient to pay in full the cost of such repair, rebuilding or restoration, the Mortgagor will nonetheless complete the same and shall pay that portion of the costs thereof in excess of the amount of such net proceeds. The Mortgagee shall pay any part of such net proceeds not applied to the Indebtedness to the Mortgagor within sixty (60) days after the receipt by the Mortgagee of such net proceeds.

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## 9. EVENTS OF DEFAULT.

Each of the following events, conditions and acts shall constitute an Event of Default under this Mortgage:

9.1 **Payment of Indebtedness.** The Mortgagor fails to pay the Indebtedness or any portion thereof when due or declared due.

9.2 **Performance of Obligations.** The Mortgagor or the Beneficiary fails to observe or perform any of the conditions, covenants and provisions to be observed or performed by the Mortgagor as and when required under this Mortgage or the Loan Documents.

9.3 **Abandonment.** The Property or any substantial portion thereof shall be abandoned for a period of thirty (30) consecutive days.

9.4 **Voluntary Bankruptcy.** The Mortgagor or the Beneficiary commences a voluntary case or other proceeding seeking liquidation, reorganization, debt arrangement, adjustment or other relief with respect to the Mortgagor or the Mortgagor's debts under any bankruptcy, insolvency, reorganization, arrangement, receivership or other similar laws now or hereafter in effect in the United States or any other country, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official for the Mortgagor or for the Property or any portion thereof, or consents to any such relief or to the appointment of or taking possession by any such official in any involuntary case or other proceeding commenced against the Mortgagor or the Property, or makes a general assignment for the benefit of creditors, or the Mortgagor fails generally to pay the Mortgagor's debts as such debts become due, or the Mortgagor takes any corporate action to authorize any of the foregoing.

9.5 **Involuntary Bankruptcy.** An involuntary case or other proceeding is commenced against the Mortgagor or the Beneficiary seeking liquidation, reorganization, debt arrangement, adjustment or other relief with respect to the Mortgagor or the Mortgagor's debts under any bankruptcy, insolvency, reorganization, arrangement, receivership or other similar law now or hereafter in effect in the United States or any other country, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official for the Mortgagor or for the Property or any portion thereof, and such involuntary case or other proceeding shall not be stayed and dismissed within a period of thirty (30) days, or an order for relief is entered against the Mortgagor under the federal bankruptcy laws or the equivalent thereof under the laws of any other country, as now or hereafter in effect.

9.6 **False Representation.** Any representation, warranty, or other statement made by or on behalf of the Mortgagor or the Beneficiary contained herein or in the Loan Documents, proves inaccurate, incomplete, false or misleading and remains inaccurate, incomplete, false or misleading for a period of thirty (30) days after notice thereof is given to the Mortgagor by the Mortgagee.

9.7 **Failure to Notify Mortgagee of False Representation.** Except as pursuant to Section 14.1 below, the failure of the Mortgagor or the Beneficiary to notify the Mortgagee as soon as it shall be practicable to do so upon learning that any representation, warranty or statement made by the Mortgagor or the Beneficiary to the Mortgagee is inaccurate, incomplete, false or misleading.

9.8 **Lien.** The holder of any lien or security interest in the Property any portion thereof institutes foreclosure or other proceedings for the endorsement of remedies thereunder.

9.9 **Leases.** The Mortgagor or the Beneficiary shall default under any Lease.

9.10 **Restriction on Transfer.** Except as pursuant to Section 14.1 below, the sale, transfer, conveyance, assignment, lease, mortgage, pledge, collateralization, securitization, disposition, optioning, exchange, alienation or other Encumbrance of any interest in all or any portion of the Property or any attempt or agreement to do any of the foregoing, without the Mortgagee's prior written consent, or the voluntary or involuntary sale, transfer, conveyance, assignment, mortgage, pledge, collateralization, disposition, optioning, exchange, issuance, alienation or other Encumbrance of any interest (including voting rights or benefits) in the capital stock, now or

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hereafter authorized, of the Mortgagor to any Person not a shareholder of the Mortgagor as of the date hereof or, to any shareholder as of the date hereof, in an amount disproportionate to such person's present ownership of the capital stock of the Mortgagor or the Beneficial Interest of the Trust.

**9.11 Judgment, Levy or Attachment.** A writ of execution, attachment, citation, lien or any similar process is issued, filed or levied against the Property or any portion thereof, or any judgment for monetary damages is entered against the Mortgagor which becomes an Encumbrance, and such execution, attachment, citation, lien or similar process or judgment is not released, bonded, satisfied, vacated or stayed within a period of sixty (60) days after such levy, filing or entry thereof.

**9.12 Laws Affecting Indebtedness and Validity of Mortgage.** Any law is passed which (i) limits the amount of the Indebtedness that is secured by this Mortgage; (ii) renders payment of the Indebtedness and/or the observance and performance of the terms, covenants, conditions and provisions of this Mortgage or the Loan Documents invalid; or (iii) prohibits the Mortgagee from exercising any of the Mortgagee's rights, powers, remedies and recourses hereunder or under the Loan Documents.

**9.13 Challenge to Mortgage.** The initiation of any judicial or administrative challenge to the validity, enforceability or priority of this Mortgage by any Person, including the Mortgagor, past or present shareholders or subsidiaries of the Mortgagor or creditors of the Mortgagor.

**9.14 Inability to Pay Impositions.** The Mortgagor's failure to pay any of the Impositions when due, except to the extent such failure to pay is made in accordance with and permitted by this Mortgage (which failure for purposes hereof shall also be deemed to constitute the commission of waste to the Property).

**9.15 Default of Guarantor.** The Note have been guaranteed by four separate Guaranties and each of the Guarantors covenants that in the event any guarantor of the Indebtedness secured hereby shall be declared a bankrupt, or shall file a petition in voluntary bankruptcy, or under Title 11 of the United States Code, or any other similar state or federal law, or should any guarantor file any declaration, answer or pleading admitting his insolvency or inability to pay his debts or discharge his liabilities, or if a trustee or receiver is appointed for any guarantor or for the property or estate of any guarantor, or should any court take jurisdiction of any guarantor's property, or estate, or should any guarantor make an assignment for the benefit of his creditors, then upon the occurrence or happening of any such event, Mortgagee may declare an Event of Default hereunder, and may at its option declare the entire remaining principal balance to be immediately due, or said Mortgagee may immediately institute foreclosure proceedings, and/or avail itself of any right or remedy herein reserved, and/or any right or remedy allowed by law in such case made and provided.

## 10. REMEDIES.

**10.1 Remedies.** Upon the occurrence of an Event of Default the Mortgagee may, at the Mortgagee's sole discretion, exercise one or more or all of the following rights, powers, remedies and recourses, either successive or concurrently:

**10.1.1 Acceleration.** Declare all of the Indebtedness, together with accrued and unpaid interest thereon, immediately due and payable, without further notice, presentment, protest, demand or action of any nature whatsoever (each of which are hereby expressly waived by the Mortgagor).

**10.1.2 Entry on Property.** Either in person or by agent, enter upon the Property or any portion thereof, without force or with such force as is permitted by law, and without notice or process or with such notice or process as required by law, unless such notice or process is waiveable, in which case the Mortgagor hereby waives such notice and process, and take possession thereof and do any act the Mortgagee deems necessary or desirable as more fully set forth in Section 10.2.

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10.1.3 Receiver. Apply at any time to a court having competent jurisdiction as a matter of absolute right to the Mortgagee, without bond or notice to the Mortgagor and regardless of the adequacy of the security or value of the Property for the repayment of the Indebtedness or the solvency or insolvency of the Mortgagor, for appointment of a receiver of the Property and the Mortgagor does hereby irrevocably and unconditionally consent to such appointment and waives notice of any application therefor. The receiver shall have all of the usual powers of receivers in like or similar cases and all of the powers of the Mortgagee in case of entry as more fully set forth in Section 10.2. The court having jurisdiction from time to time may authorize a receiver appointed hereunder to apply Rents in payment in whole or in part to the Indebtedness or to such payment that is found due or secured by any judgment foreclosing this Mortgage, or any Imposition, or to payment of any Encumbrance which may be or become superior to the priority of the Encumbrance created by this Mortgage provided such application is made prior to foreclosure sale.

10.1.4 Foreclosure. Pursuant to the procedures provided by applicable law, the Mortgagee may commence foreclosure proceedings with respect to the Property or, if the Mortgagee, in its sole discretion, may elect a portion of the Property. The Mortgagee may be the purchaser at any foreclosure sale of the Property or any portion thereof. The proceeds collected by the Mortgagee from such foreclosure sale shall be applied to the payment of the Indebtedness as set forth in Section 10.4; provided, however, if any deficiency shall result after such application, the Mortgagee shall be entitled to the entry of a deficiency judgment.

10.1.5 Sale of the Property. To the fullest extent permitted and pursuant to procedures provided by applicable law, the Mortgagee may sell the Property to any purchaser retaining from the proceeds thereof all of the Indebtedness, including accrued and unpaid interest thereon, attorneys' fees and all other costs and expenses of such sale, rendering any surplus to the Mortgagor. The Property may be sold as an entirety or in separate interests, portions, lots or parcels, at the same or different times, all as the Mortgagee may determine, in its sole discretion. The Mortgagee shall have the right to become the purchaser at any sale and the Mortgagee shall have the right to be credited upon the amount of the bid made therefor by the Mortgagee with the amount payable to the Mortgagee out of the net proceeds of such sale.

10.1.6 Uniform Commercial Code. With respect to any of the Property constituting property of the type of which the realization on any Encumbrance granted therein or otherwise is governed by the Uniform Commercial Code as adopted in the State in which such of the Property is located, the Mortgagee may exercise all the rights, powers, remedies and recourses of a secured party under the Uniform Commercial Code as adopted in such State, including the right to the possession of any such Property or any part thereof, and the right to enter without legal process any place where any such Property may be found. The proceeds of any sale or realization upon any such Property shall be applied to the payment of the Indebtedness as set forth in Section 10.4; provided, however, if any deficiency shall result after such application, the Mortgagor shall be and remain liable therefor and shall immediately pay the same to the Mortgagee.

10.1.7 Other. Exercise any and/or all other rights, powers, remedies and recourses provided herein or in the Loan Documents.

## 10.2 Right and Authority of Receiver or Mortgagee in the Event of Default.

10.2.1 Upon the occurrence of an Event of Default and entry upon the Mortgaged Property pursuant to Section 10.1.2, or appointment of a receiver pursuant to Section 10.1.3, the Mortgagee or the receiver, as the case may be, may do or permit any one or more of the following, all at the Mortgagor's expense, successively or concurrently: (i) enter upon and take possession and control of the Property; (ii) take and maintain possession of all documents, books, records, papers and accounts related to the Property; (iii) exclude the Mortgagor, the Mortgagor's agents and employees wholly from the Property; (iv) manage and operate or appoint any other Person to manage and operate the Property; (v) preserve and maintain the Property; (vi) make repairs and alterations to the Property; (vii) complete any construction or repair

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of the Improvements; (viii) employ such contractors, subcontractors, materialmen, architects, engineers, consultants, managers, brokers, marketing agents or other employees, agents, independent contractors or professionals, as the Mortgagee may, in its sole discretion, deem appropriate or desirable; (ix) execute and deliver, in the name of the Mortgagor as attorney-in-fact and agent of the Mortgagor, or in the Mortgagee's or receiver's own name, as the case may be, such documents and instruments as are necessary or appropriate to consummate authorized transactions; (x) extend or modify any then existing Leases and to make new Leases, under such terms and conditions as the Mortgagee or the receiver, as the case may be, may, in its sole discretion, may deem appropriate or desirable, it being understood and agreed that any such Leases and any options to extend or renew the term thereof, shall be binding upon the Mortgagor, any Person whose interest in the Property is subject to the Encumbrance created hereby, and the purchaser at any foreclosure sale notwithstanding any discharge of the Indebtedness, satisfaction of any foreclosure judgment or issuance of any certificate of sale or deed to any purchaser; (xi) collect and receive the Rents from the Property; (xii) eject tenants or repossess personal property, as provided by law, for breaches of conditions of such tenants' leases or other agreements; (xiii) sue for unpaid rents, payments, income or proceeds; (xiv) compromise or give acquittance for rents, payments, income or proceeds that may become due; (xv) delegate or assign any and all rights, powers, remedies and recourses given to the Mortgagee or the receiver, as the case may be, hereunder; and/or (xvi) do any acts which the Mortgagee or the receiver, as the case may be, in its discretion, deems appropriate or desirable to protect the security hereof, and/or use such measures, legal or equitable, to implement and effectuate the provisions hereof.

10.2.2 This Mortgage shall constitute a direction and full authority to any lessee or other Person who has heretofore dealt or may hereafter deal with the Mortgagor, at the request of the Mortgagee, to pay all amounts owing under any Lease or any other agreement to the Mortgagee. Any such lessee or other Person is hereby irrevocably authorized by the Mortgagor to reply upon and comply with (and shall be fully indemnified by the Mortgagor in so doing) any request, notice or demand by the Mortgagee for the payment to the Mortgagee of any Rents or other sums which may be or hereafter become due under any Lease or other agreement, or for the performance of any undertakings under any such Lease or agreement, and shall have no right or duty to inquire as to whether an Event of Default has actually occurred or is then existing. The Mortgagor hereby appoints the Mortgagee as the Mortgagor's true and lawful attorney-in-fact and agent, with full power and authority to do or permit any one or more of the foregoing described rights, powers, remedies and recourses of the Mortgagee set forth in Section 10.2.1, successively or concurrently; provided, however, this power of attorney shall not be construed as an obligation of the Mortgagee to expend any funds with respect to the Property or to make any repairs or alterations to the Property. Said power of attorney shall be irrevocable until this Mortgage shall be fully satisfied and released of record as to the whole of the Property.

10.3 Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the Property or of the exercise of any other remedy hereunder shall be distributed and applied in the following order of priority:

**FIRST**, to the payment of all costs and expenses (including attorneys' fees, costs and other expenses) incident to the foreclosure proceedings or such other remedy, including all such costs and expenses as are mentioned in Section 10.5 below;

**SECOND**, to the payment of all principal, interest and other amounts due and payable under this Mortgage and the Loan Documents;

**THIRD**, to the payment of all other items which hereunder constitute the Indebtedness, including items which are additional indebtedness secured hereby with accrued interest thereon as provided herein; and

**FOURTH**, to the payment of any surplus to the holder of any Encumbrance other than that created by this Mortgage, any other creditors of the Mortgagor and the Mortgagee, as such interests may appear.

10.4 Costs and Expenses. In any suit to foreclose the Encumbrance created hereby or to obtain appointment of a receiver there shall be allowed and included in the decree for sale all necessary and properly

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incurred expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee pursuant hereto or otherwise for or on behalf of the Property or the Mortgagor, including attorneys' fees, costs and other expenses, court and filing costs, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring all such abstracts of title, title searches and examinations, guarantee policies and similar data and assurances with respect to title, as may be necessary either to prosecute such suit or to evidence to bidders at any sale pursuant thereto the true condition of the title to or the value of the Property (all of which may be estimated as to items to be expended after entry of any decree). All such expenditures and expenses and such other expenditures and expenses as may be incurred in the improvement, preservation, operation or protection of the Property and the maintenance of the priority of the Encumbrance created by this Mortgage, including attorneys' fees incurred by the Mortgagee in any litigation or probate or bankruptcy proceeding affecting this Mortgage, any of the Loan Documents or the Property, or in preparation for the commencement or defense of any proceeding or threatened proceeding, shall become additional indebtedness secured hereby and shall be immediately due and payable without notice and with interest thereon accruing at the Default Rate from the date on which such payment is made or expense is incurred by the Mortgagee until the date of repayment thereof by the Mortgagor.

**10.5 Insurance After Foreclosure.** If damage or destruction occurs to the Property after foreclosure proceedings have been instituted, the net proceeds of any insurance with respect thereto, if not applied to repair, rebuild or restore the Property, shall be used to pay the amount due in accordance with any judgment of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court having jurisdiction of such foreclosure may direct.

**10.6 Exemptions Waived; Waiver of Appraisalment, Valuation.**

10.6.1 The Mortgagor shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so-called "moratorium laws", now existing or hereafter enacted to prevent or hinder the enforcement or foreclosure of this Mortgage and, to the fullest extent permitted by applicable law, hereby waives the benefit of such laws. The Mortgagor hereby waives the benefit of all exemptions as to the indebtedness and as to all other duties which may be imposed upon the Mortgagor by this Mortgage. The Mortgagor, for the Mortgagee and all who may claim through or under the Mortgagor, waives any and all rights to have the Property marshalled upon any sale of the Property. The Mortgagor, and all who may claim through or under the Mortgagor, waives any equity or right of redemption pursuant hereto or law or equity, including any and all rights of redemption prior to or from sale or from or under any order or decree of foreclosure, pursuant to rights herein granted or available by law or equity, on behalf of the Mortgagor and each Person acquiring any interest in or title to the Property and on behalf of all other Persons who may claim through or under the Mortgagee, to the extent permitted by applicable law.

10.6.2 The Mortgagor waives any right to require the Mortgagee to: (i) proceed against any Person; (ii) pursue any remedy within the Mortgagee's power; (iii) make any presentment or demand for performance, or give any notice of nonperformance, protest or dishonor in connection with the Indebtedness or in connection with the creation of new or additional indebtedness secured hereby; or (iv) cease or suspend foreclosure of this Mortgage or exercise of any other right, power, remedy or recourse because of the Mortgagor's tender of any payment or performance after the occurrence of an Event of Default.

10.6.3 The Mortgagor waives any defense arising by reason of: (i) any disability or incompetency of the Mortgagor or any other Person; (ii) any act or omission by the Mortgagee which directly or indirectly results in or aids the discharge or release of any Property or any portion thereof or any other collateral for the Indebtedness by operation of law or otherwise; (iii) any modification of this Mortgage or the other Loan Documents in any form whatsoever, including, without limitation, the renewal, extension, acceleration or other change in time for payment thereof, increase or decrease of the rate of interest thereon, or other change in the terms of the Indebtedness or any alleged or actual novation thereof; (iv) any prejudice to the Mortgagee arising from any act or omission which the Mortgagor or any Person alleges to be a waiver or estoppel accruing to the detriment of the Mortgagee; (v) any law limiting the time

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within which a claim or cause of action hereunder may be commenced or within which this Mortgage may be enforced (including statutes of limitations or repose); or (vi) any right of set off or like assertion which the Mortgagor claims to have against the Mortgagee.

10.6.4 The Mortgagor waives all rights which the Mortgagor may have under: (i) any law which may limit the amount of a deficiency judgment based on the Indebtedness; (ii) any law barring deficiency judgments; (iii) any law that requires the Mortgagee to exhaust the Property or any other collateral for the Indebtedness before proceeding directly against the Mortgagor; (iv) any law pertaining to the rights, powers, remedies and recourses of sureties and/or guarantors; or (v) any common law principle or statute which would permit the Mortgagor to challenge the sufficiency of any bid and/or price paid at a sale of the Property pursuant to a foreclosure hereof or challenge any such sale on the basis of any other defects, inadequacies, inequities or improprieties allegedly occurring with respect to such sale.

10.7 **Remedies Not Exclusive.** No right, power, remedy or recourse herein conferred upon, granted or reserved to the Mortgagee is intended to be exclusive of any other right, power, remedy or recourse herein conferred upon, granted or reserved to the Mortgagee or of any other right, power, remedy or recourse conferred upon, granted or reserved to the Mortgagee under any other agreement, document or instrument or at law or in equity, but each shall be cumulative and shall be in addition to every other right, power, remedy or recourse conferred upon, granted or reserved to the Mortgagee hereunder or under the Loan Documents or now or hereafter existing at law or in equity. Every right, power, remedy or recourse given by this Mortgage and the Loan Documents to the Mortgagee or to which the Mortgagee may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Mortgagee. If any provision of this Mortgage shall grant to the Mortgagee any right, power, remedy or recourse upon an Event of Default which is more limited than that which would otherwise be vested in the Mortgagee by law, the Mortgagee shall be vested with the right, power, remedy or recourse that is the most extensive, but only to the extent permitted by law. The Mortgagee may pursue inconsistent remedies and shall in no event be required to elect between such inconsistent remedies. The Mortgagor may be joined in any action brought by the Mortgagee to foreclose or otherwise enforce this Mortgage. No forbearance hereunder or under the Loan Documents by the Mortgagee or the acceptance by the Mortgagee of any partial or untimely payments or performance shall be deemed to be, or shall constitute under any circumstances whatsoever, a waiver of any or all of the Mortgagee's rights, powers, remedies and recourses hereunder or under the Loan Documents or at law or in equity except to the extent which such waiver is expressly provided for and continues in accordance with the explicit terms hereof or of the Loan Documents or any other writing executed by the Mortgagee. No delay or failure by the Mortgagee to exercise any right, power, remedy or recourse hereunder or under the Loan Documents accruing upon an Event of Default shall impair any such right, power, remedy or recourse or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right, power, remedy or recourse may be exercised at any time from time to time as often and as when deemed by the Mortgagee to be expedient or appropriate. If the Mortgagee at any time holds additional security or collateral for any of the Indebtedness, the Mortgagee may enforce the sale thereof or otherwise realize upon such security or collateral, at the Mortgagee's option, either before or concurrently with exercising any rights, powers, remedies and recourses under this Mortgage or after a sale is made hereunder.

10.8 **Indemnification.** To the fullest extent permitted by law, the Mortgagor shall save, defend, indemnify and forever hold the Mortgagee and the Mortgagee's shareholders, affiliated Persons, directors, officers, employees, agents and attorneys, free and forever harmless from and against all suits, actions, claims, demands, damages, losses and expenses, including the amount of all judgments, penalties, interest, court costs and attorneys' other fees, costs and other expenses, arising out of or resulting from the operation, use or occupancy of the Property, or the entry upon the Property by any owner or holder of any mineral rights or interests the direct effect of which shall be to cause the value of the Property to be less than the amount of the Indebtedness, or the release, threatened release, discharge, disposal, generation, presence, placement, existence emission, escape, leakage, spillage, seepage and/or storage on the Property of any Hazardous Material, or the existence of any unsafe or hazardous condition on or in the Property, or any Event of Default, default or breach under any of the Loan Documents, or the Mortgagee's exercise of any of the Mortgagee's rights, powers, recourses and remedies hereunder or under law, or the performance of any of the Mortgagee's duties hereunder or under the Loan Documents, or the construction, reconstruction or alteration of the Improvements, or any negligence or willful

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misconduct of the Mortgagor, any lessee of the Property, or any of the agents, contractors, subcontractors, servants, employees, licensees or invitees of either, or any accident, injury, death or damage to any person or property occurring in, on or about the Property or any street, drive, sidewalk, curb or passageway adjacent thereto, or any other transaction arising out of or in any way connected with the Property, this Mortgage or the Loan Documents, except if caused by the act or omission of the indemnified person. Any amount payable to the Mortgagee under this Section 10.9 shall be payable within fifteen (15) days after the Mortgagee's demand therefor and shall constitute additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the Default Rate from the date on which such amount is incurred by the Mortgagee until the date of repayment thereof by the Mortgagor.

## 11. SECURITY AGREEMENT.

This Mortgage shall be deemed a Security Agreement as defined in the Illinois Uniform Commercial Code. This Mortgage creates a security interest in favor of Mortgagee in all property including all tangible and intangible personal property including the Signs (as defined in Exhibit A hereto), fixtures and goods affecting property either referred to or described herein or in anyway connected with the use or enjoyment of the Property and all proceeds resulting therefrom, including all revenue rents and license fees from the Signs. The remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be: (i) as prescribed herein; or (ii) by general law; or (iii) as to such part of the security which is also reflected in any financing statement filed to perfect the security interest herein created, by the specific statutory consequences now or hereinafter enacted and specified in the Illinois Uniform Commercial Code, all at Mortgagee's sole election. Mortgagor and Mortgagee agree that the filing of such a financing statement in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing this declaration and the hereby stated intention of the parties hereto, that everything used in connection with the production of income from the Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings, both legal or equitable, shall be regarded as part of the real estate irrespective of whether: (i) any such item is physically attached to the improvements; (ii) serial numbers are used for the better identification of certain equipment items capable of being so identified in a recital contained herein or in any list filed with Mortgagee; or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such Financing Statement of: (1) the rights in or the proceeds of any fire and/or hazard insurance policy; (2) any award in eminent domain proceedings for a taking or for loss of value; or (3) the debtor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Property, whether pursuant to a lease or otherwise, shall never be construed as in anywise altering any of the rights of Mortgagee as determined by this instrument or impugning the priority of Mortgagee's lien granted hereby or by any other recorded document, but such mention in the financing statement is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to (1), (2) and (3) that notice of Mortgagee's priority of interest to be effective against a particular class of persons, including, but not limited to, the Federal government and any subdivisions or entity of the Federal government, must be filed in the Commercial Code records.

Notwithstanding the aforesaid, Mortgagor covenants and agrees that so long as any balance remains unpaid on the Note, it will execute (or cause to be executed) and delivered to Mortgagee, such renewal certificates, affidavits, extension statements or other documentation in proper form, so as to keep perfected the lien created by any security agreement and financing statement given to Mortgagee by Mortgagor, and to keep and maintain the same in full force and effect until the entire principal indebtedness and all interest to accrue thereunder has been paid in full; with the provision that the failure of the undersigned Mortgagor to so do shall constitute an Event of Default hereunder.

## 12. ASSIGNMENT OF LEASES AND RENTS.

### 12.1 Mortgagor's Covenants.

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12.1.1 The Mortgagor, at the Mortgagor's sole cost and expense, shall at all times promptly and faithfully abide by, discharge and perform all of the terms, conditions, covenants and provisions contained in all Leases on the part of the Mortgagor to be kept and performed thereunder and secure the performance of all of the covenants, conditions and terms of all Leases on the part of the other parties thereto to be kept and performed thereunder. The Mortgagor shall not, without the Mortgagee's prior written consent, (i) modify, amend, extend, cancel, terminate, accept, surrender or procure any Lease, verbally or in writing; (ii) execute an assignment or pledge of any Rents; or (iii) commit or agree to, or attempt any of the foregoing restricted conduct with respect to any Lease. Notwithstanding anything herein contained to the contrary, the Mortgagor shall not be required to obtain any consent of the Mortgagee pursuant to this Section 11.1 where the annual Rent payable under any Lease in question is less than Fifty Thousand Dollars (\$50,000.00) and the term thereof, inclusive of all options, is less than five (5) years.

12.1.2 The Mortgagor shall: (i) refrain from any action or inaction which would result in termination of any Lease or diminution of the value thereof or of the amounts due with respect thereto; (ii) appear in and defend all actions, suits, claims or proceedings under, growing out of or in any manner connected with any Leases or the duties of the Mortgagor or any other party thereto, thereunder; and (iii) furnish to the Mortgagee within ten (10) days of the Mortgagee's request to do so, a statement containing the names of all parties to all Leases, the terms thereof, descriptions of the Property subject thereto and the amounts payable thereunder. Nothing in this Mortgage or in any of the Loan Documents shall be construed to obligate the Mortgagee to perform any of the covenants of the Mortgagor under any Lease or to pay any sum of money or damages therein provided to be paid by the Mortgagor.

12.2 Subordination and Attornment. Any Lease made after the date hereof shall contain a covenant to the effect that the lessee or other party thereto shall, at the Mortgagee's request, attorn to the Mortgagee, upon demand pay Rent due thereunder to the Mortgagee and execute and deliver to the Mortgagee such documents as the Mortgagee deems necessary to protect the Encumbrance created by this Mortgage. All Leases entered into after the date hereof shall be subordinate and inferior to the Encumbrance created by this Mortgage, except that from time to time the Mortgagee may execute and record in the public records, subordination statements with respect to certain Leases designated by the Mortgagee whereby such Leases shall be made superior to the Encumbrance created by this Mortgage and shall not be affected by any foreclosure hereof. All Leases shall contain a provision to the effect that the tenant or other party thereto recognizes the right of the Mortgagee to affect such subordination of this Mortgage and consents thereto.

12.3 License and Revocation. The Mortgagee hereby grants to the Mortgagor the license, revocable in accordance herewith, to receive and collect any and all Rents as the same shall become due. Such license is granted not as a limitation or condition hereof but as a personal covenant available only to the Mortgagor; provided, however, that the existence of such license shall not operate to subordinate this transfer, hypothecation, pledge or assignment to any subsequent transfer, hypothecation, pledge or assignment, in whole or in part, by the Mortgagor, and any subsequent transfer, hypothecation, pledge or assignment shall be subject to the rights of the Mortgagee hereunder. Under the aforescribed license, the Mortgagor shall not procure or accept the prepayment of any Rents for more than one (1) month in advance without the prior written consent of the Mortgagee, and the Mortgagor shall deliver to the Mortgagee all documentation evidencing or related to the Leases, and shall execute and deliver such separate pledges, transfers, hypothecations, assignments and other agreements, documents, instruments related thereto as the Mortgagee, in the Mortgagee's sole discretion, may request from time to time. The license so granted to the Mortgagor hereunder shall exist and continue only until an Event of Default occurs. Upon the occurrence of an Event of Default, such license shall be immediately revoked and the Mortgagor shall have no further right to receive or collect any Rents. Any Rents received and collected by the Mortgagor thereafter shall be deemed to be for the exclusive benefit of the Mortgagee. Upon the occurrence of an Event of Default, the Mortgagee may, but need not, assume the management of the Property or appoint any other Person to manage the Property and thereby collect and receive the Rents and do and perform all and every act requisite and necessary to be done for the protection of the Property, including all such acts set forth in Section 10.2. Should the Mortgagee or the Mortgagee's appointees receive any Rents, all charges for collection of Rents, costs of repairs or alterations, all other expenses incurred or arising during the continuance of this assignment, transfer, hypothecation and pledge of Leases and Rents including, Impositions and the Indebtedness, shall be deducted therefrom, all as and when due. The collection of Rents pursuant to the terms hereof shall not waive or cure any Event of Default and shall not

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waive the right of the Mortgagee to exercise any right, power, remedy or recourse granted to the Mortgagee hereunder, under the Loan Documents or now or hereafter existing at law or in equity. Nothing contained in this Mortgage shall be construed as constituting the Mortgagee as a mortgagee in possession in the absence of the taking of actual possession of the Property by the Mortgagee or the Mortgagee's appointees, or imposing upon the Mortgagee or the Mortgagee's appointees any of the obligations of the Mortgagor under any Lease in the absence of an explicit assumption thereof by the Mortgagee contained herein or in any separate instrument signed by the Mortgagee. In the exercise of the powers herein granted to the Mortgagee, no liability shall be asserted or enforced against the Mortgagee or the Mortgagee's appointees, all such liability being expressly waived and released by the Mortgagor for and on the Mortgagor's own behalf and on behalf of any Persons claiming through the Mortgagor.

## 13. DEPOSIT INTO AND APPLICATION OF FUNDS FROM ESCROW/IMPOUND ACCOUNT.

At the election of the Mortgagee, upon notice to the Mortgagor, the Mortgagor shall be required to deposit into an escrow/impound account funds reasonably calculated to be sufficient to pay all Impositions. Upon the requirement of such escrow/impound by the Mortgagee, the Mortgagor shall cause to be deposited therein, on or before the first (1st) day of each calendar month during the term of this Mortgage, an amount equal to 1/12th of the total annual Impositions; provided, however, that upon the establishment of such escrow/impound, the Mortgagor shall also deposit therein funds sufficient to increase the balance thereof to an amount at which sufficient funds would be available to pay all Impositions falling due within the next twelve (12) calendar month period, by projecting all monthly deposits that should be made between the establishment of the escrow/impound and the time when the various Impositions become due and payable. The Mortgagee shall control the escrow/impound and under no circumstances shall any interest or earnings thereupon belong or accrue to or be due or payable to the Mortgagor; provided, however, that upon satisfaction of the Indebtedness and full release of this Mortgage as to the whole of the Property, the Mortgagor shall be entitled to receive, upon request made to the Mortgagee no later than thirty (30) days in advance of the full release of this Mortgage as to the whole of the Property, an accounting of all funds deposited by the Mortgagor into and disbursed from such escrow/impound, as well as disbursement of the then current balance of such funds. Upon any increase in the amount of Impositions, the monthly deposit being made by the Mortgagor into said escrow/impound shall be adjusted accordingly and, if any deficiency between the amount required to be in the escrow/impound and the amount actually therein contained should arise, the Mortgagor shall immediately deposit such funds as are necessary to cure such deficiency. Upon an Event of Default, the Mortgagee may, at any time without notice, apply any or all amounts received for and held by the Mortgagee in any escrow/impound, and all other sums or amounts received by the Mortgagee from or on account of the Mortgagor, the Property or otherwise, against and upon the Indebtedness, in such manner and order as the Mortgagee may elect. The receipt, use or application of any such sums or amounts shall not cure or waive any Event of Default.

## 14. SALE OF PARCEL OF LAND; REDUCTION OF PRINCIPAL OF LOAN; PARTIAL RELEASE.

**14.1 Sale of Parcel of Land.** Mortgagor may subdivide the Land into separate parcels (each a Parcel of Land) and enter into contracts to sell such Parcels of Land, provided that: (i) the Mortgagor or Beneficiary provides the Mortgagee with a copy of the sale contract or other such agreement; (ii) the Parcel of Land subject to such sales contract or other such agreement is not one upon which any of the Signs are located; (iii) the Mortgagor provides the Mortgagee with a reasonable plan for further use and development of the remaining Parcel or Parcels of Land; and (iv) there is no conveyance of any Parcel of Land without the prior written consent of the Mortgagee.

**14.2 Reduction of Principal.** In the event that the Mortgagor obtains the prior written consent of the Mortgagee, the Mortgagor may convey a Parcel of Land, provided that until there is no remaining outstanding Indebtedness, one hundred percent (100%) of the Net Sales Proceeds (as hereinafter defined) of each such Parcel of Land shall be immediately due and payable as principal reduction payments. The term "Net Sales Proceeds" shall mean an amount equal to the gross sale price for each Parcel of Land less: (i) the amount of any sales commission, not to exceed six percent (6%) of the gross sale price, actually payable to a broker unrelated to

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Mortgagor or Beneficiary with respect to such sale; and (ii) the amount of actual and reasonable closing costs, not to exceed five percent (5%) of the gross sale price.

**14.3 Partial Release.** If during the term of the Loan, the Mortgagor, with the Mortgagee's consent, sells a Parcel of Land pursuant to Section 14.1 above and remits the Net Sales Proceeds to the Mortgagee pursuant to Section 14.2, but such Net Sales Proceeds do not pay off the entire outstanding indebtedness, then the Mortgagee shall release that Parcel of Land subject to the sales contract or other such agreement (the "Release Parcel"), provided that Mortgagee is satisfied that: (i) neither the release of the Release Parcel nor any construction to be undertaken thereon subsequent to release shall affect or impair the rights of the Ground Lessee or any other tenant or occupant of the portion of the Land not subject to the sales contract or other such agreement (the "Remaining Parcel") or the revenues of the Signs; and (ii) the Remaining Parcel conforms to zoning and land use laws, regulations and ordinances and is usable for its intended purpose.

## 15. MISCELLANEOUS.

**15.1 Release, Reconveyance and Extension of Mortgage.** Upon request of the Mortgagor and after all of the Indebtedness is fully satisfied, paid and performed and this Mortgage and the Loan Documents have been released and terminated by the Mortgagee, the Mortgagee shall prepare and execute and make available to the Mortgagor a release and reconveyance of this Mortgage, in recordable form. Anything in this Mortgage contained to the contrary notwithstanding, in no event and under no circumstances shall the Indebtedness be deemed to be fully satisfied, paid and performed, this Mortgage or the Loan Documents released and terminated and the Mortgagee obligated to release and reconvey this Mortgage, until it is established to the satisfaction of the Mortgagee that any payment of the Indebtedness by the Mortgagor shall not constitute a preference under any applicable bankruptcy or similar laws or be within or subject to any reach back or disgorgement period under such laws. The Mortgagor shall be responsible for the delivery, recording or paying of any fees, charges or costs in connection with the *aforescribed* release and reconveyance.

**15.2 Invalidity of Certain Provisions.** If any term, condition or provision hereof is declared to be illegal, invalid or unenforceable for any reason whatsoever by a court of competent jurisdiction, such illegal, invalid or unenforceable term or provision shall be ineffective only to the extent of such illegality, invalidity, or unenforceability without invalidating the remainder of such term or provision, if any, and such illegality, invalidity or unenforceability shall not affect the other terms, conditions and provisions hereof, which terms, conditions and provisions shall remain binding and enforceable. If the Encumbrance created by this Mortgage is invalid or unenforceable as to any part of the Indebtedness or if such Encumbrance is invalid or unenforceable as to any part of the Property, then the unsecured or partially unsecured portion of the Indebtedness shall be completely satisfied prior to the remaining secured or partially secured portion of the Indebtedness.

**15.3 Further Assurances.** The Mortgagor, upon request of the Mortgagee from time to time, shall do or cause to be done such further acts and execute and deliver or cause to be executed and delivered such additional agreements, documents and instruments, (including a collateral assignment of specific Leases or contracts) as the Mortgagee may reasonably require or deem advisable to keep valid and effective the Encumbrance created hereby, to better secure the Indebtedness, to carry into effect the purposes of this Mortgage or to better assure and confirm unto the Mortgagee, the Mortgagee's rights, powers, remedies and recourses hereunder. Upon any failure of the Mortgagor to do so, the Mortgagee may execute, record, file, re-record or refile any and all such agreements, documents or instruments for and in the name of the Mortgagor, and the Mortgagor hereby irrevocably appoints the Mortgagee as agent and attorney-in-fact of the Mortgagor for the foregoing purposes. The Mortgagor shall be responsible for payment of all such filing and recording costs and fees.

**15.4 Notices.** All notices required or permitted to be given hereunder shall be in writing unless otherwise herein expressly provided. Such notices shall be given by certified or registered, return receipt requested, postage pre-paid, mail, personal delivery, or recognized, commercial courier which maintains evidence of delivery, or by facsimile and shall be deemed sufficiently given if addressed to the respective party at their respective

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addresses and telecopier numbers set forth below with a copy simultaneously given to the person listed below, if any. Regardless of the actual time of receipt, all notices between addresses in the continental United States sufficiently given are deemed given three (3) days after the postmarked date if given through the mail, on the day received if given by personal delivery or commercial courier, and upon dispatch if given or made by facsimile.

If to the Mortgagor: c/o Douglas C. Altenberger  
400 Northwest Corporate Center  
2500 West Higgins Road  
Hoffman Estates, Illinois 60195

Fax: (847) 843-8152

with a copy to: Hinshaw & Culbertson  
222 North LaSalle Street, Suite 300  
Chicago, Illinois 60601-1081  
Attention: Stephen Malato, Esq.

Fax: (312) 704-3001

If to the Mortgagee: Associated Bank  
Amoco Building  
200 East Randolph Street  
Chicago, Illinois 60601  
Attention: Mr. John R. Rettke

Fax: (312) 861-0261

with a copy to: Masuda, Funai, Eifert & Mitchell, Ltd.  
One East Wacker Drive, Suite 3200  
Chicago, Illinois 60601  
Attention: Bradley Kaplan

Fax: (312) 245-7542

Both the Mortgagor and the Mortgagee shall have the right, from time to time, by written notice to specify any other or additional addressee and/or address.

**15.5 Successors and Assigns.** This Mortgage shall be binding upon the Mortgagor and upon the Mortgagor's legitimate successors and permitted assigns (including each and every record owner of the Property or any other Person having an interest therein from time to time) and shall inure to the benefit of the Mortgagee and the Mortgagee's successors and assigns.

**15.6 Section Titles.** Section titles contained in this Mortgage shall be without substantive meaning or content, are for convenience only, are not a part of the terms, conditions and covenants hereof and shall not be used in interpreting the text before which such Section titles appear.

**15.7 Governing Law.** This Mortgage is deemed executed, delivered and received in and is to be construed and governed by the laws of the State in which the Property is situated.

**15.8 Time of Essence.** Time is of the essence of this Mortgage.

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15.9 Integration. This Mortgage and the Loan Documents alone, fully and completely represent the final, entire and integrated expression of agreement between the Mortgagor and the Mortgagee and supersede all prior negotiations, representations or agreements either written or oral between the Mortgagor and the Mortgagee, but only with respect to the provision by the Mortgagor of the Property for security and collateral for the Indebtedness. This Mortgage may be amended only by an instrument of equal dignity. The Mortgagor hereby declares and acknowledges that the Mortgagor has received, without charge, a true copy of this Mortgage and the Loan Documents. If the recorded executed original of the Mortgage or an executed original of any of the Loan Documents is lost, unavailable or damaged, for purposes of the enforcement hereof or thereof, the exercise of any right, power, remedy or recourse hereunder or thereunder or the release hereof or cancellation thereof, a copy certified as being true and correct by the Mortgagee shall be sufficient for all such purposes.

15.10 Mortgagor's Payment of Costs and Expenses. The Mortgagor shall pay all fees and costs for preparation, negotiation, execution, delivery and, as the case may be, recording and/or filing of this Mortgage, the Exhibits hereto and the Loan Documents, necessary, in the Mortgagee's sole discretion, to accomplish the intent of this Mortgage and preserve and maintain the Encumbrance created hereby. The Mortgagor shall pay all fees, premiums and charges for a loan title insurance policy in a form and issued by a title insurer acceptable to Mortgagee, insuring and covering this Mortgage as an Encumbrance subject only to the Permitted Encumbrances or as is expressly accepted by the Mortgagee with such special and affirmative assurances and coverages as the Mortgagee, in the Mortgagee's sole discretion, shall request. The aforesaid title insurance coverage shall be a condition to the Mortgagee's consummation of the transaction contemplated hereby and the making, extending and disbursing of the Loan. The Mortgagor shall pay all fees, premiums and charges for any escrow or closing services or facilities deemed by the Mortgagee as necessary or proper for the consummation of the transaction contemplated hereby. If the Mortgagee shall be made a party to, initiate or intervene in any action or proceeding affecting the Property, the title thereto or the right, title or interest of the Mortgagee in, to or under this Mortgage, or if the Mortgagee employs or retains an attorney to collect any or all of the Indebtedness or to enforce (by any means whatsoever) any right, power, remedy or recourse hereunder or under any law, or if the Mortgagee otherwise pays or incurs any of the costs or expenses described in this Section 14.10, the Mortgagee shall be reimbursed by the Mortgagor, immediately and without demand, for all costs, charges and expenses incurred by the Mortgagee in connection therewith. All such costs, charges and expenses described in this Section 14.10 together with all other fees (including attorneys' fees, costs and other expenses), commissions, service charges, liquidated damages, and advances paid or incurred by the Mortgagee in connection with the Indebtedness, this Mortgage or the Loan Documents, shall be additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the Default accruing from the date on which such payment is made or such expense is incurred by the Mortgagee until the date of repayment thereof by the Mortgagor. All payments required to be made by the Mortgagor in this Section 14.10 shall be made at the same place as repayments of the Loan.

## 15.11 Effect of Change in Laws Regarding Taxation.

15.11.1 If the Mortgagee becomes obligated to pay any tax as a result of the enactment, after the date hereof, of any law of the state in which the Property is situated, the United States or any other state having jurisdiction over this Mortgage or the Mortgagee, deducting from the value of Property for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of any Imposition herein required to be paid by the Mortgagor, or changing in any way laws relating to the taxation of mortgages, deeds of trust or debts secured by mortgages or deeds of trust or the Mortgagee's interest in the Property, or the manner of collection of taxes, so as to affect this Mortgage or the Indebtedness, the Mortgagor, upon demand by the Mortgagee, shall pay such tax or reimburse the Mortgagee therefor; provided, however, that if in the opinion of the Mortgagee's legal counsel: (i) it may be unlawful to require the Mortgagor to make such payments or reimbursement; or (ii) the making of such payments or reimbursement might result in the imposition of interest beyond the maximum amount permitted by law, then the Mortgagee may elect, by notice given to the Mortgagor, to declare all of the Indebtedness to be due and payable after sixty (60) days from the date of such notice, at which time if the Indebtedness is not fully satisfied, paid and performed, the Mortgagee shall have all of the rights, powers,

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remedies and recourses granted or reserved to the Mortgagee hereunder or under applicable law upon the occurrence of an Event of Default.

15.11.2 If any law requires any documentary stamps or other tax hereon or on any of the Loan Documents, or requires payment of any tax upon the Indebtedness then the said Indebtedness and the accrued interest thereon shall, at the election of the Mortgagee, become due and payable sixty (60) days after notice to the Mortgagor; provided, however, said election shall be unavailing and this Mortgage and the Loan Documents shall be and remain in effect if the Mortgagor lawfully pays for such stamps or tax including interest and penalties thereon to or on behalf of the Mortgagee.

**15.12 Survival of Representations, Warranties and Covenants.** The representations, warranties, covenants, conditions and provisions contained in this Mortgage and the obligations of the Mortgagor to indemnify the Mortgagee with respect to the duties set forth in Section 10.8 shall survive: (I) the foreclosure of any Encumbrances by the Mortgagee or any other Person or the conveyance of the Property by deed in lieu of foreclosure; and (II) all other indicia of the termination of the Mortgage.

**15.13 Usury.** All agreements herein are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the Loan, acceleration of maturity of the unpaid principal balance of the Indebtedness, or otherwise, shall the amount paid or agreed to be paid to the Mortgagee for the use, forbearance or detention of the money to be advanced under the Loan Documents exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, fulfillment of any provision hereof, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law that a court of competent jurisdiction may deem applicable hereto, then, inso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and, if from any circumstance the Mortgagee shall ever receive as interest an amount which would exceed the highest lawful rate, such amount that would be excessive interest shall be applied to the reduction of the unpaid principal balance of the Indebtedness and not to the payment of interest. Mortgagor represents and agrees that the proceeds of the Note will be used for the purposes specified in Chapter 815 of the Illinois Compiled Statutes Section 205/4, and that the principal obligation secured hereby constitutes a business loan which comes within the purview of said paragraph.

**15.14 Subrogation.** To the extent that proceeds of the Loan are used to pay any outstanding Encumbrance, the Mortgagee shall be subrogated to any and all rights and Encumbrances owned by any owner or holder of such outstanding Encumbrance and shall have the benefit of the priority thereof, irrespective of whether said Encumbrance is released.

**15.15 No Defenses.** No action for the enforcement of the Encumbrance created hereby or any provision hereof shall be subject to any defense which would not be good and available to the Person interposing such defense in an action at law arising from or in connection with any of the other Loan Documents.

**15.16 Mortgagee's Right to Deal with Transferee.** In the event of the voluntary sale, or transfer by operation of law, or otherwise, of all or any part of the Property, the Mortgagee is hereby authorized and empowered to deal with such vendee or transferee with reference to the Property or the Indebtedness or with reference to any of the terms or conditions hereof, as fully and to the same extent as the Mortgagee might deal with the Mortgagor, without in any way releasing or discharging the Mortgagor from the covenants and/or undertakings hereunder and without the Mortgagee waiving the Mortgagee's rights hereunder.

**15.17 Covenants Run with Land.** All of the covenants hereof shall run with the Land.

**15.18 Future Advances.** This Mortgage is given to secure, and shall secure, not only the existing Indebtedness, but also, without further act, such future advances that may comprise the Indebtedness, whether such advances are obligatory or to be made at the option of the Mortgagee or otherwise as provided in the Loan Documents to the same extent as if such future advances were made on the date hereof, even if there is no

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Indebtedness outstanding at the time such advance is made. The Encumbrance created by this Mortgage shall be valid as to all of the Indebtedness, including future advances comprising the Indebtedness, from the time this Mortgage is placed of public record as to third Persons without actual notice thereof. The total amount of the Indebtedness that may be secured and collateralized hereby may increase or decrease from time to time, but the total unpaid balance so secured at any one time shall not exceed Twenty Million Dollars (\$20,000,000) plus interest thereon, and any disbursements made for the payment of Impositions and other additional indebtedness secured hereby. The Mortgagor hereby waives any right which the Mortgagor may have under law to require modification under this Mortgage or give and/or record any notice with respect to this Mortgage the effect of either or both of which might be to surrender the priority of the Encumbrances, as to any future advances.

**15.19 Incorporation.** This Mortgage incorporates into its terms, conditions and covenants, the preamble, recitals granting clauses and the Exhibits contained herein.

**15.20 Fixture Filing.** The Mortgagor hereby authorizes the Mortgagee, at the sole discretion of the Mortgagee and at the expense of the Mortgagor, to file any Uniform Commercial Code financing statements that the Mortgagee may require or deem appropriate, including any original filings pertaining to the Property and any and all continuations, amendments, assignments, releases and terminations thereof without further signature or authorization of the Mortgagor. This Mortgage and any such Uniform Commercial Code statements, continuations, amendments, assignments, releases and terminations provided for hereunder shall be recorded and filed under the Uniform Commercial Code as adopted by the State in which the Property is situated, as amended, and cover property and equipment which are or which may become fixtures on the Property or constitute personalty.

**15.21 Illinois Responsible Property Transfer Act.** If any of the provisions of the Illinois Responsible Property Transfer Act of 1988 ("IRPTA") are now or hereafter become applicable to the Property, Mortgagor shall comply with such provisions. Without limitation on the generality of the foregoing: (i) if the delivery of a disclosure document is now or hereafter required by IRPTA, Mortgagor shall cause the delivery of such disclosure document to be made to all parties entitled to receive same within the time period required by IRPTA; and (ii) Mortgagor shall cause any such disclosure document to be recorded with the Recorder of Deeds of the County in which the Property is located and filed with the Illinois Environmental Protection Agency, all within the time periods required by IRPTA. Mortgagor shall promptly deliver to Mortgagee evidence of such recording and filing of such disclosure document.

**15.22 Trustee's Exculpation.** THIS MORTGAGE is executed by CHARTER NATIONAL BANK AND TRUST, not personally but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in the Note contained shall be construed as creating any liability on said Trustee personally to pay the said Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as said Trustee personally is concerned, the legal holder or holders of the Note and the owner or owners of any indebtedness accruing hereunder shall look to the Property or the Beneficiary for the payment thereof, by the enforcement of the lien hereby created, in the manner herein and in the Note provided or by action to enforce the personal liability of the Beneficiaries and Guarantors, if any.

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9/12/20



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IN WITNESS WHEREOF, this MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT is executed as of the day and year first above written.

**MORTGAGOR:**

CHARTER NATIONAL BANK AND TRUST, not personally or individually, but as Trustee under Trust Agreement, dated May 30, 1997, and known as Trust No. 1672

ATTEST:

By: Heenie M. Smith  
Name: Heenie M. Smith  
Title: SA. VICE PRESIDENT

By: Maria O. Armas  
Name: MARIA O. ARMAS  
Title: TRUST OFFICER

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SUBJECT TO THE EXCULPATORY PROVISIONS ATTACHED  
HERETO AND MADE A PART HEREOF.

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF )

I, Susan Weirich, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that MARIA MOLAS, as TRUST OFFICER President and DENISE SMITH, as OFFICER Secretary of CHARTER NATIONAL BANK AND TRUST, as Trustee under Trust Agreement dated May 30, 1997, and known as Trust No. 1672, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer President and OFFICER Secretary of said Bank, respectively, appeared before me this day in person and acknowledged that they signed and delivered to said instrument as their own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth; and said Officer Secretary did then and there acknowledge that he, as custodian of the corporate seal of said Bank did affix the corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

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GIVEN under my hand and notarial seal this 8<sup>th</sup> day of July, 1997



Susan Weirich  
Notary Public

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## JOINDER


The undersigned, being the owner in the aggregate of 100% of the beneficial interest in, and being all of the sole beneficiary of the Trust which is the Borrower under the attached MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT, hereby consents to and joins in the foregoing instrument, intending hereby to bind any interest he and his respective heirs, executors, administrators, successors or assigns may have in the premises described in the foregoing instrument or any leases or other agreements relating thereto, as fully and with the same effect as if the undersigned were named as the Mortgagor in said instrument.

**NORTHWEST PARTNERS  
LIMITED PARTNERSHIP**

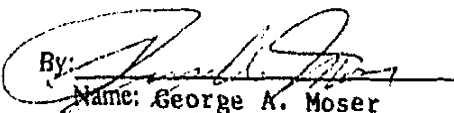
By its General Partner,  
NORTHWEST INVESTORS, INC.

ATTEST:

By:

  
Name: DOUGLAS C. ALTENBERGER  
Title: SECRETARY

By:

  
Name: George A. Moser  
Title: Chairman  
Chairman

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STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

I, CHERYL A WEHOFFER, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that GEORGE A MOSER, as \_\_\_\_\_ President and \_\_\_\_\_, as \_\_\_\_\_ Secretary of Northwest Investors, Inc., the General Partner of NORTHWEST PARTNERS LIMITED PARTNERSHIP, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such \_\_\_\_\_ and \_\_\_\_\_ of said the General Partner, respectively, appeared before me this day in person and acknowledged that they signed and delivered to said instrument as their own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth; and said \_\_\_\_\_ Secretary did then and there acknowledge that he, as custodian of the corporate seal of said Bank did affix the corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8<sup>th</sup> day of July, 1997

Cheryl A Wehoffer  
Notary Public

OFFICIAL SEAL  
CHERYL A WEHOFFER  
NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXP. MAR. 13, 2001

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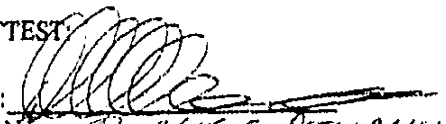
## JOINDER

The undersigned, being the ground lessee of the real property encumbered by this MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT, hereby consents and joins in the foregoing instrument intending to be bound as fully and with the same effect as if the undersigned were named as the Mortgagor in said instrument.


NORTHWEST SIGN CO.,  
an Illinois general partnership

ATTEST:

By:

  
Name: DOUGLAS C. HERTENSTEIN  
Title: Secretary

By:

  
Name: George A. Moser  
Title: President

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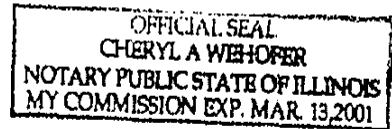
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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, CHERYL A WEHOFER, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that GORBE AMOSER, as \_\_\_\_\_ President and \_\_\_\_\_, as \_\_\_\_\_ Secretary of NORTHWEST SIGN CO., who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such \_\_\_\_\_ and \_\_\_\_\_ of said partnership, respectively, appeared before me this day in person and acknowledged that they signed and delivered to said instrument as their own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth; and said \_\_\_\_\_ Secretary did then and there acknowledge that he, as custodian of the corporate seal of said Bank did affix the corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8<sup>th</sup> day of July, 1997

Cheryl A. Wehofer  
Notary Public



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## EXHIBIT 1

### THE PROPERTY

(a) all of that certain Land (the "Land") situated, lying and being in Cook County, Illinois, more particularly described as the aggregate of the following tracts, parcels or lots, to wit:

THAT PART OF SECTION 6, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6; THENCE S 84°-34'-20" W ALONG THE SOUTH LINE OF SAID SECTION 6, A DISTANCE OF 121.44 FEET (1.84 CHAINS); THENCE N 01°-07'-40" E, PARALLEL WITH THE EAST LINE OF SAID SECTION 6, A DISTANCE OF 1066.44 FEET TO THE POINT OF BEGINNING; THENCE N 83°-02'-52" W, A DISTANCE OF 1010.00 FEET TO A POINT, SAID POINT BEING 1276.00 FEET NORTHERLY, MEASURED AT RIGHT ANGLES, FROM THE SOUTH LINE OF SAID SECTION 6; THENCE S 83°-35'-34" W, A DISTANCE OF 585.00 FEET TO THE MOST EASTERLY CORNER OF LOT 3 IN BARRINGTON SQUARE INDUSTRIAL CENTER UNIT ONE, BEING A SUBDIVISION OF PART OF FRACTIONAL SECTION 6, AFORESAID, PER PLAT THEREOF RECORDED NOVEMBER 20, 1970 AS DOCUMENT NO. 21323708; THENCE N 00°-09'-26" W, ALONG THE EAST LINE OF SAID BARRINGTON SQUARE INDUSTRIAL CENTER UNIT ONE, A DISTANCE OF 311.13 FEET TO THE SOUTH LINE OF THE NORTHERN ILLINOIS GAS COMPANY RIGHT-OF-WAY, AS CONVEYED PER DOCUMENT NO. 17299325 AND RECORDED AUGUST 25, 1958; THENCE N 89°-50'-34" E, ALONG SAID SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1592.11 FEET TO THE INTERSECTION WITH THE WEST LINE OF THE EAST 121.44 FEET (1.84 CHAINS) (AS MEASURED ALONG THE SOUTH LINE OF SAID SECTION 6) OF SECTION 6 AFORESAID; THENCE S 01°-07'-40" W, ALONG SAID WEST LINE, A DISTANCE OF 372.55 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

(b) all and singular of the improvements, facilities, structures, and buildings of every kind and description, in any manner attached to, connected with, a part of, or erected, constructed, located or placed in, on or upon the Land (including, but not limited to, the three (3) signs located on the Land as of the date hereof (the "signs") and any signs erected on the Land in the future), and all fixtures, appurtenances, and articles of personalty and goods of every kind, description and nature whatsoever, located upon, contained in, attached to, a part of or paid for and stored in, on or upon, to be attached to or become a part of the Land or any of the aforesaid buildings, facilities, improvements, or structures or connected with, related to or necessary or appropriate to the use, operation, occupancy or complete enjoyment thereof for, including drainage, septic or sanitary service; lighting, power and electrical systems and service above, in or below ground, signage and directories; interior and exterior decorating; and all accessories, parts and hardware for all the foregoing, and all renewals, substitutions, replacements and proceeds of any of the foregoing (in the aggregate the "Improvements");

(c) all and singular of the Mortgagor's present and future rights, titles, estates, powers and interests in, to, and under all Leases;

(d) all and singular of the Mortgagor's rights, titles, estates, powers and interests in and to the contracts, plans, specifications, drawings, and prints relating to the construction, erection, attachment or installation of the Improvements or any component thereof; and all public and quasi-public and private utility service contracts and deposits necessary for or existing in connection with the providing of utility services to the Property or any component thereof;

(e) all and singular of the easements, rights-of-way, estates, tenements, hereditaments, reversions, remainders, issues, profits, licenses, fees, water and mineral rights and interests (and shares of stock evidencing the same), contract rights, appurtenances, allowances, awards, remedies, damages, claims, rights, actions, choses in action, guaranties, warranties, general intangibles (including all air rights and transferable development rights), avails, income, revenues, royalties, privileges, franchises, bonuses, benefits, proceeds (including from insurance or condemnation or other taking), reservations and interests, presently or in the future, appurtenant, belonging, attaching or relating to or for the Property or any component thereof;

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(f) all and singular of the present and future governmental, quasi-governmental, public and private rights, licenses, permits, consents, approvals, certifications, franchises, and certificates, relating to the Property, or any component thereof; and

(g) all and singular of the Mortgagor's present and future contingent, reversionary, entry and re-entry and remainder rights, titles and interests in and to any strips or gores of Land, any Land lying in the bed of any road, street, avenue, lane, highway or other right-of-way opened, dedicated or proposed (if abutting, at the foot of or below the Land, to at least the center line thereof and if contained in the Land, the whole thereof), any award to be made in lieu of any of the foregoing and any unpaid award for damage to the Property or any component thereof by reason of any condemnation or taking or change of grade of any road, street, avenue, lane, highway or other open, dedicated or proposed right-of-way.

(h) any and all accounts, chattel paper and general intangibles, now or hereafter acquired, as those terms are defined in the Uniform Commercial Code, including but not limited to, all of Beneficiaries or Mortgagor's right, title and interest in, to and under any contracts, leases, licenses or other agreements of any kind entered into by Beneficiaries or Mortgagor's in connection with the ownership, construction, maintenance, use, operation, leasing or marketing of the Property, including but not limited to any escrow, franchise, warranty, service, management, operation, equipment or concession contract, agreement or lease, any end-loan commitment, including all of Beneficiary's or Mortgagor's rights to receive services or benefits and claims and rights to receive services or benefits and claims and rights with respect to non-performance or breach thereunder.

(i) all proceeds of or any payments due to or for the account of Beneficiaries or Mortgagor's under any policy of insurance (or similar agreement) insuring, covering or payable upon loss, damage, destruction or other casualty or occurrence of or with respect to any of the foregoing described collateral, the Property or any building or improvement now or hereafter located on the Property, whether or not such policy or agreement is owned or was provided by the Mortgagor or names the Mortgagor or Mortgagee as beneficiary or loss payee and all refunds of unearned premiums payable to the Mortgagor or Mortgagee on or with respect to any such policies or agreements.

(j) any and all letters of credit pledges as security for the Indebtedness, and any and all proceeds or rights to proceeds arising thereunder.

(k) all revenue including rents, license fees and other proceeds generated or received by the use of the Signs, and all proceeds of, substitutions and replacement for accessions to and products of any of the foregoing in whatever form, including, without limitation, cash, checks, drafts and other instruments for the payment of money (whether intended as payment or credit items), chattel paper, security agreement, documents of title and all other documents and instruments.

Address of Property: 10.895 acres of Land located at the east end of Pembroke Street  
Hoffman Estates, Illinois 60195

Permanent Index,  
Parcel or Tax Number: 07-06-200-013

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Property of Cook County Clerk's Office



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## EXHIBIT 2

### PERMITTED ENCUMBRANCES

1. Real Estate General Property (ad valorem) taxes for the Property accrued but not due and payable as of the date hereof;
2. That certain Ground Lease, dated December 15, 1985 and as amended from time to time, by and between Northwest Partners Limited Partnership, as Lessor, and Northwest Sign Co., as Lessee.

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## EXHIBIT 3

### SCHEDULE OF LEASES

1. That certain Ground Lease, dated December 15, 1985 and as amended from time to time, by and between Northwest Partners Limited Partnership, as Lessor, and Northwest Sign Co., as Lessee.

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## EXHIBIT 4

### LOSS PAYABLE CLAUSE

"In the event of any loss covered by this insurance policy and payment hereunder, all of such payments shall be made, paid and delivered to the order of Associated Bank, Amoco Building, 200 East Randolph, Chicago, Illinois 60601, Attention: Mr. John R. Rettke, its successors and assigns, as the interest of Associated Bank may appear. The aforesaid loss-payee shall receive written notice at the aforesaid address at least thirty (30) days prior to any cancellation, non-renewal or termination of this policy or any decrease in the limitation or increase in the deductible, if any, of this policy."

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It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representation, covenants, undertakings, and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the **Charter National Bank & Trust** or any of the beneficiaries under said Trust Agreement, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

2200 W. Higgins Road  
Hoffman Estates, IL 60195-2481  
(847) 882-1000

**Charter National Bank**  
AND TRUST

BFC Form Service, Inc. 180316

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