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EXECUTION COPY
(Mortgage No. 824497)

DEARBORN MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FINANCING STATEMENT

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THIS DEARBORN MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FINANCING STATEMENT ("Mortgage") is made as of July 9, 1997, by DEARBORN-OAK BROOK OFFICE ASSOCIATES, LIMITED PARTNERSHIP, a New Mexico limited partnership, having an office at 330 Garfield Street, Santa Fe, New Mexico 87501 ("Mortgagor"), in favor of THE MANUFACTURERS LIFE INSURANCE COMPANY (U.S.A.), a Michigan corporation (together with its successors and assigns, "Mortgagee"), having an address at 500 N. Woodward Avenue, Bloomfield Hills, Michigan 48304, but with a mailing address of 200 Bloor Street East, U.S. Mortgage, NT-6, Toronto, Ontario M4W 1E5.

WITNESSETH :

WHEREAS, Mortgagor has executed and delivered to Mortgagee (a) that certain Dearborn Promissory Note, dated of even date herewith, in the aggregate principal amount of THREE MILLION SIX HUNDRED TWENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$3,625,000.00) (together with all amendments, modifications, supplements, restatements, substitutions, renewals, extensions for any period, increases or rearrangements thereof, the "Dearborn Note") and (b) that certain Oakbrook Promissory Note of even date herewith, payable to Assignee, in the principal amount of Three Million Six Hundred Seventy-Five Thousand and 00/100 Dollars (\$3,675,000.00) (as the same may hereafter be amended, restated, extended,

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substituted, renewed, supplemented or otherwise modified from time to time, the "Oakbrook Note." The Dearborn Note and the Oakbrook Note are hereinafter sometimes collectively referred to as the "Note");

WHEREAS, Mortgagor and Mortgagee have executed (a) that certain Loan Agreement, dated of even date herewith (together with all amendments, modifications, supplements, restatements, substitutions, renewals, extensions for any period, increases or rearrangements thereof, the "Loan Agreement"; capitalized terms used herein, which are not otherwise defined herein, shall have the same meanings ascribed to such terms in the Loan Agreement) and (b) that certain Oakbrook Loan Agreement. The Dearborn Loan Agreement and the Oakbrook Loan Agreement are sometimes collectively referred to hereinafter as the "Loan Agreements";

WHEREAS, Mortgagor has executed and delivered to Mortgagee (a) that certain Assignment of Lessor's Interest in Leases and Rents dated of even date herewith (together with all amendments, modifications, supplements, restatements, substitutions, renewals, extensions for any period, increases or rearrangements thereof, the "Assignment of Leases and Rents") to secure the Liabilities (as hereinafter defined), (b) certain other Dearborn Loan Documents, and (c) the Oakbrook Loan Documents (Mortgage No. 824488);

WHEREAS, as a condition to Lender's extension of certain financial accommodations to Borrower under and subject to the Note and Loan Agreement, Mortgagee has required that Mortgagor enter into this Mortgage and grant to Mortgagee the liens and security interests referred to herein to secure: (a) the payment of the principal amount evidenced by the Note together with interest thereon; (b) payment and performance of all other obligations of Borrower under the Loan Agreement and the other Dearborn Loan Documents; (c) the other payment and performance obligations under this Mortgage; and (d) the other payment and performance obligations of Borrower under the Oakbrook Loan Agreement and the other Oakbrook Loan Documents (the aforesaid obligations of Mortgagor to Mortgagee being hereinafter referred to collectively as the "Liabilities"); and

WHEREAS, the Liabilities secured hereby shall not exceed an aggregate principal amount, at any one time outstanding of FOURTEEN MILLION SIX HUNDRED THOUSAND DOLLARS AND 00/100 (\$14,600,000.00), provided, that the foregoing limitation shall apply only to the lien upon the real property created by this Mortgage, and it shall not in any manner limit, affect or impair any grant of a security interest or other right in favor of Mortgagee under the provisions of any of the Loan Documents;

NOW, THEREFORE, in consideration of the premises contained herein and to secure payment of the Liabilities and in consideration of One Dollar (\$1.00) in hand paid, the receipt and sufficiency whereof are hereby acknowledged, Mortgagor does hereby grant, remise, release, alien, convey, mortgage and warrant to Mortgagee, its successors and assigns, all of Mortgagor's right, title and interest, including any after-acquired right, title and interest, in and to the real estate located in the County of Cook, State of Illinois (the "State") described on the attached Exhibit A (the "Land");

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

TOGETHER WITH all of Mortgagor's right, title and interest as landlord or lessor in, to and under any and all Leases and similar agreements, whether now existing or hereafter created, respecting the Project and the rents, profits, proceeds thereof (collectively, the "Rents");

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

TOGETHER WITH all of Mortgagor's right, title and interest, including any after-acquired right, title and interest, and including any right of use or occupancy, in and to all fixtures and appurtenances of every nature whatsoever now or hereafter located in, on or attached to, and used or intended to be used in connection with, or with the operation of, the Project or any construction thereat or thereon, regardless of whether the same are located on the Land or located elsewhere (including, without limitation, in warehouses or other storage facilities or in the possession of or on the premises of a bailee, vendor or manufacturer), including, but not limited to (a) all apparatus, machinery and equipment of Mortgagor and (b) all extensions, additions, improvements, betterments, renewals, substitutions and replacements to or of any of the foregoing (the items described in the foregoing clauses (a) and (b) being the "Fixtures"); as well as all personal property and equipment of every nature whatsoever of Mortgagor now or hereafter located in or on the Project, or used in connection with, or with the operation of, the Project or construction thereat or thereon, or derived from the use or operation of the Project, regardless of whether the same are located on the Land or located elsewhere (including, without limitation, in

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warehouses or other storage facilities or in the possession of or on the premises of a bailee, vendor or manufacturer) including but not limited to (c) accounts, accounts receivable, contract rights, general intangibles, tax refunds, chattel paper, instruments, notes, letters of credit, documents or documents of title; (d) inventory; (e) equipment, building materials and construction materials; (f) all of Mortgagor's deposit accounts (general or special) with any financial institution; (g) all of Mortgagor's now owned or hereafter acquired monies, and any and all other property and interests in property of Mortgagor now or hereafter coming into the actual possession, custody or control of Mortgagee or any agent or affiliate of Mortgagee in any way or for any purpose (whether for safekeeping, deposit, custody, pledge, transmission, collection or otherwise); (h) all insurance proceeds of or relating to any of the foregoing; (i) all of Mortgagor's books, records and computer records or tapes of account now or hereafter maintained by or on behalf of Mortgagor in connection with the operation of the Project, wherever located; and (j) all accessions and additions to, substitutions for, and replacements, products and proceeds of any of the foregoing clauses (c) through (i) (the items described in the foregoing clauses (c) through (j) and any other personal property referred to in this paragraph being the "Personal Property"). It is mutually agreed, intended and declared that the Project, the Leases and Rents, the Fixtures and all of the Property Rights (referred to collectively herein as the "Real Property") shall, so far as permitted by law, be real estate and covered by this Mortgage. It is also agreed that if any of the property herein mortgaged is of a nature so that a security interest therein can be perfected under the Code in effect in the State, this instrument shall constitute a security agreement, fixture filing and financing statement, and Mortgagor agrees to execute, deliver and file or refile any financing statement, continuation statement, or other instruments Mortgagee may reasonably require from time to time to perfect or renew such security interest under the Code. To the extent permitted by law, (i) all of the Fixtures are or are to become fixtures on the Land and (ii) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture-filing" within the meaning of Sections 9-313 and 9-102 of the Code. The remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed herein or by general law, or, as to that part of the security in which a security interest may be perfected under the Code, by the specific statutory consequences now or hereafter enacted and specified in the Code, all at Mortgagee's sole election.

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

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

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

TO HAVE AND TO HOLD the Mortgaged Property, properties, rights and privileges hereby conveyed or assigned, or intended so to be, unto Mortgagee, its beneficiaries, successors and assigns, forever for the uses and purposes herein set forth. Mortgagor hereby releases and waives all rights under and by virtue of any homestead exemption laws, if any, of the State. Mortgagor hereby covenants, represents and warrants that (a) it is lawfully possessed and seised of the Mortgaged Property (b) it has the lawful authority to sell, assign, convey and mortgage the Mortgaged Property and (c) title to the Mortgaged Property is free and clear of all encumbrances, except the Permitted Exceptions and (d) that Mortgagor will forever defend the same against all other claims.

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

ARTICLE ONE

LIABILITIES

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

ARTICLE TWO

COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees as follows:

2.01 Performance under the Loan Agreement, this Mortgage and Other Loan Documents. Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof, the Loan Agreement, every other Dearborn Loan Document, the Oakbrook Loan Documents and every other instrument evidencing or securing the Liabilities, and will promptly pay or cause to be paid

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to Mortgagee when due all other sums required to be paid by Mortgagor pursuant to the foregoing. The Liabilities, with interest thereon shall be due and payable on the Maturity Date

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

2.03 Compliance with Laws and Other Restrictions. Mortgagor shall comply with all Laws applicable to Mortgagor, the Mortgaged Property or both.

2.04 Taxes and Assessments. (a) Mortgagor shall pay promptly when due all real estate taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, transit taxes, taxes imposed on the receipt of rent, and any other federal, state or local governmental charge, general, special, ordinary or extraordinary of every kind and nature whatsoever now or hereafter imposed, levied or assessed against the Mortgaged Property (the "Impositions"), before the same become delinquent. Mortgagor shall continually cause the Project to be taxed under tax bills which include no property which is not a part of the Mortgaged Property and Mortgagor shall not file or permit to be filed with the office of the assessor or any other taxing or assessing authority a petition, application or other instrument which would result in the inclusion of property other than the Mortgaged Property within the tax bill affecting the Mortgaged Property or any part thereof. Mortgagor shall have the right to contest impositions as set forth in the Loan Agreement.

(b) Mortgagor shall pay to Mortgagee on the first day of each month, together with and in addition to the monthly principal and interest payments to be made under the Note, an amount equal to one-twelfth (1/12) of the Impositions reasonably estimated by Lender for the following year (the "Impounds"). If Mortgagee determines that any amounts paid by Mortgagor are insufficient for the payment in full of such Impositions, Mortgagee shall notify Mortgagor of the increased amounts required to pay all amounts due, whereupon Mortgagor shall pay to Mortgagee within ten (10) days thereafter the additional amount as stated in Mortgagee's notice. All sums so paid shall not earn interest and may be commingled by Mortgagee with its general funds. Within thirty (30) days following request therefor by Mortgagor, Mortgagee shall, unless Mortgagor is otherwise in default hereunder, apply said funds to the payment of, or at the sole option of Mortgagee release said funds to Mortgagor for the application to and payment of, Impositions. Upon the occurrence of an Event of Default by Mortgagor, Mortgagee may apply all or any part of said sums to the Loan and/or to cure such Event of Default, in which event Mortgagor shall be required to restore all amounts so applied. Within ten (10) days following full repayment of the Loan (other than as a consequence of a foreclosure or conveyance in lieu of foreclosure of the Mortgaged Property), the balance of all amounts collected and in Mortgagee's possession shall be paid to Mortgagor.

2.05 Mechanic's and Other Liens. Mortgagor shall not suffer or permit any mechanics' lien or claim or other Lien to be filed or otherwise asserted against the Mortgaged Property and shall cause the same to be discharged within thirty (30) days after Mortgagor receives notice of same; provided that Mortgagor shall have the right to contest Liens as set forth in the Loan Agreement.

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2.06 Insurance and Condemnation.

(a) Mortgagor shall, at its sole expense, obtain for, deliver to, assign, renew and maintain for the benefit of Mortgagee, until the Liabilities are paid in full, the insurance policies specified in the Loan Agreement. In addition to other remedies available hereunder and under the Loan Agreement, if after Mortgagee's reasonable request Mortgagor fails to provide Mortgagee with evidence of the insurance coverage required to be carried by Mortgagor under the Loan Agreement, Mortgagee may purchase such insurance at Mortgagor's expense for the purpose of protecting Mortgagee's interest in the Mortgaged Property. Any insurance purchased by Mortgagee may, but need not, protect the interest of Mortgagor in the Mortgaged Property. The insurance coverage purchased by Mortgagee may or may not pay any claim that Mortgagor may make or any claim that is made against Mortgagor in connection with the Mortgaged Property. Provided that Mortgagee has not commenced foreclosure proceedings, elected to accelerate the amounts due and owing under the Note, and Mortgagor is not otherwise in default hereunder, Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required. If Mortgagee purchases insurance for the Mortgaged Property, Mortgagor will be liable and shall reimburse Mortgagee for the costs of that insurance, including, but not limited to the interest, labor charges and other charges that Mortgagee shall reasonably impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of insurance purchased by Mortgagee may be added to the total outstanding balance or obligation secured hereby and evidenced by the Note. The costs of the insurance purchased by Mortgagee may exceed the cost of insurance Mortgagor would otherwise be able to obtain.

(b) Any loss under any insurance policies covering or relating to the Mortgaged Property shall be adjusted and compromised as set forth in the Loan Agreement. If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause, Mortgagor shall restore and repair the Mortgaged Property, which restoration and repair shall be performed in accordance with the terms and provisions of the Loan Agreement. Any condemnation or insurance proceeds shall be disbursed to Mortgagor or applied by Mortgagee to the Loan, all as set forth in the Loan Agreement.

2.07 Non-Impairment of Mortgagee's Rights. Nothing contained in this Mortgage shall be deemed to limit or otherwise affect any right or remedy of Mortgagee under any provision of this Mortgage or of any statute or rule of law to pay, at Mortgagee's election and upon five (5) days' prior written notice to Mortgagor (except with respect to payment of premiums and other amounts required to be paid to maintain the insurance required hereunder and under the Loan Agreement, which Mortgagee may cause to be paid prior to the date that such insurance would lapse if such premiums or other amounts are not paid without prior notice to Mortgagor), any amount required to be paid by Mortgagor under this Mortgage, the Loan Agreement or any of the Loan Documents, which is not paid by Mortgagor when due, and the amount so paid by Mortgagee shall be reimbursed by Mortgagor upon demand. All amounts expended by Mortgagee pursuant to this Mortgage shall be deemed to constitute additional indebtedness evidenced by the Note (even if the total amount of such indebtedness would then

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exceed the face amount of the Note), and secured by this Mortgage and all of the other Loan Documents.

2 08 Care of the Mortgaged Property. Mortgagor shall preserve and maintain, or cause to be preserved and maintained, the Mortgaged Property in good and first class condition and repair. Mortgagor shall otherwise operate and maintain the Mortgaged Property in accordance with all Laws and in accordance with the terms of the Loan Agreement.

2 09 Transfer or Encumbrance of the Mortgaged Property. Mortgagor shall not permit or suffer to occur any Transfer in violation of the terms of the Loan Agreement. Mortgagor shall not permit any interest in any Lease to be subordinated to any encumbrance on the Mortgaged Property other than the Loan Documents and any such subordination shall be null and void. Mortgagor agrees that in the event the ownership of the Mortgaged Property, any interest therein or any part thereof becomes vested in any other Person, Mortgagee may, without notice to Mortgagor, deal in any way with such Person without in any way vitiating or discharging Mortgagor's liability hereunder or the Liabilities. No Transfer of the Mortgaged Property, no forbearance to any Person with respect to this Mortgage, and no extension to any Person of the time for payment of the Liabilities given by Mortgagee shall operate to release, discharge, modify, change or affect the liability of Mortgagor, either in whole or in part, except to the extent specifically agreed in writing by Mortgagee. Except as otherwise permitted in the Loan Agreement, and except for the Permitted Exceptions, Mortgagor shall not suffer or permit any Lien, encumbrance, lease or matter to encumber or be placed, recorded or filed against the Mortgaged Property. In addition, Mortgagor shall fully and faithfully perform all of its covenants, agreements and obligations under the Permitted Exceptions.

2 10 Security Agreement and Financial Statements.

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

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financing statement, by the specific statutory consequences now or hereafter enacted and specified in the Code.

(b) As to those items of collateral described in this Mortgage that are, or are to become fixtures related to the real estate mortgage herein, it is intended as to those items that **THIS MORTGAGE SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING** from the date of its filing in the real estate records of DuPage County, Illinois. The name of the record owner of said real estate is Dearborn-Oak Brook Office Associates, Limited Partnership. Information concerning the security interest created by this instrument may be obtained from Mortgagee, as secured party, at the address of Mortgagee as set forth in page one of this Mortgage. The address of Mortgagor, as debtor, is as set forth in page one to this Mortgage. This document covers goods which are or are to become fixtures.

(c) Without limitation of the foregoing, if an Event of Default occurs, Mortgagee shall be entitled immediately to exercise all remedies available to it under the Code and this Section 2.10. Mortgagor shall, in such event and if Mortgagee so requests, assemble the tangible personal property at Mortgagor's expense, at a convenient place designated by Mortgagee. Mortgagor shall pay all reasonable expenses incurred by Mortgagee in the collection of such indebtedness, including Legal Costs, and in the repair of any real estate or other property to which any of the tangible personal property may be affixed. If any notification of intended disposition of any of the personal property is required by law, such notification shall be deemed reasonable and proper if given at least ten (10) days before such disposition. Any proceeds of the disposition of any of the personal property may be applied by Mortgagee to the payment of the expenses of retaking, holding, preparing for sale and selling the personal property, including Legal Costs, and any balance of such proceeds may be applied by Mortgagee toward the payment of such of the Liabilities, and in such order of application, as Mortgagee may from time to time elect. If an Event of Default occurs, Mortgagee shall have the right to exercise and shall automatically succeed to all rights of Mortgagor with respect to intangible personal property subject to the security interest granted herein. Any party to any contract subject to the security interest granted herein shall be entitled to rely on the rights of Mortgagee without the necessity of any further notice or action by Mortgagor. Mortgagee shall not by reason of this Mortgage or the exercise of any right granted hereby be obligated to perform any obligation of Mortgagor with respect to any portion of the personal property nor shall Mortgagee be responsible for any act committed by Mortgagor, or any breach or failure to perform by Mortgagor with respect to any portion of the personal property.

(d) Mortgagor and Mortgagee agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing the express declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from the Mortgaged Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings, legal or equitable, shall be regarded as part of the real estate encumbered by this Mortgage irrespective of whether (i) any such item is physically attached to the Project, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained

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herein or in any list filed with Mortgagee, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (A) rights in or to the proceeds of any fire and/or hazard insurance policy, or (B) any award in eminent domain proceedings for a taking or for loss of value, or (C) Mortgagor's interest as lessor in any present or future Lease or rights to income growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to Lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee as determined by this instrument or adversely affecting the priority of Mortgagee's Lien granted hereby or by any other recorded document. Any such mention in any such financing statement is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to clauses (A), (B) or (C) above, that notice of Mortgagee's priority of interest, to be effective against a particular class of persons, including, but not limited to, the federal government and any subdivisions or entity of the federal government, must be filed in the Code records.

2.11 After-Acquired Property. To the extent permitted by, and subject to, applicable law, the Lien of this Mortgage, including without limitation the security interest created under Section 2.10, shall automatically attach, without further act, to all property hereafter acquired by Mortgagor located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

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

2.13 Payment of Superior Liens. To the extent that Mortgagee, after the date hereof, pays any sum due under any provision of law or instrument or document creating any Lien superior or equal in priority in whole or in part to the Lien of this Mortgage, Mortgagee shall have and be entitled to a Lien on the Mortgaged Property equal in parity with that discharged, and Mortgagee shall be subrogated to and receive and enjoy all rights and Liens possessed, held or enjoyed by, the holder of such Lien, which shall remain in existence and benefit Mortgagee to secure the Liabilities. Mortgagee shall be subrogated, notwithstanding their release of record, to mortgages, trust deeds, superior titles, vendors, Liens, mechanics' and materialmen's Liens, charges, encumbrances, rights and equities on the Mortgaged Property to the extent that any obligation under any of the same is paid or discharged with proceeds of disbursements or advances of the Loans or other Indebtedness secured hereby.

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2.14 **Use of the Mortgaged Property.** Mortgagor shall not suffer or permit the Mortgaged Property, or any portion thereof, to be used by the public in such manner as might unreasonably tend to impair Mortgagor's title to the Mortgaged Property or any portion thereof, or in such manner as might reasonably make possible a claim or claims of easement by prescription or adverse possession by the public, as such, or of implied dedication of the Mortgaged Property or any portion thereof.

ARTICLE THREE

DEFAULTS

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

ARTICLE FOUR

REMEDIES

4.01 **Acceleration of Maturity.** If an Event of Default occurs, Mortgagee may declare the Liabilities to be immediately due and payable, without further demand or notice.

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

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

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

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

(c) If an Event of Default occurs, Mortgagee may apply for the appointment of a receiver in accordance with the statutes and law made and provided for, to which receivership Mortgagor hereby consents.

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

(i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon as Mortgagee may reasonably determine and purchase or otherwise acquire additional fixtures and personal property;

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

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

(iv) enter into agreements with others to exercise the powers herein granted Mortgagee or a receiver, all as Mortgagee or a receiver from time to time may determine; and Mortgagee or a receiver may collect and receive all the rents, income and other benefits thereof, including those past due as well as those accruing thereafter and may apply the monies so received by Mortgagee or receiver, in such priority as Mortgagee may determine.

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

4.04 Leases. Mortgagee is authorized to foreclose this Mortgage subject to the rights, if any, of any tenant or tenants of the Mortgaged Property, or Mortgagee may elect which tenants Mortgagee desires to name as parties defendant in such foreclosure, and the failure to make any such tenant a party defendant to any foreclosure proceedings and to foreclose its rights will not be, nor be asserted by Mortgagor to be, a defense to any proceedings instituted by Mortgagee to collect the sums secured hereby or, subject to Section 5.02 hereof, to collect any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

All Leases entered into by Mortgagor subsequent to the date hereof, shall provide that Mortgagee may elect to give the tenant thereunder priority over the lien of this Mortgage; that upon notification by Mortgagee to that effect, the rights and interests of such tenant shall be deemed to have priority over the lien of this Mortgage; and that such tenant shall execute and deliver whatever instruments may be required for such purposes.

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

4.06 Application of Foreclosure Sale Proceeds. Out of the proceeds arising from the sale and foreclosure, Mortgagee may retain all sums due under the Loan Agreement together with all such sums of money as Mortgagee shall have expended or advanced pursuant to this Mortgage or pursuant to statute together with interest thereon as provided and all costs and

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expenses of such foreclosure, including Legal Costs, with the balance, if any, to be paid to the persons entitled thereto by law.

4.07 Application of Indebtedness Toward Purchase Price. Upon any foreclosure sale, Mortgagee may apply any or all of the Liabilities or any decree in lieu thereof, toward the purchase price.

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

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

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

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

4.10 Suits to Protect the Mortgaged Property. Mortgagee shall have the power and authority (but not the duty), after an Event of Default occurs, to institute and maintain any suits and proceedings as Mortgagee may deem advisable (a) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or which violate the terms of this Mortgage or (b) to preserve or protect its interest in the Mortgaged Property.

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

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

(a) If an Event of Default occurs, then, upon Mortgagee's demand, Mortgagor (subject to Section 5.09 hereof) will pay to Mortgagee the whole amount of the Liabilities due and payable and all other sums secured hereby, and if Mortgagor shall fail to pay the same forthwith upon such demand, Mortgagee shall be entitled to sue for and to recover judgment against Mortgagor for the whole amount so due and unpaid together with costs and expenses, including without limitation the Legal Costs, incurred either before, after or during the pendency of any proceedings for the enforcement of this Mortgage, and the right of Mortgagee to recover such judgment shall not be affected by any taking possession or foreclosure sale hereunder, or by

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the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

(b) Mortgagor hereby agrees, to the extent permitted by law, that no recovery of any judgment by Mortgagee, and no attachment or levy of execution upon any of the Mortgaged Property or any other property of Mortgagor, shall in any way affect the lien of this Mortgage upon the Mortgaged Property or any part thereof or any lien, rights, powers or remedies of Mortgagee hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before until this Mortgage and such lien, rights, powers and remedies are released of record in accordance with the terms of the Loan Agreement.

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

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

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

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

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

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

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

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

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any foreclosure sale shall have the option to affirm any then existing Leases or tenancies or otherwise succeed to the rights of Mortgagor thereunder.

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

ARTICLE FIVE

MISCELLANEOUS PROVISIONS

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

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

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

5.04 Future Advances. This Mortgage is given for the purpose of securing loan advances which Mortgagee may make to or for Mortgagor pursuant and subject to the terms and provisions of the Loan Agreement. The parties hereto intend that, in addition to any other debt or obligation secured hereby, this Mortgage shall secure unpaid balances of loan advances made after this Mortgage is delivered to the Recorder of Deeds, DuPage County, Illinois, whether made pursuant to an obligation of Mortgagee or otherwise, provided that such advances are within twenty (20) years from the date hereof and in such event, such advances shall be secured to the same extent as if such future advances were made on the date hereof, although there may be no

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advance made at the time of execution hereof and although there may be no indebtedness outstanding at the time any advance is made. Such loan advances may or may not be evidenced by the Note.

5.05 Invalid Provisions. The parties hereto intend and believe that each provision in this Mortgage and the other Loan Documents comports with all applicable local, state and federal laws and judicial decisions. However, if any provision of this Mortgage is found by a court of law of competent jurisdiction to be in violation of any applicable law, and if such court declares such provision to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such provision shall be given force to the fullest possible extent that it is legal, valid and enforceable, and that the remainder of this Mortgage shall be construed as if such illegal, invalid, unlawful, void, or unenforceable provision were not contained therein, and that the rights, obligations, and interests of Mortgagor and Mortgagee under the remainder of this Mortgage shall continue in full force and effect. All agreements herein and in the Note are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof acceleration of maturity of the unpaid principal balance of the Note, or otherwise, shall the amount paid or agreed to be paid to Mortgagee for the use, forbearance or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Note or any other agreement referred to herein, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity and if from any circumstance Mortgagee shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Note and not to the payment of interest.

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

5.07 Governing Law. This Mortgage shall be construed, interpreted, enforced and governed by and in accordance with the internal laws (as opposed to the conflict of laws principles) of the State of Illinois. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under applicable law in the absence of said provision,

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Mortgagee shall be vested with the rights granted in applicable law to the full extent permitted by law.

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

5.09 Limitation of Liability. The provisions contained in Section 10.12 of the Loan Agreement are hereby incorporated herein by this reference thereto.

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

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

5.12 Total Liabilities Secured. The total Liabilities secured hereby at any one time shall not exceed \$14,600,000.00 plus interest thereon and any disbursement made for the payment of Impositions or insurance premiums, or both, on the Mortgaged Property with interest on such disbursements.

5.13 Waiver of Trial By Jury. MORTGAGOR WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS MORTGAGE OR RELATING HERETO OR ARISING FROM THE RELATIONSHIP WHICH IS THE SUBJECT OF THIS MORTGAGE AND

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AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

5.14 Time is of the Essence. Time is of the essence of each and every provision of this Mortgage and the other Loan Documents.

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

MORTGAGOR:

**DEARBORN-OAK BROOK OFFICE ASSOCIATES,
LIMITED PARTNERSHIP**, a New Mexico limited
partnership

By: **BGK Equities, Inc.**, a New Mexico corporation, its
general partner

By: 

Its: President

:\CD\LA\FIDOC\CS CHICAGO\6399391.3 July 8, 1997 (2.44pm)

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STATE OF ~~ILLINOIS~~ ^{New Mexico})
COUNTY OF ~~COOK~~ ^{Santa Fe}) SS.

I, Maurice McWine Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Edward Gilbert, the President of BGK Equities, Inc., a New Mexico corporation, the general partner of Dearborn-Oak Brook Office Associates, Limited Partnership, a New Mexico limited partnership (the "Partnership"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 9th day of July, 1997.

Maurice McWine
Notary Public

My commission expires 8/1/99.

Notary Public of Cook County Clerk's Office

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745 McClintock Drive
Burr Ridge, Illinois
PIN: 18-30-303-009

EXHIBIT A Legal Description

PARCEL 1:

LOT 1 IN DEARBORN RESUBDIVISION OF LOTS 2 AND 3 IN BURR RIDGE PARK UNIT 3, BEING A SUBDIVISION IN THE WEST 1/2 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 30, 1987 AS DOCUMENT NO. 87060824, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

PERPETUAL NON-EXCLUSIVE EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCEL ONE, INCLUDING BUT NOT LIMITED TO EASEMENTS FOR INGRESS AND EGRESS, FOR PURPOSES OF MAINTENANCE AND ENFORCEMENT AND FOR PURPOSES OF DRAINAGE AS SET FORTH AND ESTABLISHED BY THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BURR RIDGE PARK, RECORDED 1/3/84 AS DOCUMENT 26915063, AS AMENDED BY FIRST AMENDMENT RECORDED MARCH 19, 1985 AS DOCUMENT 27479281, OVER, UNDER, ACROSS, IN AND UPON THE "PROPERTY" AS DEFINED AND DESCRIBED THEREIN.

PARCEL 3:

PERPETUAL NON-EXCLUSIVE EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCEL ONE, INCLUDING BUT NOT LIMITED TO EASEMENTS FOR ACCESS AS SET FORTH AND ESTABLISHED BY THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BURR RIDGE PARK OWNERS ASSOCIATION RECORDED APRIL 12, 1984 AS DOCUMENT 27042757, AND AMENDED BY DOCUMENT 27479286, TO, THROUGH, OVER AND ACROSS THE "PREMISES" AS DEFINED AND DESCRIBED THEREIN.

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745 McClintock Drive
Burr Ridge, Illinois

EXHIBIT B

Permitted Exceptions to Title

Those title exceptions listed on title commitment
CC106884 dated July 11, 1997, issued by First American Title
Insurance Company for the property described on Exhibit a hereto.

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