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Transwestern Capitol Commerce, L.L.C., as Mortgagor

to

Greenwich Capital Markets, Inc., as Mortgagee

MORTGAGE

Dated, As of December 10, 1997

Location: Capitol Commerce Center
Wheeling, Illinois
(Cook County)

- Permanent Index No: 03-14-403-009-0000
- 03-14-403-010-0000
- 03-14-403-014-0000
- 03-14-403-015-0000
- 03-14-403-016-0000
- 03-14-403-020-0000
- 03-14-403-023-0000
- 03-14-403-024-0000
- 03-14-403-025-0000
- 03-14-403-026-0000
- 03-14-403-027-0000
- 03-14-403-035-0000
- 03-14-403-036-0000
- 03-14-403-042-0000
- 03-14-403-043-0000
- 03-14-403-044-0000
- 03-14-403-045-0000
- 03-14-403-046-0000
- 03-14-403-017-0000

RECORD AND RETURN TO:

Battle Fowler LLP
Park Avenue Tower
75 East 55th Street
New York, New York 10022
Attention: Dean A. Stiffle, Esq.

BOX 333-CTI

27

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MORTGAGE

This Mortgage entered into as of the 10th day of December, 1997, between **Transwestern Capitol Commerce, L.L.C.**, a Delaware limited liability company having an office c/o Transwestern Investment Company, L.L.C., Three First National Plaza, Suite 4030, Chicago, Illinois 60602-4237 (hereinafter referred to as "Mortgagor"); and **Greenwich Capital Markets, Inc.**, a Delaware corporation having an office at 600 Steamboat Road, Greenwich, Connecticut 06830 (hereinafter referred to as "Mortgagee").

PRELIMINARY STATEMENT

A. All capitalized terms as used in this Mortgage shall, unless otherwise defined in this Mortgage, have the meanings given to such terms in **Exhibit A** attached hereto.

B. Mortgagor is the owner of a fee estate in the premises described in **Exhibit B** attached hereto (hereinafter referred to as the "Premises").

C. Mortgagee has, on the terms, covenants and provisions set forth in the Credit Agreement extended to Borrowers a revolving credit facility in the original principal sum of up to, but not in excess of, \$50,000,000 (hereinafter referred to as the "Credit Facility"), which Credit Facility is evidenced by, and payable together with interest thereon in accordance with the provisions of, the Credit Facility Note.

D. Mortgagee has approved the inclusion of the Premises and the Improvements as part of the collateral pool for the Credit Facility in accordance with the provisions of the Credit Agreement, and in connection therewith, and as consideration therefor, Mortgagor has agreed to execute and deliver this Mortgage to Mortgagee, as security for the payment of the debt.

E. NOW, THEREFORE, to secure the payment of an indebtedness in the principal sum of up to, but not in excess of, Fifty Million and 00/100 Dollars (\$50,000,000.00), lawful money of the United States of America, or so much thereof as may be advanced and readvanced and be outstanding from time to time in accordance with the provisions of the Credit Agreement, to be paid with interest in accordance with the provisions of the Credit Facility Note and the Credit Agreement (said indebtedness, interest and any and all sums which may or shall become due in accordance with the provisions of the Credit Facility Documents being hereinafter collectively referred to as the "debt"), Mortgagor has mortgaged, given, granted, bargained, sold, aliened, enfeoffed, conveyed, confirmed, warranted and assigned, and by these presents does mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm, warrant and assign unto Mortgagee forever all right, title and interest of Mortgagor now owned, or hereafter acquired, in and to the following property, rights and interests (such property, rights and interests being hereinafter collectively referred to as the "Mortgaged Property"):

(a) (the Premises)

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46 (b) all buildings and improvements now or hereafter located on
47 the Premises (hereinafter referred collectively to as the
48 "Improvements");

49 (c) all of the estate, right, title, claim or demand of any
50 nature whatsoever of Mortgagor, either in law or in equity, in
51 possession or expectancy, in and to the Mortgaged Property or any part
52 thereof;

53 (d) all easements, rights-of-way, gores of land, streets, ways,
54 alleys, passages, sewer rights, waters, water courses, water rights and
55 powers, and all estates, rights, titles, interests, privileges,
56 liberties, tenements, hereditaments, and appurtenances of any nature
57 whatsoever, in any way belonging, relating or pertaining to the
58 Mortgaged Property (including, without limitation, any and all
59 development rights, air rights or similar or comparable rights of any
60 nature whatsoever now or hereafter appurtenant to the Premises or now or
61 hereafter transferred to the Premises) and all land lying in the bed of
62 any street, road or avenue, opened or proposed, in front of or adjoining
63 the Premises to the center line thereof;

64 (e) all FFE and the right, title and interest of Mortgagor in
65 and to any of the FFE which may be subject to any security agreements
66 (as defined in the Uniform Commercial Code) superior in lien to the lien
67 of this Mortgage;

68 (f) all awards or payments, including interest thereon, if any,
69 and the right to receive the same, which may be made with respect to the
70 Mortgaged Property, whether from the exercise of the right of eminent
71 domain (including any transfer made in lieu of the exercise of said
72 right), or for any other injury to or decrease in the value of the
73 Mortgaged Property;

74 (g) all leases, licenses and other agreements affecting or
75 relating to the use or occupancy of the Mortgaged Property now or
76 hereafter entered into (such leases, licenses and other agreements are
77 hereinafter collectively referred to as the "Leases") and the right to
78 receive and apply the rents, income, revenues, receipts, accounts,
79 accounts receivable, issues and profits of or derived from or relating
80 to the Mortgaged Property (hereinafter collectively referred to as the
81 "Rents") to the payment of the Debt;

82 (h) all proceeds of and any unearned premiums on any insurance
83 policies covering the Mortgaged Property, including, without limitation,
84 the right (subject to the provisions of the Credit Agreement) to receive
85 and apply the proceeds of any insurance, judgments, or settlements made
86 in lieu thereof, for damage to the Mortgaged Property; and

87 (i) the right, subsequent to the occurrence of an Event of
88 Default, to appear in and defend any action, case or proceeding brought
89 with respect to the Mortgaged Property and to commence any action, case
90 or proceeding to protect the interest of Mortgagee in the Mortgaged
91 Property;

92 TO HAVE AND TO HOLD the above granted and described Mortgaged
93 Property unto and to the proper use and benefit of Mortgagee, and the
94 successors and assigns of Mortgagee, forever;

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95 AND Mortgagor covenants and agrees with and represents and
96 warrants to Mortgagee as follows:

97 1. **Payment of Debt.** Mortgagor will pay the Debt at the time
98 and in the manner provided for its payment in the Credit Facility Documents.

99 2. **Warranty of Title.** Subject only to those exceptions to
100 title specifically set forth in the title policy issued or to be issued by the
101 Title Company to Mortgagee and insuring the lien of this Mortgage, Mortgagor
102 warrants the title to the Premises, the Improvements, the FF&E and the balance
103 of the Mortgaged Property.

104 3. **Leases and Rents.** (a) Mortgagor hereby absolutely and
105 unconditionally assigns to Mortgagee all right, title and interest of
106 Mortgagor in and to all Leases and Rents, it being intended by Mortgagor that
107 this assignment constitutes a present, absolute assignment and not an
108 assignment for additional security only. The foregoing assignment shall not
109 be construed to bind Mortgagee to perform any of the covenants or provisions
110 contained in any lease or otherwise impose any obligation upon Mortgagee.
111 Nevertheless, subject to the terms of this paragraph, Mortgagee grants to
112 Mortgagor a revocable license to operate and manage the Mortgaged Property and
113 to collect the Rents, subject to the requirements of the Credit Agreement.
114 Mortgagor shall hold the Rents, or an amount sufficient to discharge all
115 current sums due on the Debt, in trust for use in payment of the Debt.
116 Subject to the provisions of paragraph 11 of the Credit Agreement, upon the
117 occurrence of a Springing Lockbox Event (as such term is defined in the Credit
118 Agreement), and without the need for notice or demand, the license granted to
119 Mortgagor shall automatically be revoked, and Mortgagee shall be entitled to
120 take possession of all Rents, whether or not Mortgagee enters upon or takes
121 control of the Mortgaged Property. Following such revocation, Mortgagee may,
122 but shall not be obligated to, assume the management of the Mortgaged Property
123 and may collect the Rents, and, provided such Springing Lockbox Event has
124 occurred as a result of the occurrence of an Event of Default, Mortgagee may
125 retain and apply the Rents toward payment of the Debt in such order, priority
126 and proportions as Mortgagee, in its discretion, shall deem proper, or to the
127 operation, maintenance and repair of the Mortgaged Property, and irrespective
128 of whether Mortgagee shall have commenced a foreclosure of this Mortgage or
129 shall have applied or arranged for the appointment of a receiver. In addition
130 to the foregoing rights of Mortgagee, and at all times subject to the
131 provisions of paragraph 11 of the Credit Agreement, Mortgagee shall have the
132 absolute and unconditional right following the occurrence of a Springing
133 Lockbox Event, and without prior notice (except as expressly set forth in the
134 Credit Agreement) to Mortgagor, (i) to deliver the Tenant Notices (as such
135 term is defined in the Credit Agreement) to the tenants under the Leases, or
136 (ii) in the event such Springing Lockbox Event has occurred as a result of the
137 occurrence of an Event of Default, to otherwise notify the tenants under the
138 Leases that all Rents shall be paid directly to (or at the direction of)
139 Mortgagee. Mortgagor shall not, without the consent of Mortgagee, make, or
140 suffer to be made, any Leases which are not in conformity with the
141 requirements of this Mortgage or the Credit Agreement or which otherwise
142 require the consent of Mortgagee in accordance with the provisions of the
143 Credit Agreement or modify any Leases (other than modifications which are
144 permitted and made under and in accordance with provisions of the Credit
145 Agreement) or cancel any Leases (other than in accordance with the provisions
146 of the Credit Agreement) or accept prepayments of installments of the Rents
147 for a period of more than one (1) month in advance or further assign the whole
148 or any part of the Rents. Any extension or renewal of the term of, or

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149 increase in the space demised under, any Lease in existence on the date hereof
150 or entered into subsequent to the date hereof in conformity with the
151 provisions of this Mortgage (other than any such extension or renewal or
152 increase in space in accordance with the express provisions of any such Lease)
153 shall be deemed to be a new Lease for all purposes of this paragraph. In
154 addition to the rights which Mortgagee may have herein, in the event of any
155 default under the Credit Facility Note, this Mortgage or any of the other
156 Credit Facility Documents, Mortgagee, at its option, may require Mortgagor to
157 pay monthly in advance to Mortgagee, or any receiver appointed to collect the
158 Rents, the fair and reasonable rental value for the use and occupation of such
159 part of the Mortgaged Property as may be in possession of Mortgagor. Upon
160 default in any such payment, Mortgagor will vacate and surrender possession of
161 the Mortgaged Property to Mortgagee, or to such receiver and, in default
162 thereof, Mortgagor may be evicted by summary proceedings or otherwise.
163 Nothing contained in this paragraph shall be construed as imposing on
164 Mortgagee any of the obligations of the landlord under the Leases.

165 3. All security deposits of tenants, whether held in cash or
166 any other form, shall not be commingled with any other funds of Mortgagor and,
167 if cash, shall be deposited by Mortgagor at such commercial or savings bank or
168 banks, as may be reasonably satisfactory to Mortgagee and shall otherwise be
169 held in compliance with applicable law. Any bond or other instrument which
170 Mortgagor is permitted to hold in lieu of cash security deposits under any
171 applicable Legal Requirements (as such term is defined in the Credit
172 Agreement) shall be maintained in full force and effect in the full amount of
173 such deposits unless replaced by cash deposits as hereinabove described, shall
174 be issued by an institution reasonably satisfactory to Mortgagee, shall, if
175 permitted pursuant to any legal requirements, name Mortgagee as payee or
176 mortgagee thereunder (or at Mortgagee's option, be fully assignable to
177 Mortgagee) and shall, in all respects, comply with any applicable Legal
178 Requirements. Mortgagor shall, upon request, provide Mortgagee with evidence
179 satisfactory to Mortgagee of Mortgagor's compliance with the foregoing.
180 Following the occurrence and during the continuance of any Event of Default,
181 Mortgagor shall, upon Mortgagee's request, if permitted by any applicable
182 Legal Requirements, turn over to Mortgagee the security deposits (and any
183 interest theretofore earned thereon) with respect to all or any portion of the
184 Mortgaged Property, to be held by Mortgagee subject to the terms of the
185 leases.

186 4. **Maintenance of Mortgaged Property.** Mortgagor shall cause
187 the Mortgaged Property to be maintained in good condition and repair and will
188 not commit or suffer to be committed any waste of the Mortgaged Property. The
189 failure of Mortgagor to pay any Taxes or any installment thereof, or any
190 Insurance Premiums payable with respect to any of the Insurance Policies
191 covering the Mortgaged Property or any portion thereof, or to use and apply
192 the Rents strictly in accordance with the provisions of this Mortgage and the
193 other Credit Facility Documents, shall be deemed for all purposes to
194 constitute waste, regardless of whether the same would, in the absence of this
195 provision, otherwise constitute waste under applicable law. The Improvements
196 and the FF&E shall not be removed, demolished or materially altered without
197 the consent of Mortgagee except in the ordinary course of Mortgagor's business
198 at the Mortgaged Property (including, without limitation, tenant improvement
199 work and replacement, retirement or obsolescence of FF&E) or as a result of a
200 casualty or condemnation handled in accordance with the provisions of the
201 Credit Agreement. Mortgagor shall promptly comply with all existing and
202 future governmental laws, orders, ordinances, rules and regulations affecting
203 the Mortgaged Property, or any portion thereof or the use thereof including,

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204 without limitation, the provisions of the Americans with Disabilities Act
205 (other than those the validity of which is being contested in accordance with
206 the provision of the Credit Agreement) except in cases where non-compliance
207 will not have a materially adverse effect on the Mortgaged Property or on the
208 business, assets, operations or financial or other condition of Mortgagor or
209 any other Borrower. Mortgagor shall comply in all material respects with the
210 requirements of all, and shall not modify, amend or terminate any, easements
211 or restrictive covenants which from time to time affect the whole or any
212 portion of the Mortgaged Property. Mortgagor shall also comply in all
213 material respects with the requirements of, and to the extent reasonably
214 within Mortgagor's control, maintain, preserve, enforce and renew, all
215 material rights of way, easements, grants, privileges, licenses, franchises
216 and restrictive covenants which from time to time benefit or pertain to the
217 whole or any portion of the Mortgaged Property, and Mortgagor shall not
218 without obtaining the prior consent of Mortgagee modify, amend or terminate,
219 or surrender any of its rights under, any of such material rights of way,
220 easements, grants, privileges, licenses, franchises or restrictive covenants.
221 Mortgagor shall promptly repair, replace or rebuild any part of the Mortgaged
222 Property which may be damaged or destroyed by fire or other property hazard or
223 casualty (including any fire or other property hazard or casualty for which
224 insurance was not obtained or obtainable) or which may be affected by any
225 taking by any public or quasi-public authority through eminent domain or
226 otherwise (subject to the provisions of paragraphs 30 and 37 of the Credit
227 Agreement), and shall complete and pay for, within a reasonable time, any
228 structure at any time in the process of construction or repair on the
229 Premises. Mortgagor will not, without obtaining the prior consent of
230 Mortgagee, initiate, join in or consent to any private restrictive covenant,
231 zoning ordinance, or other public or private restrictions, limiting, changing
232 or otherwise affecting the uses which may be made of the Mortgaged Property or
233 any part thereof.

234 **5. Additional Representations and Warranties.** Mortgagor
235 represents and warrants to Mortgagee as follows with respect to the Mortgaged
236 Property:

237 (a) No lien, other than Permitted Title Exceptions,
238 which remains outstanding as of the date hereof, including,
239 without limitation, any tax lien, is currently levied against the
240 Mortgaged Property. The Permitted Title Exceptions do not
241 materially adversely affect the value or use of the Mortgaged
242 Property, or Mortgagor's ability to repay its allocable share of
243 the debt.

244 (b) The Mortgaged Property has adequate rights of
245 access to public ways and is served by adequate water, sewer,
246 sanitary sewer and storm drain facilities. To the best of
247 Mortgagor's knowledge, all public utilities necessary to the
248 continued use and enjoyment of the Mortgaged Property as presently
249 used and enjoyed are located in the public right-of-way abutting
250 the Mortgaged Property, and all such utilities are connected so as
251 to serve the Mortgaged Property without passing over other
252 property. All roads necessary for the full utilization of the
253 Mortgaged Property for its current purpose have been completed and
254 dedicated to public use and accepted by all Governmental
255 Authorities or are the subject of access easements for the benefit
256 of the Mortgaged Property.

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257 (c) There are no service, maintenance or repair
258 contracts affecting the Mortgaged Property that are not terminable
259 on one (1) month's notice or less without cause and without
260 penalty or premium. All service, maintenance or repair contracts
261 affecting the Mortgaged Property have been entered into at arms-
262 length in the ordinary course of business and provide for the
263 payment of fees in amounts and upon terms comparable to existing
264 market rates.

265 (d) Except to the extent set forth in Schedule I
266 attached hereto, there are no pending or, to the knowledge of
267 Mortgagor, proposed special or other assessments for public
268 improvements or otherwise affecting the Mortgaged Property, nor,
269 to the knowledge of Mortgagor, are there any contemplated
270 improvements to the Mortgaged Property that may result in such
271 special or other assessments.

272 (e) The Mortgaged Property is not located in a flood
273 hazard area as defined by the U.S. Department of Housing and Urban
274 Development or the Federal Emergency Management Agency.

275 (f) The Mortgaged Property and the personalty located
276 thereon constitutes all of the real property, equipment and
277 fixtures currently owned by Mortgagor or currently used in the
278 operation of the business located on such Mortgaged Property.

279 (g) All certifications, permits, licenses and
280 approvals, including certificates of completion and occupancy
281 permits have been obtained and are in full force and effect. The
282 use being made of the Mortgaged Property is in conformity with the
283 certificate of occupancy issued for the Mortgaged Property.

284 (h) No portion of the Mortgaged Property has been
285 materially damaged, destroyed or injured by fire or other casualty
286 which is not now fully restored or in the process of being
287 restored.

288 (i) The Mortgaged Property constitutes one or more
289 separate tax lots, with one or more separate tax assessments,
290 independent of any other land or improvements.

291 (j) To the best of Mortgagor's knowledge, the
292 Mortgaged Property (including all improvements, FF&E and other
293 facilities and systems) is in good condition, order and repair in
294 all material respects; there exists no structural or other
295 material defect or damages to such Mortgaged Property.

296 (k) Mortgagor is not in default under any Material
297 Agreement pertaining to the Mortgaged Property, or by which any
298 portion of the Mortgaged Property or the other Collateral may be
299 bound.

300 **Notice.** Any notice, request, demand, statement,
301 authorization, approval or consent made hereunder shall be in writing and
302 shall be sent by Federal Express, or other reputable national courier service,
303 or by postage pre paid registered or certified mail, return receipt requested,
304 and shall be deemed given (i) when received at the following addresses if sent

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305 by Federal Express, or other reputable national courier service, and
306 (ii) three (3) business days after being postmarked and addressed as follows
307 if sent by registered or certified mail, return receipt requested:

308 If to Mortgagor:

309 Transwestern Capitol Commerce, L.L.C.
310 c/o Transwestern Investment Company, L.L.C.
311 Three First National Plaza
312 Suite 4030
313 Chicago, Illinois 60602-4232
314 Attention: Douglas W. Lyons
315 Steven D. Bandolik

316 With a copy to:

317 Hopkins & Suttel
318 Three First National Plaza
319 Suite 4000
320 Chicago, Illinois 60602
321 Attention: Scott A. Drane, Esq.

322 If to Mortgagee:

323 Greenwich Capital Markets, Inc.
324 600 Steamboat Road
325 Greenwich, Connecticut 06830
326 Attention: Kent E. Daiber
327 Sheldon Goldfarb, Esq.

328 With copies to:

329 Rattle Fowler LLP
330 Park Avenue Tower
331 25 East 55th Street
332 New York, New York 10022
333 Attention: Dean A. Stiffle, Esq.

334 Each party may designate a change of address by notice to the other party,
335 given at least fifteen (15) days before such change of address is to become
336 effective.

337 7. **Sale of Mortgaged Property.** If this Mortgage is foreclosed,
338 the Mortgaged Property, or any interest therein, may, at the discretion of
339 Mortgagee, be sold in one or more parcels or in several interests or portions
340 and in any order or manner.

341 8. **Changes in Laws Regarding Taxation.** In the event of the
342 passage after the date of this Mortgage of any law of the State in which the
343 Premises are located deducting from the value of real property for the purpose
344 of taxation any lien or encumbrance thereon or changing in any way the laws
345 for the taxation of mortgages or debts secured by mortgages for state or local
346 purposes or the manner of the collection of any such taxes, and imposing a
347 tax, either directly or indirectly, on this Mortgage, the Credit Facility Note
348 or the Debt, Mortgagor shall, if permitted by law, pay any tax imposed as a
349 result of any such law within the statutory period or within thirty (30) days
350 after demand by Mortgagee, whichever is less, provided, however, that if, in

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351 the opinion of the attorneys for Mortgagee, Mortgagor is not permitted by law
352 to pay such taxes, Mortgagee shall have the right, at its option, to declare
353 the Debt due and payable on a date specified in a prior notice to Mortgagor of
354 not less than sixty (60) days.

355 9. **No Credits on Account of the Debt.** Mortgagor will not claim
356 or demand or be entitled to any credit or credits on account of the Debt for
357 any part of the Taxes assessed against the Mortgaged Property or any part
358 thereof and no deduction shall otherwise be made or claimed from the taxable
359 value of the Mortgaged Property, or any part thereof, by reason of this
360 Mortgage or the Debt.

361 10. **Documentary Stamps.** If at any time the United States of
362 America, any state thereof, or any governmental subdivision of any such state,
363 shall require revenue or other stamps to be affixed to the Credit Facility
364 Note, this Mortgage or any of the other Credit Facility Documents, Mortgagor
365 will, to the extent permitted by law, pay for the same, with interest and
366 penalties thereon, if any.

367 11. **Events of Default.** The Debt shall become due at the option
368 of Mortgagee upon the occurrence of any one or more of the Events of Default.

369 12. **Appointment of Receiver.** Upon, or at any time after,
370 the filing of a complaint to foreclose this Mortgage, the court in which such
371 complaint is filed shall, if requested to do so by the Mortgagee, appoint a
372 receiver of the Premises. To the extent permitted by law, Mortgagee shall
373 also be entitled to the appointment of a receiver of the Premises prior to the
374 filing of any such foreclosure complaint, upon or at any time after the
375 occurrence of an Event of Default. Any appointment of a receiver may be made
376 either before or after sale, without regard to the solvency or insolvency of
377 Mortgagor at the time of application for such receiver and without regard to
378 the then value of the Premises, and Mortgagee hereunder may be appointed as
379 such receiver. Such receiver shall have power: (a) to collect the rents,
380 issues and profits of the Premises during the pendency of such foreclosure
381 suit and, in case of a sale and a deficiency, during the full statutory period
382 of redemption, if any, whether there be redemption or not, as well as during
383 any further times when Mortgagor, except for the intervention of such
384 receiver, would be entitled to collect such rents, issues and profits; (b) to
385 extend or modify any then existing leases and to make new leases, which
386 extensions, modifications and new leases may provide for terms to expire, or
387 for options to lessees to extend or renew terms to expire, beyond the maturity
388 date of the indebtedness secured hereunder and beyond the date of the issuance
389 of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it
390 being understood and agreed that any such leases, and the options or other
391 such provisions to be contained therein, shall be binding upon Mortgagor and
392 all persons whose interests in the Premises are subject to the lien hereof and
393 upon the purchaser or purchasers at any foreclosure sale, notwithstanding any
394 redemption from any judgment or decree of foreclosure, discharge of the
395 mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of
396 any certificate of sale or deed to any purchaser; and (c) all other powers
397 which may be necessary or are usual in such cases for the protection,
398 possession, control, management and operation of the Premises during the whole
399 of said period. The court from time to time may authorize the receiver to
400 apply the net income in his hands in payment in whole or in part to: (x) the
401 Debt or any tax, special assessment or other lien which may be or become
402 superior to the lien hereof or of such decree, provided such application is

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403 made prior to any foreclosure sale; and (y) the deficiency in case of a sale
404 and deficiency.

405 13. **Non-Waiver.** The failure of Mortgagee to insist upon strict
406 performance of any term of this Mortgage shall not be deemed to be a waiver of
407 any term of this Mortgage. Mortgagor shall not be relieved of Mortgagor's
408 obligation to pay the Debt at the time and in the manner provided for its
409 payment in the Credit Facility Documents by reason of (i) failure of Mortgagee
410 to comply with any request of Mortgagor to take any action to foreclose this
411 Mortgage or any other mortgage or deed of trust securing the Debt or any
412 portion thereof or otherwise enforce any of the provisions of this Mortgage or
413 any of the other Credit Facility Documents, (ii) the release, regardless of
414 consideration, of the whole or any part of the Mortgaged Property or any other
415 security for the Debt, or (iii) any agreement or stipulation between Mortgagee
416 and any subsequent owner or owners of the Mortgaged Property or other person
417 extending the time of payment or otherwise modifying or supplementing the
418 terms of the Credit Facility Documents without first having obtained the
419 consent of Mortgagor, and in the latter event, Mortgagor shall continue to be
420 obligated to pay the Debt at the times and in the manner provided in the
421 Credit Facility Documents, as so extended, modified and supplemented, unless
422 expressly released and discharged from such obligation by Mortgagee in
423 writing. Regardless of consideration, and without the necessity for any
424 notice to or consent by the holder of any subordinate lien, encumbrance,
425 right, title or interest in or to the Mortgaged Property, Mortgagee may
426 release any person at any time liable for the payment of the Debt or any
427 portion thereof or any part of the security held for the Debt and may extend
428 the time of payment of the Debt or otherwise modify the terms of the Credit
429 Facility Documents, including, without limitation, a modification of the
430 interest rate payable on the Principal Balance of the Credit Facility Note,
431 without in any manner impairing or affecting this Mortgage or the lien thereof
432 or the priority of this Mortgage, as so extended and modified, as security for
433 the Debt over any such subordinate lien, encumbrance, right, title or
434 interest. Mortgagee may resort for the payment of the Debt to any other
435 security held by Mortgagee in such order and manner as Mortgagee, in its
436 discretion, may elect. Mortgagee may take action to recover the Debt, or any
437 portion thereof, or to enforce any covenant hereof without prejudice to the
438 right of Mortgagee thereafter to foreclose this Mortgage. Mortgagee shall not
439 be limited exclusively to the rights and remedies herein stated but shall be
440 entitled to every additional right and remedy set forth in the Credit Facility
441 Documents or now or hereafter afforded by law. The rights of Mortgagee under
442 this Mortgage and the other Credit Facility Documents shall be separate,
443 distinct and cumulative and none shall be given effect to the exclusion of the
444 others. No act of Mortgagee shall be construed as an election to proceed
445 under any one provision of this Mortgage or of the other Credit Facility
446 Documents to the exclusion of any other provision set forth in this Mortgage
447 or the other Credit Facility Documents.

448 14. **Construction.** The terms of this Mortgage shall be construed
449 in accordance with the laws of the State in which the Premises are located.

450 15. **Security Agreement.** This Mortgage constitutes both a real
451 property mortgage and a "security agreement", within the meaning of the
452 Uniform Commercial Code, and the Mortgaged Property includes both real and
453 personal property and all other rights and interest, whether tangible or
454 intangible in nature, of Mortgagor in the Mortgaged Property. Mortgagor by
455 executing and delivering this Mortgage has granted to Mortgagee, as security

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456 for the Debt, a security interest in the Mortgaged Property, including,
457 without limitation, FF&E. If an Event of Default shall occur, Mortgagee, in
458 addition to any other rights and remedies which it may have, shall have and
459 may exercise immediately and without demand any and all rights and remedies
460 granted to a secured party upon default under the Uniform Commercial Code,
461 including, without limiting the generality of the foregoing, the right to take
462 possession of the FF&E or any part thereof, and to take such other measures as
463 Mortgagee may deem necessary for the care, protection and preservation of the
464 FF&E. Mortgagor shall pay to Mortgagee on demand any and all expenses
465 (including reasonable attorneys' fees) actually incurred or paid by Mortgagee
466 in protecting its interest in the FF&E and in enforcing its rights hereunder
467 with respect to the FF&E after the occurrence of an Event of Default. Any
468 notice of sale, disposition or other intended action by Mortgagee with respect
469 to the FF&E sent to Mortgagor in accordance with the provisions of this
470 Mortgage at least seven (7) business days prior to the date of any such sale,
471 disposition or other action, shall constitute reasonable notice to Mortgagor
472 (except in the case of FF&E which is perishable or is of a type customarily
473 sold on a recognized market, in which case such seven (7) business days'
474 notice shall not be required), and the method of sale or disposition or other
475 intended action set forth or specified in such notice shall conclusively be
476 deemed to be commercially reasonable within the meaning of the Uniform
477 Commercial Code unless objected to in writing by Mortgagor within five (5)
478 days after receipt by Mortgagor of such notice. The proceeds of any sale or
479 disposition of the FF&E, or any part thereof, may be applied by Mortgagee to
480 the payment of the Debt in such order, priority and proportions as Mortgagee
481 in its discretion shall deem proper.

482 **16. Further Acts, etc.** Mortgagor will, at the cost of
483 Mortgagor, and without expense to Mortgagee, do, execute, acknowledge and
484 deliver all and every such further acts, deeds, conveyances, mortgages,
485 assignments, notices of assignments, transfers and assurances as Mortgagee
486 shall, from time to time, reasonably require for the better assuring,
487 conveying, assigning, transferring and confirming unto Mortgagee the property
488 and rights hereby mortgaged or intended now or hereafter so to be, or which
489 Mortgagor may be or may hereafter become bound to convey or assign to
490 Mortgagee, or for carrying out the intention or facilitating the performance
491 of the terms of this Mortgage or for filing, registering or recording this
492 Mortgage and, on demand, will execute and deliver and hereby authorizes
493 Mortgagee to execute in the name of Mortgagor to the extent Mortgagee may
494 lawfully do so, one or more financing statements, chattel mortgages or
495 comparable security instruments, to evidence the lien hereof upon the
496 Mortgaged Property.

497 **17. Headings, etc.** The headings, titles and captions of various
498 paragraphs of this Mortgage are for convenience of reference only and are not
499 to be construed as defining or limiting, in any way, the scope or intent of
500 the provisions hereof.

501 **18. Filing of Mortgage, etc.** Mortgagor forthwith upon the
502 execution and delivery of this Mortgage and thereafter, from time to time,
503 will cause this Mortgage, and any security instrument creating a lien or
504 evidencing the lien hereof upon the Mortgaged Property and each instrument of
505 further assurance to be filed, registered or recorded in such manner and in
506 such places as may be required by any present or future law in order to
507 publish notice of and fully to protect, preserve and perfect the lien hereof
508 upon, and the interest of Mortgagee in, the Mortgaged Property. Mortgagor
509 will pay all filing, registration and recording fees, and all expenses

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510 incident to the preparation, execution and acknowledgment of this Mortgage,
511 any mortgage supplemental hereto, any security instrument with respect to the
512 Mortgaged Property, and any instrument of further assurance, and all Federal,
513 state, county and municipal taxes, duties, imposts, assessments and charges
514 arising out of or in connection with the execution and delivery of this
515 Mortgage, any mortgage supplemental hereto, any security instrument with
516 respect to the Mortgaged Property or any instrument of further assurance.
517 Mortgagor shall hold harmless and indemnify Mortgagee, its successors and
518 assigns, against any liability incurred by reason of the imposition of any tax
519 on the making and recording of this Mortgage (other than any income tax or tax
520 in lieu thereof imposed on Mortgagee).

521 19. **Recovery of Sums Required To Be Paid.** Mortgagee shall have
522 the right from time to time to take action to recover any sum or sums which
523 constitute a part of the Debt as the same become due, without regard to
524 whether or not the balance of the Debt shall be due, and without prejudice to
525 the right of Mortgagee thereafter to bring an action of foreclosure, or any
526 other action, for a default or defaults by Mortgagor existing at the time such
527 earlier action was commenced.

528 20. **Actions, Cases and Proceedings.** Mortgagee shall have the
529 right to appear in and defend any action, case or proceeding brought with
530 respect to the Mortgaged Property and, after the occurrence of an Event of
531 Default, to bring any action, case or proceeding, which Mortgagee, in its
532 reasonable business discretion, feels should be brought to protect its
533 interest in the Mortgaged Property.

534 21. **Inapplicable Provisions.** If any term, covenant or condition
535 of this Mortgage shall be held to be invalid, illegal or unenforceable in any
536 respect, this Mortgage shall be construed without such provision.

537 22. **Duplicate Originals.** This Mortgage may be executed in any
538 number of duplicate originals and each such duplicate original shall be deemed
539 to constitute but one and the same instrument.

540 23. **Certain Usage.** Unless the context clearly indicates a
541 contrary intent or unless otherwise specifically provided herein, words used
542 in this Mortgage shall be used interchangeably in singular or plural form.
543 Whenever the context may require, any pronouns used herein shall include the
544 corresponding masculine, feminine or neuter forms, and the singular forms of
545 nouns and pronouns shall include the plural and vice versa.

546 24. **Waiver of Notice.** Mortgagor shall not be entitled to any
547 notices of any nature whatsoever from Mortgagee except as required by
548 applicable law and except with respect to matters for which this Mortgage or
549 the Credit Agreement specifically and expressly provides for the giving of
550 notice by Mortgagee to Mortgagor, and Mortgagor (to the full extent it may
551 lawfully do so) hereby expressly waives the right to receive any notice from
552 Mortgagee with respect to any matter for which applicable law or this Mortgage
553 does not specifically and expressly provide for the giving of notice by
554 Mortgagee to Mortgagor.

555 25. **No Oral Change.** This Mortgage may only be modified, amended
556 or changed by an agreement in writing signed by Mortgagor and Mortgagee, and
557 may only be released, discharged or satisfied of record by an agreement in
558 writing signed by Mortgagee. No waiver of any term, covenant or provision of
559 this Mortgage shall be effective unless given in writing by Mortgagee and if

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560 so given by Mortgagee shall only be effective in the specific instance in
561 which given.

562 **20. Waiver of Statutory Rights.** Mortgagor shall not and will
563 not apply for or avail itself of any appraisal, valuation, stay, extension
564 or exemption laws, or any so-called "Moratorium Laws", now existing or
565 hereafter enacted, in order to prevent or hinder the enforcement or
566 foreclosure of this Mortgage, but hereby waives the benefit of such laws to
567 the full extent that Mortgagor may do so under applicable law. Mortgagor for
568 itself and all who may claim through or under it waives any and all right to
569 have the property and estates comprising the Mortgaged Property marshalled
570 upon any foreclosure of the lien of this Mortgage and agrees that any court
571 having jurisdiction to foreclose such lien may order the Mortgaged Property
572 sold as an entirety. Mortgagor hereby waives for itself and all who may claim
573 through or under it, and to the full extent Mortgagor may do so under
574 applicable law, any and all rights of redemption from sale under any order or
575 decree of foreclosure of this Mortgage or granted under any statute now
576 existing or hereafter enacted. The foregoing waiver of the right of
577 redemption is made pursuant to 735 ILCS 5/15-1601.

578 **21. Credit Agreement.** This Mortgage is subject to all of the
579 terms, covenants and conditions of the Credit Agreement, which Credit
580 Agreement and all of the terms, covenants and conditions thereof are by this
581 reference incorporated herein with the same force and effect as if fully set
582 forth herein. The proceeds of the Credit Facility secured hereby are to be
583 advanced and readvanced by Mortgagee to Borrowers (including Mortgagor) in
584 accordance with the provisions of the Credit Agreement. Mortgagor shall
585 observe and perform all of the terms, covenants and conditions of the Credit
586 Agreement on Mortgagor's part to be observed or performed. All advances made
587 and all indebtedness arising and accruing under the Credit Agreement from time
588 to time shall constitute part of the Debt and shall be secured hereby.

589 **22. Revolving Credit Facility.** The Credit Facility is intended
590 to be a revolving credit facility. Mortgagor shall have the right upon
591 compliance with the conditions of the Credit Agreement and the other Credit
592 Facility Documents which pertain to the making of advances under the Credit
593 Facility (including, without limitation, the requirement that all advances be
594 evidenced and secured by the Credit Facility Documents and insured under
595 acceptable title insurance policies) to obtain readvances of amounts from time
596 to time applied (whether on a mandatory or voluntary basis) in reduction of
597 the outstanding Principal Balance of the Credit Facility pursuant to the
598 provisions of the Credit Agreement, or otherwise permitted to be made in
599 accordance with the provisions of the Credit Agreement or the other Credit
600 Facility Documents (including, without limitation, any portion of the
601 outstanding Principal Balance of the Credit Facility which is prepaid in
602 accordance with the provisions of the Credit Facility Note and the Credit
603 Agreement).

604 **23. Foreclosure; Expense of Litigation; Protective Advances.**
605 When an Event of Default shall have occurred (whether listed in paragraph 11
606 or described elsewhere in this Mortgage) and remain uncured, Mortgagee shall
607 have the right to accelerate the maturity of all of the Debt and when the
608 indebtedness secured hereby or any part thereof shall become due, whether by
609 lapse of time, acceleration or otherwise, then Mortgagee shall have the right
610 to foreclose the lien hereof by judicial action. In any suit to foreclose the
611 lien hereof or in any other action to enforce any other remedy of Mortgagee
612 under this Mortgage or with respect to any of the Debt, there shall be allowed

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613 and included as additional indebtedness in the decree for sale, judgment of
614 foreclosure or other judgment or decree all reasonable expenditures and
615 expenses which may be paid or incurred by or on behalf of Mortgagee for
616 attorneys, appraisers, consultants and contractors, outlays related to
617 compliance with Environmental Requirements (as defined in the Credit
618 Agreement), outlays for documentary and expert evidence, stenographers'
619 charges, publication costs, and costs (which may be estimated as to items to
620 be expended after entry of the decree) of procuring all such abstracts of
621 title, title searches and examinations, title insurance policies and similar
622 data and assurances with respect to title and value as Mortgagee may deem
623 reasonably necessary either to prosecute such suit or to evidence to bidders
624 at any sale pursuant to such decree the true condition of the title to or the
625 value of the Premises. All expenditures and expenses of the nature in this
626 paragraph mentioned and such expenses and fees as may be incurred in the
627 protection of the Premises and the maintenance of the lien of this Mortgage,
628 including but not limited to the reasonable fees of any attorney employed by
629 Mortgagee in any litigation or proceeding affecting this Mortgage, the Debt or
630 the Premises, including, without limitation, bankruptcy proceedings, or in the
631 preparation for the commencement or defense of any proceeding or threatened
632 suit or proceeding, shall be immediately due and payable by Mortgagor, with
633 interest thereon from the date incurred at the Default Rate (as defined in the
634 Credit Agreement), and shall be secured by this Mortgage. Without limitation
635 on the foregoing, all advances, disbursements and expenditures made by
636 Mortgagee before and during a foreclosure, and before and after judgment of
637 foreclosure, and at any time prior to sale, and, where applicable, after sale,
638 and during the pendency of any related proceedings, for the following
639 purposes, in addition to those otherwise authorized by this Mortgage or by the
640 Illinois Mortgage Foreclosure Law, 735 ILCS 15/1101 et seq., and any successor
641 statute thereto (the "Act"), shall have the benefit of all applicable
642 provisions of the Act, including those provisions of the Act hereinbelow
643 referred to collectively, "Protective Advances":

644 (a) all advances by Mortgagee in accordance with the terms
645 of this Mortgage for: (i) preserve or maintain, repair, restore or
646 rebuild any improvements upon the Mortgaged Property; (ii)
647 preserve the lien of this Mortgage or the priority thereof; or
648 (iii) enforce this Mortgage, as referred to in subsection (b) (5)
649 of Section 15-1392 of the Act;

650 (b) payments by Mortgagee of: (i) installments, when due,
651 of principal, interest or other obligations in accordance with the
652 terms of any senior mortgage or other prior lien or encumbrance;
653 (ii) installments, when due, of real estate taxes and assessments,
654 general and special and all other taxes and assessments of any
655 kind or nature whatsoever which are assessed or imposed upon the
656 Mortgaged Property or any part thereof; (iii) other obligations
657 authorized by this Mortgage; or (iv) with court approval, any
658 other amounts in connection with other liens, encumbrances or
659 interests reasonably necessary to preserve the status of title, as
660 referred to in Section 15-1505 of the Act;

661 (c) advances by Mortgagee in settlement or compromise of
662 any claims asserted by claimants under senior mortgages or any
663 other prior liens;

664 (d) attorneys' fees and other expenses incurred: (i) in
665 connection with the foreclosure of this Mortgage as referred to in

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666 Sections 15-1504(d)(2) and 15-1510 of the Act; (ii) in connection
667 with any action, suit or proceeding brought by or against the
668 Mortgagee for the enforcement of this Mortgage or arising from the
669 interest of the Mortgagee hereunder; or (iii) in the preparation
670 for the commencement or defense of any such foreclosure or other
671 action;

672 (e) Mortgagee's fees and costs, including reasonable
673 attorneys' fees, arising between the entry of judgment of
674 foreclosure and confirmation hearing as referred to in subsection
675 (b)(1) of Section 15-1508 of the Act;

676 (f) expenses deductible from proceeds of sale as referred
677 to in subsections (a) and (b) of Section 15-1512 of the Act;

678 (g) expenses incurred and expenditures made by Mortgagee
679 for any one or more of the following: (i) if all or any portion
680 thereof constitutes one or more units under a condominium
681 declaration, assessments imposed upon the unit owner thereof; (ii)
682 if any interest in the Mortgaged Property is a leasehold estate
683 under a lease or sublease, rentals or other payments required to
684 be made by the lessee under the terms of the lease or sublease;
685 (iii) premiums for casualty and liability insurance paid by
686 Mortgagee whether or not Mortgagee or a receiver is in possession,
687 if reasonably required, in reasonable amounts, and all renewals
688 thereof, without regard to the limitation to maintaining of
689 existing insurance in effect, at the time any receiver or mortgagee
690 takes possession of the Mortgaged Property imposed by subsection
691 (c)(1) of Section 15-1704 of the Act; (iv) repair or restoration
692 of damage or destruction in excess of available insurance proceeds
693 or condemnation awards; (v) payments required or deemed by
694 Mortgagee to be for the benefit of the Mortgaged Property or
695 required to be made by the owner of the Mortgaged Property under
696 any grant or declaration of easement, easement agreement,
697 agreement with any adjoining land owners or instruments creating
698 covenants or restrictions for the benefit of or affecting the
699 Mortgaged Property; (vi) shared or common expense assessments
700 payable to any association or corporation in which the owner of
701 the Mortgaged Property is a member if any way affecting the
702 Mortgaged Property; (vii) costs incurred by Mortgagee for
703 demolition, preparation for and completion of construction; and
704 (viii) pursuant to any lease or other agreement for occupancy of
705 the Mortgaged Property.

706 This Mortgage shall be a lien for all Protective Advances as to subsequent
707 purchasers and judgment creditors from the time this Mortgage is recorded
708 pursuant to subsection (b)(1) of Section 15-1302 of the Act. All Protective
709 Advances shall, except to the extent, if any, that any of the same is clearly
710 contrary to or inconsistent with the provisions of the Act, apply to and be
711 included in: (i) determination of the amount of indebtedness secured by this
712 Mortgage at any time; (ii) the indebtedness found due and owing to the
713 Mortgagee in the judgment of foreclosure and any subsequent supplemental
714 judgments, orders, adjudications or findings by the court of any additional
715 indebtedness becoming due after such entry of judgment, it being agreed that
716 in any foreclosure judgment, the court may reserve jurisdiction for such
717 purpose; (iii) if right of redemption is deemed not to be waived by this
718 Mortgage, computation of amount required to redeem, pursuant to subsections

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719 (d) (2) and (e) of Section 15-1603 of the Act; (iv) determination of amounts
720 deductible from sale proceeds pursuant to Section 15-1512 of the Act; (v)
721 application of income in the hands of any receiver or Mortgagee in possession;
722 and (vi) computation of any deficiency judgment pursuant to subsections (b) (2)
723 and (e) of Sections 15-1508 and Section 15-1511 of the Act. Upon any sale
724 made under or by virtue of this Section or by virtue of judicial proceedings
725 or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and
726 acquire the Premises or any part thereof and in lieu of paying cash therefor
727 may make settlement for the purchase price by crediting upon the indebtedness
728 of Mortgagor secured by this Mortgage the sale price, after deducting
729 therefrom the expenses of the sale and the cost of the action and any other
730 sums which Mortgagor is required to pay or that Mortgagee is authorized to
731 deduct under this Mortgage. Mortgagor understands and agrees that in the
732 event of an Event of Default, Mortgagee, to the extent this Mortgage
733 constitutes a security agreement under the Uniform Commercial Code, may
734 exercise any and all rights and remedies of a secured party under the Uniform
735 Commercial Code including but not limited to the taking possession of any
736 personal property covered by this Mortgage and disposing of the same by sale
737 or otherwise; provided that at least ten (10) days' prior notice of such
738 disposition must be given to the Mortgagor, all as provided for by the Uniform
739 Commercial Code, it being agreed that such ten (10) days' notice shall
740 constitute fair and reasonable notice to Mortgagor of such disposition.

741 **30. Application of Proceeds of Foreclosure Sale.** The proceeds
742 of any foreclosure sale of the Premises (or the sale of property under the
743 last sentence of paragraph 29 hereof) shall be distributed and applied in the
744 following order of priority: first, on account of all costs and expenses
745 incident to the foreclosure proceedings (or sale, as the case may be),
746 including all such items as are mentioned in the preceding paragraph hereof;
747 second, to the repayment of the Debt and all other items which under the terms
748 hereof constitute secured indebtedness additional to that constituting the
749 Debt, with interest thereon as herein provided; and third, any overplus to
750 Mortgagor, its successors or assigns, as their rights may appear or as a court
751 may direct.

752 **31. Mortgagee's Right of Possession in Case of Event of Default.**
753 In any case in which under the provisions of this Mortgage, Mortgagee has a
754 right to foreclose the lien hereof, Mortgagor shall, forthwith, upon demand by
755 Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled, to the
756 fullest extent permitted by law, to take actual possession of, the Premises or
757 any part thereof personally or by its agents or attorneys. In such event,
758 Mortgagee in its discretion may, in accordance with law, enter upon and take
759 and maintain possession of all or any part of the Premises together with all
760 documents, books, records, papers and actuals of Mortgagor or the then owner
761 of the Premises relating thereto and may exclude Mortgagor its agents or
762 servants wholly therefrom and may, as attorney-in-fact, as agent for Mortgagor
763 or in its own name as Mortgagee, and under the powers herein granted, hold,
764 operate, manage and control the Premises and conduct the business, if any,
765 thereof, either personally or by its agents, and with full power to use such
766 measures, legal or equitable, as in its discretion or in the discretion of its
767 successors or assigns may be deemed proper or necessary to enforce the payment
768 or security of the avails, rents, issues, and profits of the Premises,
769 including actions for the recovery of Rents, actions in forcible detainer and
770 actions in distress for rent, and with full power: (a) to cancel or terminate
771 any Lease for any cause or on any ground which would entitle Mortgagor to
772 cancel the same; (b) to elect to disaffirm any Lease which is then subordinate
773 to the lien hereof; (c) to extend or modify any then existing Leases and to

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774 make new Leases, which extensions, modifications and new Leases may provide
775 for terms to expire, or for options to lessees to extend or renew terms to
776 expire, beyond the maturity date of the indebtedness hereunder and beyond the
777 date of the issuance of a deed or deeds to a purchaser or purchasers at a
778 foreclosure sale, it being understood and agreed that any such Leases, and the
779 options or other such provisions to be contained therein, shall be binding
780 upon Mortgagor and all persons whose interests in the Premises are subject to
781 the lien hereof and upon the purchaser or purchasers at any foreclosure sale,
782 notwithstanding any redemption from sale, discharge of the mortgage
783 indebtedness, satisfaction of any foreclosure decree, or issuance of any
784 certificate of sale or deed to any purchaser; (d) to make all necessary or
785 proper repairs, decorating, renewals, replacements, alterations, additions,
786 betterments and improvements to the Premises as to it may seem judicious; (e)
787 to insure and reinsure the same and all risks incidental to Mortgagee's
788 possession, operation and management thereof; and (f) to receive all of such
789 avails, rents, issues and profits; Mortgagor hereby granting full power and
790 authority to exercise each and every of the rights, privileges and powers
791 herein granted at any and all times hereafter. Without limitation on the
792 foregoing, in addition to any rights granted Mortgagee hereunder or under
793 applicable law, Mortgagee shall have all powers, rights and duties as provided
794 for in Sections 15-1701, 15-1702 and 15-1703 of the Act.

795 From and after an Event of Default, Mortgagor shall be deemed to have
796 constituted and appointed Mortgagee its true and lawful attorney-in-fact
797 (which appointment is irrevocable until termination of this Mortgage and
798 coupled with an interest) with full power of substitution either in the name
799 of Mortgagee or Mortgagor, to exercise any of the powers granted to Mortgagee
800 pursuant to this paragraph 31. Mortgagee shall not be obligated to perform or
801 discharge, nor does it hereby undertake to perform or discharge, any
802 obligation, duty or liability under any Leases. Mortgagor shall and does
803 hereby agree to indemnify and hold Mortgagee harmless of and from any and all
804 liability, loss or damage (except for any such liability, loss or damage which
805 may be caused by the willful misconduct or gross negligence of Mortgagee)
806 which Mortgagee may or might incur by reason of its performance of any action
807 authorized under this paragraph 31 and of and from any and all claims and
808 demands whatsoever (except for any such liability, loss or damage which may be
809 caused by the willful misconduct or gross negligence of Mortgagee) which may
810 be asserted against Mortgagee by reason of any alleged obligations or
811 undertakings on its part to perform or discharge any of the terms, covenants
812 or agreements of Mortgagor.

813 **32. Application of Income Received by Mortgagee.** Mortgagee, in
814 the exercise of the rights and powers hereinabove conferred upon it by
815 paragraph 30 and paragraph 31 hereof, shall have full power to use and apply
816 the avails, rents, issues and profits of the Premises to the payment of or on
817 account of the following, in such order as Mortgagee may determine:

818 (a) to the payment of any of the Debt secured hereby or
819 any deficiency which may result from any foreclosure sale;

820 (b) to the payment of taxes and special assessments now
821 due or which may hereafter become due on the Premises;

822 (c) to the payment of all repairs, decorating, renewals,
823 replacements, alterations, additions, betterments, and
824 improvements to the Premises and of placing the Premises in such

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825 condition as which, in the judgment of Mortgagee, make it readily
826 rentable; and

827 (d) to the payment of the operating expenses of the
828 Premises, including but not limited to the cost of the management
829 and leasing thereof, judgments, claims for damages, if any, and
830 premiums on insurance hereinabove authorized.

831 33. **Future Advances.** This Mortgage also secures any and all
832 future obligations and indebtedness arising under or in connection with the
833 Credit Agreement, this Mortgage and any of the other Credit Facility
834 Documents, which future obligations and indebtedness shall have the same
835 priority as if all such future obligations and indebtedness were made on the
836 date of execution hereof. Nothing in this paragraph or in any other provision
837 of this Mortgage shall be deemed either (a) an obligation on the part of
838 Mortgagee to make any future advances of any sort other than as expressly set
839 forth in the Credit Agreement or (b) an agreement on the part of Mortgagee to
840 increase the amount of the Credit Facility.

841 34. **Maximum Amount of Indebtedness Secured.** The maximum
842 aggregate amount of principal, interest and other indebtedness (now or
843 hereafter owed) secured by this Mortgage is Fifty Million and No/100 U.S.
844 Dollars (U.S. \$50,000,000).

845 35. **Business Loan Recital/Statutory Exemption.**

846 (a) Mortgagor acknowledges and agrees that (A) the
847 proceeds of the Credit Facility will be used in conformance with
848 subparagraph (1)(1) of Section 4 of "An Act in relation to the
849 rate of interest and other charges in connection with sales on
850 credit and the lending of money," approved May 24, 1979, as
851 amended (215 ILCS 205/4(1)(1)); (B) that the indebtedness secured
852 hereby constitute a business loan which comes within the purview
853 of said Section 4 (215 ILCS 205/4 et. seq.); and (C) that the
854 secured indebtedness is an exempted transaction under the Truth-
855 in-Lending Act, 15 U.S.C. Sec. 1601 et seq.

856 (b) Mortgagor acknowledges and agrees that the transaction
857 of which this Mortgage is a part is a transaction which does not
858 include either agricultural real estate (as defined in 735 ILCS
859 5/15-1.01 (1992)) or residential real estate (as defined in 735
860 ILCS 5/15-1.10 (1992)).

861 36. **Binding Effect.** The terms, covenants and provisions of this
862 Mortgage shall be binding on and shall inure to the benefit of Mortgagor,
863 Mortgagee, and their respective successors and assigns.

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IN WITNESS WHEREOF, Mortgagor has duly executed and delivered this Mortgage as of the day and year first above written.

866

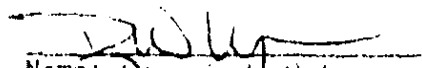
TRANSWESTERN CAPITOL COMMERCE, L.L.C.

867

By: Business Properties Funding Co.,
L.L.C., its sole member

868

869
870
871

By: 
Name: Douglas W Lyons
Title: Managing Director

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EXHIBIT A

889

(Definitions)

890 Borrowers: The term "Borrowers" as used in this Mortgage shall collectively
891 mean BPLLC, BDPLLC, BP Funding, BDP Funding and all other parties which, from
892 time to time subsequent to the date hereof, execute and deliver to Mortgagee a
893 Joinder and Assumption Agreement in accordance with the provisions of
894 paragraph 9 of the Credit Agreement and who are, as a result thereof,
895 designated as a Borrower, under and pursuant to the provisions of the Credit
896 Agreement.

897 BDP Funding: The term "BDP Funding" as used in this Mortgage shall mean
898 Business Development Funding Co., L.L.C., a Delaware limited liability
899 company.

900 BDPLLC: The term "BDPLLC" as used in this Mortgage shall mean Business
901 Development Properties, L.L.C., a Delaware limited liability company.

902 BP Funding: The term "BP Funding" as used in this Mortgage shall mean
903 Business Properties Funding Co., L.L.C., a Delaware limited liability company.

904 BPLLC: The term "BPLLC" as used in this Mortgage shall mean Business
905 Properties, L.L.C., a Delaware limited liability company.

906 Collateral: The term "Collateral" as used in this Mortgage shall have the
907 meaning given to such term in the Credit Agreement.

908 Credit Agreement: The term "Credit Agreement" as used in this Mortgage shall
909 mean that certain Revolving Credit Agreement dated as of December 4, 1997
910 among Mortgagee, BPLLC, BDPLLC, BP Funding and BDP Funding, as the same may be
911 modified or amended from time to time, and pursuant to the provisions of which
912 the Credit Facility is being extended by Mortgagee to Borrowers.

913 Credit Facility: The term "Credit Facility" as used in this Mortgage shall
914 have the meaning given to such term in paragraph C of the Preliminary
915 Statement of this Mortgage.

916 Credit Facility Documents: The term "Credit Facility Documents" as used in
917 this Mortgage shall have the meaning given to such term in the Credit
918 Agreement.

919 Credit Facility Note: The term "Credit Facility Note" as used in this
920 Mortgage shall have the meaning given to such term in the Credit Agreement.

921 Debt: The term "Debt" as used in this Mortgage shall have the meaning given
922 to such term in paragraph E of the Preliminary Statement of this Mortgage.

923 Default Rate: The term "Default Rate" as used in this Mortgage shall have the
924 meaning given to such term in the Credit Agreement.

925 Events of Default: The term "Events of Default" as used in this Mortgage
926 shall have the meaning given to such term in the Credit Agreement.

927 FFAE: The term "FFAE" as used in this Mortgage shall mean, collectively, all
928 goods (as such term is defined in the Uniform Commercial Code), now owned or
929 hereafter acquired by Mortgagee, located at or used in connection with the

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- 930 Improvements and the operation of the Improvements, including, without
931 limitation, (i) all furniture and furnishings and all other items of personal
932 property (including inventory now owned or hereafter acquired by Mortgagor)
933 now and hereafter located on, or used in connection with the operation of the
934 Improvements, together with all replacements, modifications, alterations and
935 additions thereto; and (ii) all equipment, fixtures, machinery and other items
936 of property required or incidental to the use of the Improvements, including
937 all components thereof, now and hereafter permanently affixed to or
938 incorporated into the Improvements, including, without limitation, all
939 furnaces, boilers, heaters, electrical equipment, heating, plumbing, lighting,
940 ventilating, refrigerating, incineration, air and water pollution control,
941 waste, disposal, air cooling and air conditioning systems and apparatus,
942 sprinkler systems and fire and theft protection equipment, together with all
943 replacements, modifications, alterations and additions thereto.
- 944 Governmental Authorities: The term "Governmental Authorities" as used in this
945 Mortgage shall have the meaning given to such term in the Credit Agreement.
- 946 Improvements: The term "Improvements" as used in this Mortgage shall have the
947 meaning given to such term in the granting clause of this Mortgage.
- 948 Insurance Policies: The term "Insurance Policies" as used in this Mortgage
949 shall have the meaning given to such term in the Credit Agreement.
- 950 Insurance Premiums: The term "Insurance Premiums" as used in this Mortgage
951 shall have the meaning given to such term in the Credit Agreement.
- 952 Leases: The terms "Leases" as used in this Mortgage shall have the meaning
953 given to such term in the granting clause of this Mortgage.
- 954 Material Agreement: The term "Material Agreement" as used in this Mortgage
955 shall have the meaning given to such term in the Credit Agreement.
- 956 Mortgaged Property: The term "Mortgaged Property" as used in this Mortgage
957 shall have the meaning given to such term in the granting clause of this
958 Mortgage.
- 959 Mortgages: The term "Mortgages" as used in this Mortgage shall have the
960 meaning given to such term in the preamble to this Mortgage.
- 961 Mortgagor: The term "Mortgagor" as used in this Mortgage shall have the
962 meaning given to such term in the preamble to this Mortgage.
- 963 Permitted Title Exceptions: The term "Permitted Title Exceptions" as used in
964 this Mortgage shall have the meaning given to such term in the Credit
965 Agreement.
- 966 Premises: The term "Premises" as used in this Mortgage shall have the meaning
967 given to such term in paragraph B of the Preliminary Statement of this
968 Mortgage.
- 969 Principal Balance: The term "Principal Balance" as used in this Mortgage
970 shall have the meaning given to such term in the Credit Agreement.
- 971 Rents: The term "Rents" as used in this Mortgage shall have the meaning given
972 to such term in the granting clause of this Mortgage.

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973 Taxes: The term "Taxes" as used in this Mortgage shall have the meaning given
974 to such term in the Credit Agreement.

975 Title Company: The term "Title Company" as used in this Mortgage shall have
976 the meaning given to such term in the Credit Agreement.

977 Uniform Commercial Code: The term "Uniform Commercial Code" as used in this
978 Mortgage shall mean the Uniform Commercial Code of the State in which the
979 Premises are located.

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

LOTS 2, 3, and 4 IN THE RESUBDIVISION OF LOTS 1 AND 4 IN FREED AND GRAIS SUBDIVISION AND PART OF LOT 1 IN BOWE'S SUBDIVISION IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2

LOTS 2 AND 3 IN FREED AND GRAIS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. No.: 03-14-406-009-0000
P.I.N. No.: 03-14-403-010-0000
P.I.N. No.: 03-14-403-014-0000
P.I.N. No.: 03-14-403-016-0000
P.I.N. No.: 03-14-403-015-0000
P.I.N. No.: 03-14-403-017-0000
P.I.N. No.: 03-14-403-020-0000
P.I.N. No.: 03-14-403-023-0000
P.I.N. No.: 03-14-403-024-0000
P.I.N. No.: 03-14-403-025-0000
P.I.N. No.: 03-14-403-026-0000
P.I.N. No.: 03-14-403-027-0000
P.I.N. No.: 03-14-403-035-0000
P.I.N. No.: 03-14-403-036-0000
P.I.N. No.: 03-14-403-042-0000
P.I.N. No.: 03-14-403-043-0000
P.I.N. No.: 03-14-403-044-0000
P.I.N. No.: 03-14-403-045-0000
P.I.N. No.: 03-14-403-046-0000

Property Addresses: 5110-5150, 5210-5260, 6210-6250, 6310-6360 Capitol Drive, and additional vacant land in Capitol Commerce Center, Wheeling, Illinois

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