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COOK COUNTY RECORDER

## MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING

Dated: as of January 9, 1997

<u>Mortgagor:</u> American National Bank and Trust Company of Chicago, not personally but as Trustee under Trust Agreement dated December 6, 1996 and known as Trust No. 121816-08	<u>Mortgagee:</u> American National Bank and Trust Company of Chicago 33 North LaSalle Street Chicago, IL 60690
<u>Mortgaged Property:</u> Common address: Central Avenue and 11th Street, Wilmette, Illinois P.I.N. No: 05-34-106-011, 05-34-106-012, 05-34-106-013	
<u>Prepared by:</u> Creighton R. Meland, Jr. Dickinson, Wright, Moon, Van Dusen & Freeman 225 W. Washington, Suite 400 Chicago, IL 60606	<u>When recorded, please return to:</u> Creighton R. Meland, Jr. Dickinson, Wright, Moon, Van Dusen & Freeman 225 W. Washington, Suite 400 Chicago, IL 60606

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## MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING, dated as of January 9, 1997 by American National Bank and Trust Company of Chicago, not personally but as Trustee under Trust Agreement dated December 6, 1996 and known as Trust No. 121816-08 (the "Mortgagor") to American National Bank and Trust Company of Chicago, a national banking association (the "Mortgagee").

### WITNESSETH:

To secure the prompt and complete payment and performance of (a) all indebtedness of the Mortgagor to the Mortgagee now or hereafter existing, including without limitation the principal sum of Seven Million Two Hundred Fifty Thousand Dollars (\$7,250,000), together with interest thereon, payable in accordance with the terms of a Construction Loan Note dated of even date herewith, issued by the Mortgagor and Optima Center Wilmette Limited Partnership, an Illinois limited partnership (the "Beneficiary") to Mortgagee, the final payment on such Note is due no later than January 9, 1999, subject to being extended to a date not later than January 9, 2000, in accordance with the terms of the Loan Agreement referred to hereinbelow (such Construction Loan Note, and all extensions, renewals and modifications thereof, and all notes issued in substitution or exchange thereof, being herein called the "Notes"), (b) the performance of the covenants herein contained and any monies expended by the Mortgagee in connection therewith, (c) the payment of all obligations and performance of all covenants of the Mortgagor and the Beneficiary under a certain Construction Loan Agreement of even date herewith by and between Mortgagor, Mortgagee, and Beneficiary (the "Loan Agreement") and any other loan documents, agreements, instruments or certificates between the Mortgagor, the Beneficiary and the Mortgagee given in connection with or related to this Mortgage or the Notes, (d) the payment of all obligations and performance of all covenants of the Beneficiary or the Mortgagor to the Mortgagee under any loans, notes, instruments or agreements, whether now existing or hereafter created, and (e) any and all other indebtedness, obligations and liabilities of any kind of the Mortgagor or the Beneficiary to the Mortgagee now or hereafter existing, direct or indirect, absolute or contingent, joint and/or several, secured or unsecured, arising by operation of law or otherwise, and whether incurred by the Mortgagor or the Beneficiary as principal, surety, endorser, guarantor, accommodation party or otherwise, including, without limitation, all principal and all interest (including interest accruing subsequent to any petition filed by or against the Mortgagor or the Beneficiary under the U.S. Bankruptcy Code), indemnity and reimbursement obligations, charges, expenses, fees, attorneys' fees and disbursements and any other amount owing thereunder (all of the aforesaid indebtedness, obligations and liabilities of Mortgagor or the Beneficiary, being herein called the "Mortgage Indebtedness" and this Mortgage, the Notes and all of the other documents, agreements and instruments evidencing or securing the repayment of,

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or otherwise pertaining to, the Mortgage Indebtedness being herein collectively called the "Loan Documents"), Mortgagor does hereby MORTGAGE, WARRANT, GRANT and CONVEY unto Mortgagee, and its successors and assigns, the following described property (the "Mortgaged Premises"):

(A) the land situated in the Village of Wilmette, County of Cook and State of Illinois, more specifically described in Exhibit A hereto (the "Land");

(B) all easements, rights-of-way, licenses and privileges, thereunto belonging or in anywise appertaining;

(C) all buildings and improvements now or hereafter situated upon the Land or any part thereof;

(D) all building materials and equipment, now or hereafter located on the Land and intended to be incorporated in said buildings and improvements;

(E) all minerals, royalties, gas rights, water, water rights, water stock, flowers, shrubs, lawn plants, crops, trees, timber and other emblements now or hereafter located on, under or above all or any part of the Land to the extent the same are owned by Mortgagor;

(F) all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion or reversions, remainder and remainders thereof; and also all the estate, right, title, interest, property, claim and demand whatsoever of Mortgagor, of, in and to the same and of, in and to every part and parcel thereof;

(G) all the rents, issues and profits thereof under present or future leases, or otherwise, which are hereby specifically assigned, transferred and set over to Mortgagee, and including, but not limited to, all cash or securities deposited under any such leases to secure performance by the tenants of their obligations thereunder, whether said cash or securities are to be held until the expiration of the terms of such leases or applied to one or more of the installments of rent coming due thereunder;

(H) all right, title and interest of Mortgagor, if any, in and to the land lying in the bed of any street, road, avenue, alley or walkway, opened or proposed or vacated, or any strip or gore, in front of or adjoining the Land;

(I) Mortgagor's interest, if any, in all machinery, apparatus, equipment, fittings, fixtures, and articles of personal property of every kind and nature whatsoever, other than consumable goods, now or hereafter located in or upon the Land or any part thereof and used or useable in connection with any present or future operation of the Land or any building or buildings now or hereafter on the Land and now owned or hereafter acquired by Mortgagor (all of which is herein called "Equipment"), including,

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but without limiting the generality of the foregoing, all lighting, heating, cooling, ventilating, air-conditioning, incinerating, refrigerating, plumbing, sprinkling, communicating and electrical systems, and the machinery, appliances, fixtures and Equipment pertaining thereto, it being understood and agreed that all Equipment is part and parcel of the Land and appropriated to the use of said real estate and, whether affixed or annexed or not, shall for the purposes of this Mortgage, unless Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged hereby;

(J) any and all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the Land as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, (c) any loss of or damage to any building or other improvement on the Land, (d) any other injury to or decrease in the value of the Land or (e) any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the Land, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Mortgagee, and of the reasonable counsel fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment, Mortgagor hereby agreeing to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm such assignment to Mortgagee of any such award or payment; and

(K) Mortgagor's interest in all contract rights of every kind and nature whatsoever, now or hereafter relating to or used or useable in connection with any present or future operation of the Land or any buildings on the Land; and

(L) all products and proceeds and interests hereafter acquired of the foregoing.

TO HAVE AND TO HOLD the Mortgaged Premises and each and every part thereof, unto Mortgagee and its successors and assigns forever. Any reference herein to the "Mortgaged Premises" shall, unless the context shall require otherwise, be deemed to include and apply to the above described land and said buildings, improvements, equipment, rents, issues, profits, leases, easements, tenements, hereditaments and appurtenances and all other rights, privileges and interests hereinabove described, whether now existing or hereafter acquired.

SUBJECT only to the following those matters set forth on Exhibit B hereto ("Permitted Encumbrances"):

AND Mortgagor does hereby covenant and warrant as follows:

1. Payment of Mortgage Indebtedness; Performance of Agreements. The Mortgagor shall pay the Mortgage Indebtedness according to the terms thereof, and will keep and perform all the covenants, promises and agreements in (a) the Notes and any instruments at any time heretofore or hereafter issued to evidence all or any portion of

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the Mortgage Indebtedness, (b) this Mortgage and (c) any and all other Loan Documents, all in the manner herein or therein set forth.

2. Covenants of Title. The Mortgagor has good and indefeasible title to the entire Mortgaged Premises in fee simple and with good right and full power to sell, mortgage and convey the same, the Mortgaged Premises are free and clear of liens and encumbrances except Permitted Encumbrances, whether presently existing or which may hereafter be created in accordance with the terms hereof, and Mortgagor will warrant and defend the Mortgaged Premises against all lawful claims and demands whatsoever. The Mortgagee shall have the right, at its option and at such time or times as it, in its sole discretion, shall deem necessary, to take whatever action it may deem necessary to defend or uphold the lien of this Mortgage or otherwise enforce any of the rights of Mortgagee hereunder or any obligation secured hereby, including without limitation, the right to institute appropriate legal proceedings for such purposes.

3. Payment of Taxes, Assessments and Charges. The Mortgagor shall pay when due all real estate taxes, special assessments, water and sewer charges or other governmental charges and impositions levied or assessed with respect to the Mortgaged Premises or any part thereof. Should Mortgagor fail to pay such taxes, special assessments, water and sewer charges or other governmental charges or impositions, Mortgagee may, at its option, pay the same for the account of Mortgagor. Upon request of the Mortgagee, the Mortgagor shall immediately furnish to the Mortgagee all notices of amounts due and receipts evidencing payment.

4. Reserves. At the request of the Mortgagee, the Mortgagor shall pay to the Mortgagee, monthly, at the times provided in the Construction Note for the payment of installments of principal and interest, installments of the taxes and assessments levied or to be levied upon the Mortgaged Premises, said installments to be substantially equal and to be in an amount equal to one-twelfth (1/12th) of the estimated tax bills (including special assessments, if any) and be maintained on a tax lien (calendar year) basis (and not on a "when bill issued and payable" basis). Said amounts paid to the Mortgagee hereunder need not be segregated nor kept in a separate fund, and no interest shall be payable thereon. Said amounts shall be held by the Mortgagee as additional security for the Mortgage Indebtedness and, except as provided in the following sentence, be applied to the payment of said taxes and assessments when the same become due and payable. Upon the occurrence of an event of default hereunder, the Mortgagee may, at its option, but without any obligation on its part so to do, apply said amounts upon said taxes and assessments or toward the payment of the Mortgage Indebtedness or any portion thereof, whether or not then due or payable.

Upon an assignment of this Mortgage, the Mortgagee shall have the right to pay over the balance of such deposits in its possession to the assignee and the Mortgagee shall thereupon be completely released from all liability with respect to such deposits and the Mortgagor or owner of the mortgaged premises shall look solely to the assignee or transferee in reference thereto. This provision shall apply to every transfer of

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such deposits to a new assignee. Upon full payment and satisfaction of the Mortgage Indebtedness or at any prior time upon the election of the Mortgagee, the balance of the unapplied deposits in its possession shall be paid over to the record owner of the mortgaged premises and no other party shall have any right or claim thereto in any event, provided that in the event of a foreclosure of the mortgaged premises, the purchaser at such foreclosure shall have the right to receive such unapplied deposits.

5. Payment of Other Obligations: No Secondary Liens. The Mortgagor shall also pay any and all other obligations, liabilities or debts which may become liens, security interests, or encumbrances upon or charges against the Mortgaged Premises for any repairs or improvements that are now completed or are in progress or which may hereafter be made thereon, or for any other goods, services, or utilities furnished to the Mortgaged Premises, and shall not permit any lien, security interest, encumbrance or charge of any kind securing the repayment of borrowed funds (including the deferred purchase price for any property) to accrue and remain outstanding against the Mortgaged Premises or any part thereof, or any improvements thereon other than Permitted Encumbrances, if any.

6. Maintenance and Repair: Compliance with Laws: Inspection. The Mortgagor will keep the Mortgaged Premises and all the improvements thereon in good order and repair, and Mortgagor expressly agrees that it will not do or permit waste on the Mortgaged Premises nor do any other act whereby the Mortgaged Premises will become less valuable or the lien hereof may be impaired. Nonpayment of taxes and cancellation of insurance shall constitute waste. Should Mortgagor fail to effect the necessary repairs, Mortgagee may at its option make such repairs for the account of Mortgagor. The Mortgagor will promptly comply, and cause the Mortgaged Premises and the occupants or users thereof to comply, with all present and future laws, ordinances, orders, rules and regulations and other requirements of the United States of America, State of Illinois, County of Cook, Village of Wilmette or any other governmental authority affecting the Mortgaged Premises or any part thereof or the use or occupancy thereof and with all instruments and documents of record or otherwise affecting the Mortgaged Premises, or any part thereof, or the use or occupancy thereof. The Mortgagee, and any person authorized by Mortgagee, shall have the right to enter upon and inspect the Mortgaged Premises at all reasonable times.

7. Insurance.

(a) The Mortgagor shall keep the Land and buildings and other improvements on the Mortgaged Premises, or which may hereafter be erected thereon, constantly insured for the benefit of Mortgagee with such company or companies and in such amounts as more specifically described in Section 4.1(w) and (x) of the Loan Agreement.

(b) In the event of loss or damage, the proceeds of said property and builders' risk insurance on the buildings and improvements shall be paid to Mortgagee

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alone. No such loss or damage shall itself reduce the Mortgage Indebtedness. The Mortgagee is authorized to adjust and compromise such loss without the consent of Mortgagor, to collect, receive and receipt for such proceeds in the name of Mortgagee and Mortgagor and to endorse Mortgagor's name upon any check in payment thereof. Such proceeds shall be applied first toward reimbursement of all costs and expenses of Mortgagee in collecting said proceeds and then toward payment of the Mortgage Indebtedness or any portion thereof, whether or not then due or payable, or, subject to the terms of paragraph 7(d) below, Mortgagee at its option may apply said insurance proceeds, or any part thereof, to the repair or rebuilding of the Mortgaged Premises. No such application of proceeds by Mortgagee toward payment of the Mortgage Indebtedness shall reduce the amount of the payments required to be made on the Mortgage indebtedness in accordance with its terms.

(c) In the event of a foreclosure of this Mortgage, the purchaser of the Mortgaged Premises shall succeed to all of the rights of Mortgagor under said insurance policies payable to Mortgagee, including any right to unearned premiums and the right to receive the proceeds of any insurance payable by reason of any loss theretofore or thereafter occurring.

(d) Upon the occurrence of any casualty loss, the Mortgagor shall give immediate written and oral notice thereof to the Mortgagee and to the insurer. As long as no Event of Default shall have occurred hereunder or under the Loan Agreement, it is agreed and understood that any insurance proceeds in excess of Twenty Five Thousand Dollars (\$25,000.00) resulting from a loss on the mortgaged premises shall be held by the Mortgagee, as escrowee, or if the Mortgagee elects by a title insurance company or escrow agent designated by the Mortgagee, for the purpose of paying, from time to time, for the cost of repairing, restoring or replacing the mortgaged premises, but only if all of the following conditions ("Disbursement Conditions") are met: (i) the Mortgagor shall have prepared the plans and specifications for the work and submitted them to the Mortgagee for its approval, and such approval has been obtained; (ii) each request for disbursement by the Mortgagor shall afford Mortgagee at least 15 days' prior written notice thereof and shall be accompanied by a certificate by the architect or engineer supervising the work stating, that all of the work completed has been done in compliance with the approved plans and specifications; (iii) sworn statements and lien waivers sufficient for the title company to issue an endorsement increasing the coverage under the title policy insuring this Mortgage by an amount equal to the funds being disbursed and insuring the first priority and validity of this Mortgage under the policy; (iv) in the case of the request for the final disbursement, the request shall be accompanied by a copy of any occupancy or other certificate required to render occupancy of the mortgaged premises lawful; (v) the casualty occurs prior to six (6) calendar months prior to the maturity date of the Construction Loan Note (the "Maturity Date"); (vi) the amount of insured loss is less than 50% of the then outstanding principal balance of the Construction Loan Note; and (vii) the Mortgagor shall as soon as possible thereafter commence the rebuilding of the mortgaged premises pursuant to plans and specifications reasonably approved by the Mortgagee,

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and shall proceed to completion with diligence and without delay so that the same are completed as soon as practicable thereafter. If any such insurance proceeds shall, with respect to any casualty, aggregate in an amount of \$25,000 or less, and so long as no Event of Default shall have occurred hereunder or under the Loan Agreement, the Mortgagor shall have the right to receive such proceeds directly from the insurance company, subject to Mortgagor providing the Mortgagee with the same information described in the foregoing Disbursement Conditions.

If the insurance proceeds, less costs of collection and administration, are not sufficient to pay for the repair, in full, then the Mortgagor shall immediately deposit with the Mortgagee the additional funds needed to complete the same.

If Mortgagor does not have the right to use the insurance proceeds for rebuilding pursuant to this paragraph 7(d), then the Mortgagee shall have the right to apply the insurance proceeds (in the order and in the amounts that the Mortgagee in its sole discretion elects) to the payment of (a) all of the costs and expenses, if any, of taking possession of the mortgaged premises or otherwise enforcing its rights and remedies under the Loan Documents, including, without limitation, payment of attorneys' fees and fees of a receiver; (b) accrued and unpaid interest due on the Notes; and (c) the balance of the Mortgage Indebtedness. Any excess proceeds remaining after any reconstruction shall be paid to the Mortgagee to be applied by the Mortgagee, in its discretion, to the payment of the amounts described in the foregoing clauses (a), (b) or (c) immediately above, or to any parties entitled thereto, as their interests may appear. The Mortgagee acknowledges that there shall be no prepayment penalty to the extent insurance proceeds are applied towards reduction of the principal balance of the loan secured hereby. The Mortgagee shall be under no obligation to invest the insurance proceeds on behalf of or for the benefit of the Mortgagor.

8. Eminent Domain. Notwithstanding any taking under the power of eminent domain, alteration of the grade of any street, or other injury to or decrease in value of the Mortgaged Premises by any public or quasi-public authority or corporation, Mortgagor shall continue to pay the Mortgage Indebtedness in accordance with the terms of the Notes, and any reduction in the principal sum resulting from the application by Mortgagee of such award or payment as hereinafter set forth shall be deemed to take effect only upon the receipt by Mortgagee of such award. The Mortgagor hereby assigns the entire proceeds of any award or payment to Mortgagee. The Mortgagee is authorized to commence, appear in and prosecute, in its own or in Mortgagor's name, any action or proceeding relating to any such taking, and to settle or compromise any claim in connection therewith. Such proceeds shall be applied first toward reimbursement of all costs and expenses of Mortgagee in collecting said proceeds and then toward payment of the Mortgage Indebtedness or any portion thereof, whether or not then due or payable, or Mortgagee at its option may apply said proceeds, or any part thereof, to the alteration, restoration or rebuilding of the Mortgaged Premises. No such application of proceeds by Mortgagee toward payment of the Mortgage

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Indebtedness shall reduce the amount of the payments required to be made on the Mortgage Indebtedness in accordance with its terms.

9. Reimbursement of Advances by Mortgagee. The Mortgagor shall pay to Mortgagee, upon demand, all sums expended by Mortgagee, or by a receiver appointed at the request of Mortgagee, unless such sums shall be paid out of the rents, income and profits from the Mortgaged Premises, (a) to pay insurance premiums, taxes, assessments, water and sewer charges and other governmental charges and impositions with respect to the Mortgaged Premises, (b) to maintain, repair or improve the Mortgaged Premises, (c) to defend the lien of this Mortgage as a lien against the Mortgaged Premises subject only to the encumbrances hereinabove expressly set forth, (d) to discharge any lien or encumbrance affecting the Mortgaged Premises other than Permitted Encumbrances, (e) to cure any default of Mortgagor under any lease or other agreement covering the Mortgaged Premises, (f) to cure any default of Mortgagor hereunder or under any of the Loan Documents or (g) for or in connection with any other action taken by Mortgagee to preserve the security of this Mortgage or any other security for the Mortgage indebtedness or to protect any of Mortgagee's rights hereunder. All such expenditures as shall be made by Mortgagee or such receiver or pursuant to any other provision of this Mortgage or the other Loan Documents, including any reasonable attorneys' fees and disbursements incurred by Mortgagee or such receiver in connection with the foregoing, shall be payable upon demand and be secured by this Mortgage and shall bear interest at the overdue interest rate set forth in the Notes for Floating Rate Loans.

10. Change in Taxes. In the event any tax shall be due or become due and payable to the United States of America, the State of Illinois or any political subdivision thereof with respect to the execution and delivery or recordation of this Mortgage or any note or other instrument or agreement evidencing or securing repayment of the Mortgage Indebtedness or the interest of Mortgagee in the Mortgaged Premises, Mortgagor shall pay such tax at the time and in the manner required by applicable law and Mortgagor shall hold Mortgagee harmless and shall indemnify Mortgagee against any liability of any nature whatsoever as a result of the imposition of any such tax.

In the event of the passage after the date of this Mortgage of any law in the State of Illinois deducting from the value of real property for purposes of taxation any lien thereon, or changing in any way the laws now in force for the taxation of mortgages or debts secured thereby (including the interest thereon) for state or local purposes, or changing the manner of collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage, the Notes or any of the other Loan Documents, the holder of this Mortgage shall have the right to declare the entire unpaid amount of the Mortgage Indebtedness, together with accrued and unpaid interest thereon, to be due immediately and payable.

11. Events of Default. The occurrence of any of the following events, after the passage of any applicable cure or grace periods, shall be deemed an "Event of Default"

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hereunder and shall entitle Mortgagee to exercise its remedies hereunder and under the Notes and any of the other Loan Documents or as otherwise provided by law: (a) default in making payment, when due, of any principal of or interest on the Notes; (b) default in making payment, when due, of any other portion of the mortgage indebtedness; (c) the occurrence of an Event of Default under the Loan Agreement; (d) default in the observance or performance of any other covenant, promise or agreement provided herein or in any of the other Loan Documents, and continuance thereof for thirty (30) days; (e) in the event of a Prohibited Transfer (defined below in Paragraph 18 hereof); and (f) in the event of a Guarantor Event of Default (defined in Paragraph 19 below).

12. Remedies upon Default. Immediately upon the occurrence of any Event of Default, Mortgagee shall have the option, in addition to and not in lieu of or substitution for all other rights and remedies provided in this Mortgage, the Loan Agreement or any other Loan Documents or provided by law or in equity, and is hereby authorized and empowered by Mortgagor to do any or all of the following:

(a) Declare the entire unpaid amount of the Mortgage Indebtedness, together with accrued and unpaid interest thereon, and any and all charges payable by Mortgagor to Mortgagee pursuant to any of the Loan Documents, immediately due and payable and, at Mortgagee's option, (i) to bring suit therefor, or (ii) to bring suit for any delinquent payment of or upon the Mortgage Indebtedness, or (iii) to take any and all steps and institute any and all other proceedings that Mortgagee deems necessary to enforce payment of the Mortgage Indebtedness and performance of other obligations secured hereunder and to protect the lien of this Mortgage.

(b) Exercise any and all rights and remedies provided herein or in the Loan Documents or available at law or in equity, including without limitation the right to commence foreclosure proceedings against the Mortgaged Premises pursuant to the common law of the state of Illinois or pursuant to the statutes in such case made and provided, and to sell the Mortgaged Premises or to cause the same to be sold at public sale, and to convey the same to the purchaser, in accordance with said statutes or common law, in a single parcel or in several parcels at the option of the Mortgagee. The Mortgagor further agrees that the Mortgagee is authorized and empowered to retain out of the sale proceeds such moneys as are necessary to pay in full the Mortgage Indebtedness, the costs and charges of such sale, and also the attorneys' fees provided by statute, returning the surplus moneys (if any there should be) to the Mortgagor.

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

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

(d) In any case in which under the provisions of this Mortgage, Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the Mortgaged Premises or any part thereof personally, or by its agent or attorneys, as for condition broken. In such event Mortgagee in its discretion may, with or without process of law, enter upon and take and maintain possession of all or any part of said Mortgaged Premises, together with all documents, books, records, papers and accounts of Mortgagor or then owner of the Mortgaged Premises relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may as attorney in fact or agent of Mortgagor, or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Mortgaged Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power and to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Mortgaged Premises, including liens for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (i) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (ii) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (iii) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Mortgaged Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any

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redemption from sale, discharge of the Mortgage Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (iv) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Mortgaged Premises as it may deem proper; (v) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (vi) to receive all of such avails, rents, issues and profits; hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor. Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof, and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand.

(e) Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it by this Mortgage shall have full power to use and apply the avails, rents, issues and profits of the Mortgaged Premises to the payment of or on account of the following, in such order as Mortgagee may determine:

(i) to the payment of the operating expenses of said Mortgaged Premises, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee, its agent or agents, and attorneys, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims of damages, if any, and premiums on insurance hereinabove authorized;

(ii) to the payment of taxes and special assessments now due or which may hereafter become due on the Mortgaged Premises; and, if this is a leasehold mortgage, of all rents due or which may become hereafter due under the underlying lease;

(iii) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Mortgaged Premises, including the cost from time to time of installing or replacing personal property such as appliances therein, and of placing the Mortgaged Premises in such condition as will, in the judgment of Mortgagee, make it readily rentable; and

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(iv) to the payment of any Mortgage Indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

(f) In the event of any sale of the Mortgaged Premises by foreclosure apply the proceeds of any such sale to: (i) all expenses incurred for the collection of the Mortgage Indebtedness and the foreclosure of this Mortgage, including reasonable attorneys' fees and disbursements, or such attorneys' fees and disbursements as are permitted by law, (ii) all sums expended or incurred by Mortgagee directly or indirectly in carrying out the terms, covenants and agreements of the Notes, this Mortgage and the other Loan Documents, together with interest thereon as therein provided, (iii) all accrued and unpaid interest upon the Mortgage Indebtedness, (iv) fees, expenses and other sums (excluding principal) due in connection with the Mortgage Indebtedness, (v) the unpaid principal amount of the Mortgage Indebtedness, and (vi) the surplus, if any there be, unless a court of competent jurisdiction decrees otherwise, to Mortgagor.

13. Successors in Ownership. In the event ownership of the Mortgaged Premises or any part thereof becomes vested in a person or persons other than Mortgagor without the prior written approval of Mortgagee, Mortgagee may (but shall not be obligated to) deal with such successor or successors in interest with reference to this Mortgage and the other Loan Documents in the same manner as with Mortgagor, without in any manner discharging or otherwise affecting Mortgagor's liability hereunder or upon the Mortgage Indebtedness.

14. Security Agreement. Except for furniture in model units, all personal property located at or used in connection with the mortgaged premises shall be owned by the Mortgagor or Beneficiary and shall not be subject to any lease or other transaction whereby the ownership or any beneficial interest in any of such personal property shall be held by any person or entity other than the Mortgagor or Beneficiary. Neither the Mortgagor nor the Beneficiary shall create or cause to be created any security interest in any such personal property other than the security interest created in favor of the Mortgagee. This Mortgage shall, as to any equipment and other personal property described herein and covered hereby, be deemed to grant a security interest therein pursuant to the Uniform Commercial Code. The Mortgagor agrees upon request of the Mortgagee to furnish an inventory of personal property owned by the Mortgagor and subject to this Mortgage and, upon request of the Mortgagee, to execute any supplements to this Mortgage, any separate security agreement and financing statements to include specifically said inventory of personal property. Upon the occurrence and during the continuance of any of the events of default referred to in Paragraph 11 hereof, the Mortgagee shall have all of the rights and remedies herein provided or otherwise provided by law or by this Mortgage, including but not limited to the right to require the Mortgagor to assemble such personal property and make it available to the Mortgagee at a place to be designated by the Mortgagee which is reasonably convenient to both parties, the right to take possession of such personal property, with or without demand, and with or without process of law, and the right to



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sell and dispose of the same and distribute the proceeds according to law. The parties hereto agree that any requirement of reasonable notice shall be met if the Mortgagee sends such notice to the Mortgagor at least 5 days prior to the date of sale, disposition or other event giving rise to the required notice, and that the proceeds of any disposition of any such personal property may be applied by the Mortgagee first to the reasonable expenses in connection therewith, including reasonable attorneys fees and legal expenses incurred, and including the expenses of retaining, keeping and storing such personal property, and then to payment of the Mortgage Indebtedness.

15. Assignment of Leases and Rents. As of the date of this Mortgage, Mortgagor hereby assigns to Mortgagee all its right, title and interest in and to all written and oral leases, whether now in existence or which may hereafter come into existence during the term of this Mortgage, or any extension hereof, covering the Mortgaged Premises or any part thereof (but without an assumption by Mortgagee of liabilities of Mortgagor under any such leases by virtue of this assignment), and Mortgagor hereby assigns to Mortgagee the rents, issues and profits of the Mortgaged Premises. Until the occurrence of an Event of Default, Mortgagor shall have the right to receive and collect such rents, issues and profits. Upon the occurrence of an Event of Default, Mortgagee may elect upon written notice to Mortgagor to receive and collect said rents, issues and profits personally or through a receiver so long as any such Event of Default shall exist and during the pendency of any foreclosure proceedings and during any redemption period, and Mortgagor hereby consents to the appointment of a receiver if believed necessary or desirable by Mortgagee to enforce its rights under this Paragraph 15. The collection of rents by Mortgagee shall in no way waive the right of Mortgagee to foreclose this Mortgage in the event of any Event of Default.

16. Waiver of Redemption Rights. Pursuant to Section 15-1601 of the Illinois Mortgage Foreclosure Law, as amended, 735 ILCS 5/15-1601, or any successor statute thereto (the "Act"), the Mortgagor hereby expressly waives any and all rights of redemption arising under Section 15-1603 of the Act, together with any and all other statutory rights of redemption on behalf of itself and on behalf of each and every person acquiring any interest or title in the Mortgaged Premises subsequent to the date of this Mortgage.

17. Inconsistent Provisions. In the event that any provision of this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of the Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to the Mortgagee any rights or remedies upon default of the Mortgagor which are more limited than the rights and remedies that would otherwise be vested in the Mortgagee absent said provisions, the Mortgagee shall be vested with the rights and remedies granted in the Act to the full extent permitted by law.

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18. Prohibition of Transfer and Further Encumbrances. It shall be an immediate Event of Default hereunder if, without the prior written consent of the Mortgagee any of the following shall occur (herein called a "Prohibited Transfer"):

(a) If the Mortgagor shall create, effect or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, lease, mortgage, security interest or other encumbrance or alienation of the Mortgaged Premises or any part thereof, or interest therein, or enter into any contract to do any of the foregoing, which contract is not expressly subject to the consent of the Mortgagee; or

(b) If the Beneficiary shall create, effect or consent to, or shall suffer or permit, any sale, assignment, transfer, lien, pledge, lease, mortgage, security interest or other encumbrance or alienation of the beneficial interest in the land trust under which Mortgagor acts; or enter into any contract to do any of the foregoing, which contract is not expressly subject to the consent of the Mortgagee; or

(c) In each case whether any such conveyance, sale, assignment, transfer, lien, pledge, lease, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise;

provided, that the foregoing provisions shall not apply (i) to the lien of this Mortgage or any other liens securing the Notes, (ii) to the lien of current taxes, and (iii) the sales of Units or any other transaction permitted by the Loan Agreement.

The provisions hereof shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part or interest in or encumbrance upon the Mortgaged Premises or a beneficial interest in Mortgagor. Mortgagor acknowledges and agrees, for itself and its successors, that the foregoing restrictions on sale, transfer, or conveyance are reasonable. Any violation of the terms hereof shall entitle Mortgagee to declare the whole outstanding principal balance of the Notes, together with interest accrued thereon and any other sums owing under the terms of this Mortgage or any other instrument related to the indebtedness hereby secured, immediately due and payable and to foreclose this Mortgage.

19. Guarantor Events of Default. The indebtedness evidenced by the Notes is jointly and severally guaranteed by David C. Hovey, Optima, Inc. and Optima Wilmette Development, L.L.C. (the "Guarantors") and it is a proviso hereof that in case (a) any Guarantor shall be declared a bankrupt, or shall file a petition in voluntary bankruptcy under any Chapter of Title Eleven of the United States Code, or any other similar state or federal law, or (b) should any Guarantor file any declaration, answer or pleading admitting his insolvency or inability to pay his debts or liabilities, or (c) if a trustee or receiver is appointed for any Guarantor, or for the property or assets or estate thereof; or (d) should any Guarantor make an assignment for the benefit of creditors; (e) should

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any Guarantor fail to pay when due any principal or interest owing the Mortgagee or otherwise default in the performance of any other covenant or agreement with the Mortgagee, and any such default continues past the expiration of any grace period, or (f) should any Guarantor default under the terms of its Guaranty Agreement of even date, and such default continues past the expiration of any grace period therein set forth then upon the occurrence of any such event; or (g) or any Guarantor purports to revoke, repudiate or disavow its Guarantee or any of the Guarantees shall cease to be in full force and effect for any reason or the legality, validity, binding effect or enforceability thereof shall be challenged or denied in any proceeding or otherwise; then Mortgagee, may at its option, declare the entire indebtedness secured hereby to be immediately due, and/or may immediately avail itself of any right, recourse or remedy reserved in case of an Event of Default, or any remedy afforded by law as in such case may be provided.

20. Fees and Expenses of Mortgagee. In addition to the other amounts owing between the Mortgagor to the Mortgagee hereunder, Mortgagor agrees to promptly reimburse the Mortgagee for all fees, expenses and other charges incurred with respect to the Mortgage Indebtedness or Mortgaged Premises including, without limitation, title insurance and date downs, appraisals, escrows, surveys, inspections, trust documents, release deeds, environmental studies and reports, tax search fees and legal fees.

21. Integration and Severability. This Mortgage embodies the entire agreement and understanding between Mortgagor and Mortgagee, and supersedes all prior agreements and understandings, relating to the subject matter hereof. If any provision hereof is in conflict with any statute or rule of law of the State of Illinois or is otherwise unenforceable for any reason whatsoever, then such provision shall be deemed null and void to the extent of such conflict or unenforceability and shall be deemed severable from but shall not invalidate any other provisions of this Mortgage.

22. Waiver. No waiver by Mortgagee of any right or remedy granted hereunder or failure to insist on strict performance by Mortgagor hereunder shall affect or extend to or act as a waiver of any other right or remedy of Mortgagee hereunder, nor affect the subsequent exercise of the same right or remedy by Mortgagee for any further or subsequent default by Mortgagor hereunder, and all such rights and remedies of Mortgagee hereunder are cumulative.

23. Marshalling and Homestead Rights. The Mortgagor hereby waives, in the event of foreclosure of this Mortgage or the enforcement by the Mortgagee of any other rights and remedies hereunder, any right otherwise available in respect to marshalling of assets which secure the Mortgage Indebtedness or to require Mortgagee to pursue its remedies against any other such assets. The Mortgagor hereby waives and releases all rights and benefits under and by virtue of the Homestead Exemption laws of the State of Illinois.

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24. Release of Mortgage. (a) The Mortgagor shall have the right to receive partial releases of lien from time to time, subject to and in the manner set forth in Article VI of the Loan Agreement; and (b) if all of the principal of and interest on the Mortgage Indebtedness shall be paid and all other sums secured hereby or payable hereunder and under the Notes and the Loan Documents shall be paid, the Loan Documents have terminated in full and the Mortgagor shall comply with all the terms, conditions and requirements hereof, then this Mortgage shall be released by Mortgagee and thereupon it shall be of no further force and effect. Upon the written request of the Mortgagor, the Mortgagee, will, promptly execute and deliver such proper instruments of release and discharge as may reasonably be requested to evidence such defeasance, release and discharge.

25. Business Purpose Loan. The Mortgagor represents that the proceeds of the loan secured by this Mortgage have been and will be used for the purposes specified in 815 ILCS 205/4(1)(c) or any successor statute, and that the principal obligation secured hereby constitutes a business loan which comes within the purview of said statute.

26. Amount of Indebtedness. The aggregate amount of principal indebtedness secured by this Mortgage, exclusive of sums advanced to remedy defaults and protect the security of this Mortgage, will not in the aggregate exceed an amount equal to Twenty Five Million Dollars (\$25,000,000.00).

27. Further Instruments. The Mortgagor shall execute, acknowledge and deliver any and all such further conveyances, documents, mortgages and assurances, and do or cause to be done all such further acts, as Mortgagee may reasonably require to confirm and protect the lien of this Mortgage or otherwise to accomplish the purposes hereof forthwith upon the request of Mortgagee, whether in writing or otherwise.

28. Governing Law: Binding Effect. This Mortgage, made in the State of Illinois, shall be construed according to the laws thereof and shall be binding upon Mortgagor and its successors and assigns and any subsequent owners of the Mortgaged Premises, and all of the covenants herein contained shall run with the land, and this Mortgage and all of the covenants herein contained shall inure to the benefit of Mortgagee, its successors and assigns.

29. Fixture Filing. This Mortgage also constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code with respect to goods which are or are to become fixtures relating to the Land and as to which Mortgagor is the debtor and record owner of the Land and Mortgagee is the secured party. It is to be recorded in the real estate records of the County in which the Land is located. The Mortgagor is the record owner of the Mortgaged Premises. The address of the Mortgagor (Debtor) and Mortgagee (Secured Party) are hereinafter set forth:

Address of Mortgagor: American National Bank and

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Trust Company of Chicago, as trustee  
33 North LaSalle Street  
Chicago, Illinois 60690  
Attention: Land Trust Department

with a copy to:

Optima Wilmette Limited Partnership  
c/o Optima, Inc.  
630 Vernon Avenue  
Glencoe, Illinois 60022  
Attention: David C. Hovey

Address of Mortgagee:

American National Bank and Trust Company  
of Chicago  
33 North LaSalle Street  
Chicago, Illinois 60690  
Attention: Priscilla M. Crawford

30. WAIVER OF JURY TRIAL. THE MORTGAGEE AND THE MORTGAGOR, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED UPON OR ARISING OUT OF THIS MORTGAGE OR ANY RELATED INSTRUMENT OR AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS MORTGAGE OR ANY COURSE OF CONDUCT, DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY OF THEM. NEITHER THE MORTGAGEE NOR THE MORTGAGOR SHALL SEEK TO CONSOLIDATE, BY COUNTERCLAIM OR OTHERWISE, ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY EITHER THE MORTGAGEE OR THE MORTGAGOR EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY ALL OF THEM.

31. Construction Loan. This Mortgage secures obligations incurred for the construction of improvement on the Land and constitutes a "construction mortgage" within the meaning of Section 9-313(1) of the Illinois Uniform Commercial Code.

32. Exculpation. This Mortgage is executed by American National Bank and Trust Company of Chicago, not personally but as Trustee under Trust No. 121816-08 in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said American National Bank and Trust Company of Chicago, hereby warrants that it possesses full power and authority to execute this instrument) and it is expressly understood and agreed that nothing contained herein or in the Notes or in any other instrument given to evidence the indebtedness secured hereby shall be construed as creating any liability on the part of the Mortgagor, or on said American National Bank

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and Trust Company of Chicago, personally, to pay the Notes or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, either express or implied, herein contained, all such liability if any, being expressly waived by the Mortgagee, the legal owner(s) or holder(s) of the Notes, and by every person now or hereafter claiming any right or security hereunder; and that so far as the Mortgagor and said American National Bank and Trust Company of Chicago personally are concerned, the legal holder or holders of the Notes and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby mortgaged by the enforcement of the lien hereby created in the manner herein and the Notes provided or by action to enforce the personal liability of the Guarantors, if any. All the covenants and conditions to be performed hereunder by American National Bank and Trust Company of Chicago, are undertaken by it solely as Trustee as aforesaid and not individually, and no personal or individual liability shall be asserted or enforceable against American National Bank and Trust Company of Chicago, by reason of any of the covenants, statements, representations, indemnifications or warranties expressed or implied herein contained in this instrument.

It is also expressly understood and agreed by every person, firm or corporation claiming any interest under this document that American National Bank and Trust Company of Chicago, shall have no liability, contingent or otherwise, arising out of, or in any way related to, (i) the presence, disposal, release or threatened release of any hazardous materials on, over, under, from or affecting the property, soil, water, vegetation, building, personal property, persons or animals thereof; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous materials; (iii) any lawsuit brought or threatened, settlement reached or government order relating to such hazardous materials, and/or (iv) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Trustee which are based upon or in any way related to such hazardous materials including, without limitation, attorneys' and consultants' fees, investigation and laboratory fees, court costs, and litigation expenses.

33. Revolving Credit. This Mortgage is given to secure a revolving credit loan and shall secure not only existing indebtedness hereby secured but also such future advances, whether such advances are obligatory or to be made at the option of the Mortgagee, or otherwise, as are made within 20 years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of execution of this Mortgage and although there may be no indebtedness secured hereby outstanding at the time any advance is made, as provided in the Illinois Banking Act, approved May 11, 1955, as amended. The lien of this Mortgage shall be valid as to all indebtedness secured hereby, including future advances, from the time of its filing for record in the office of the Recorder of Deeds of Cook County, Illinois. The total amount of indebtedness hereby secured may increase or decrease from time to time, but the total unpaid principal balance of indebtedness hereby secured (including disbursements

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which the Mortgagee may make under this Mortgage, or any other document with respect to the loans evidenced by the Notes) at any time outstanding shall not exceed a maximum of \$80,000,000, plus interest thereon, any disbursements made for payment of taxes, special assessments or insurance on the Mortgaged Premises and interest on such disbursements (all such indebtedness being hereinafter referred to as the "maximum amount secured hereby"). This Mortgage shall be valid and have priority over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Mortgage Premises, to the extent of the maximum amount secured hereby.

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

American National Bank and Trust Company  
of Chicago, not personally but as Trustee  
under Trust Agreement dated  
December 6, 1996 and known as  
Trust Number 121816-08

By: \_\_\_\_\_

Its: TRUST OFFICER

Attest: \_\_\_\_\_

Its: ASSISTANT SECRETARY

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The undersigned hereby joins in the foregoing Mortgage to acknowledge the agreements of the Mortgagor contained in Paragraph 14 and 15, and to confirm that the undersigned shall be bound by the provisions of Paragraph 14 and 15 insofar as it has an interest in the personal property described therein.

Optima Wilmette Limited Partnership,  
an Illinois limited partnership

By: Optima Wilmette Development, L.L.C.,  
its general partner

By: *nm e. ell*  
Its: *Managing Member*

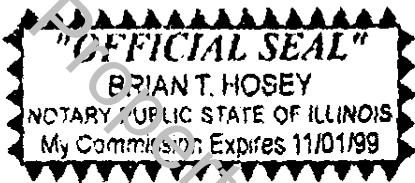
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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

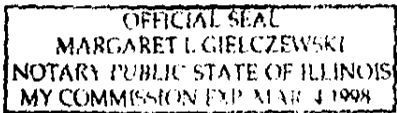
The foregoing instrument was acknowledged before me on this 9 day of January, 1997, by EILEEN E. NEARY and GREGORY S. KASPRZYK the TRUST OFFICER and ASSISTANT SECRETARY of American National Bank and Trust Company of Chicago, as Trustee, on behalf of the banking corporation.



Brian T. Hosey  
Notary Public  
Acting in COOK County  
My Commission Expires: \_\_\_\_\_

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me on this 9th day of January, 1997, by David C. Hovey, acknowledged to me to be the Managing Member of Optima Wilmette Development, L.L.C., an Illinois limited liability company, as general partner of Optima Center Wilmette Limited Partnership.



Margaret L. Gielczewski  
Notary Public  
Acting in COOK County  
My Commission Expires: 3/4/98

Drafted by and when  
recorded return to:

Creighton R. Meland, Jr.  
Dickinson, Wright, Moon,  
Van Dusen & Freeman  
225 West Washington Street  
Suite 400  
Chicago, Illinois 60606  
(312) 220-0300

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## EXHIBIT A

### LEGAL DESCRIPTION:

#### PARCEL 1:

ALL OF THAT LAND, PROPERTY AND SPACE CONTAINED WITHIN, ABOVE AND BELOW LOT 2 IN OPTIMA CENTER WILMETTE RESUBDIVISION IN TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN

EXCEPT FOR THE FOLLOWING TWO (2) PARCELS:

(1) THAT PROPERTY AND SPACE WHICH IS CONTAINED WITHIN AND BETWEEN THAT CERTAIN HORIZONTAL PLANE LOCATED 611.57 FEET ABOVE UNITED STATES GEOLOGICAL SURVEY DATUM AND THAT CERTAIN OTHER HORIZONTAL PLANE LOCATED 622.90 FEET ABOVE UNITED STATES GEOLOGICAL SURVEY DATUM AND WHICH LIES WITHIN THE BOUNDARIES PROJECTED VERTICALLY OF THE FOLLOWING DESCRIBED PLAT OF LAND: BEGINNING 2.37 FEET NORTH AND 14.42 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 2; THENCE WEST AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 118.23 FEET TO A POINT; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 34.00 FEET TO A POINT; THENCE EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 33.75 FEET TO A POINT; THENCE NORTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 64.83 FEET TO A POINT; THENCE WEST AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 1.25 FEET TO A POINT; THENCE NORTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 18.42 FEET TO A POINT; THENCE EAST AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 60.31 FEET TO A POINT WHICH IS 10.36 FEET SOUTH OF THE NORTH LINE OF SAID LOT 2; THENCE SOUTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 5.87 FEET TO A POINT; THENCE SOUTHEASTERLY FORMING AN ANGLE OF 135 DEGREES WITH THE LAST DESCRIBED COURSE A DISTANCE OF 5.65 FEET TO A POINT; THENCE SOUTH FORMING AN ANGLE OF 135 DEGREES WITH THE LAST DESCRIBED COURSE, A DISTANCE OF 34.03 FEET TO A POINT; THENCE WEST AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 20.48 FEET TO A POINT; THENCE NORTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 10.53 FEET TO A POINT; THENCE WEST AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 8.83 FEET TO A POINT; THENCE SOUTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 36.29 FEET TO A POINT; THENCE EAST AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 8.83 FEET TO A POINT; THENCE NORTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 0.06 FEET TO A POINT; THENCE EAST AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 44.15 FEET TO A POINT; THENCE SOUTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 16.65 FEET TO A POINT; THENCE WEST AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 2.26 FEET; THENCE SOUTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 101.00 FEET TO THE POINT OF BEGINNING.

(2) THAT PROPERTY AND SPACE WHICH IS CONTAINED WITHIN AND BETWEEN THAT CERTAIN HORIZONTAL PLANE LOCATED 611.57 FEET ABOVE UNITED STATES GEOLOGICAL SURVEY DATUM AND THAT CERTAIN OTHER HORIZONTAL PLANE LOCATED 622.90 FEET

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ABOVE UNITED STATES GEOLOGICAL SURVEY DATUM AND WHICH LIES WITHIN THE BOUNDARIES PROJECTED VERTICALLY OF THE FOLLOWING DESCRIBED PLAT OF LAND; BEGINNING 2.37 FEET NORTH AND 13.09 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 2; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 54.83 FEET TO A POINT; THENCE NORTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 32.00 FEET TO A POINT; THENCE WEST AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 54.83 FEET TO A POINT; THENCE SOUTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 32.00 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

## PARCEL 2:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 1 CREATED IN THE AGREEMENT AND DECLARATION OF EASEMENTS, RESERVATIONS, COVENANTS AND RESTRICTIONS MADE AS OF JANUARY 9, 1997 BY AND AMONG GUS DEMAS BUILDING CORPORATION AND AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER A TRUST AGREEMENT DATED DECEMBER 6, 1996, AND KNOWN AS TRUST NUMBER 121816-08, RECORDED \_\_\_\_\_ AS DOCUMENT \_\_\_\_\_, FOR THE PURPOSES OF VERTICAL SUPPORT FROM PILLARS, BEAMS, MEMBERS, JOISTS, WALLS, HORIZONTAL SLABS, CEILINGS, FLOORS, AND OTHER SUPPORTS OF WHATEVER NATURE NOW OR HEREAFTER CONSTRUCTED OR EXISTING IN THE RETAIL PARCEL (AS DEFINED THEREIN); FOR CONNECTION OF UTILITY EQUIPMENT APPURTENANT TO THE LAND LOCATED IN THE RETAIL PARCEL AND THE RIGHT OF ACCESS THERETO.

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## EXHIBIT B: PERMITTED ENCUMBRANCES

1. Taxes, not delinquent, for the year 1996 and subsequent years.
2. Memorandum of Real Estate Development and Ownership Agreement made April 16, 1996 by and among Gus Demas Building Corporation ("Demas"), Gus Demas, Peter Demas and Optima, Inc. recorded April 19, 1996 as document 96295746, as amended from time to time.
3. Agreement and Declaration of Easements, Reservations, Covenants and Restrictions, dated as of January 9, 1997 by and between Demas and American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated December 6, 1996 and known as Trust No. 121816-08 (the "Land Trust"), as amended from time to time.
4. Unfiled, inchoate mechanics' and materialmen's liens for construction work in progress or for such liens being contested in good faith by Mortgagor by appropriate proceedings for which Mortgagee has received a reasonably suitable title insurance endorsement for the amount claimed or other reasonably suitable indemnity.
5. Easements for utilities that do not materially impair the use of the Mortgaged Premises.
6. Easement described in the Encroachment Easement Agreement, dated January 9, 1997 by and between Demas and the Land Trust.
7. Any agreement or agreements with the Village of Wilmette creating easements related to parking facilities appurtenant to the Mortgaged Premises, together with provisions related thereto as contained in the easement agreement evidencing same.

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