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COOK COUNTY RECORDER  
DEPT-10 PENALTY \$74.00

NL Loan No. 300554

## MORTGAGE AND SECURITY AGREEMENT

BETWEEN

VISION PARK RIDGE, L.L.C.

AND

RELIASTAR UNITED SERVICES LIFE INSURANCE COMPANY

DATED: APRIL \_\_, 1997

THIS DOCUMENT WAS DRAFTED BY  
AND WHEN RECORDED SHOULD BE  
RETURNED TO:

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EXHIBIT A - Legal Description

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## MORTGAGE AND SECURITY AGREEMENT

THIS Mortgage (hereinafter referred to as "**Mortgage**"), made and given this \_\_\_\_ day of April, 1997, by VISION PARK RIDGE, L.L.C., an Illinois limited liability company, with an address of 8833 Gross Point Road, Suite 209, Skokie, Illinois 60077 ("**Mortgagor**"), to RELIASTAR UNITED SERVICES LIFE INSURANCE COMPANY, a Virginia corporation ("**Mortgagee**"), whose address is c/o ReliaStar Investment Research, Inc., 100 Washington Avenue South, Suite 800, Minneapolis, Minnesota 55401-2121.

### PRELIMINARY STATEMENT OF FACTS:

A. The Mortgagee is making a mortgage loan to the Mortgagor in the amount of Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) ("**Loan**").

B. The Loan is evidenced by a Promissory Note dated of even date herewith, executed and delivered by the Mortgagor to the Mortgagee in the principal sum of Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) (the "**Note**").

C. As security for the repayment of the Loan as evidenced by the Note the Mortgagor is executing and delivering this Mortgage for the benefit of the Mortgagee.

D. The Note bears interest at the per annum rate of eight and 06/100 percent (8.06%) ("**Interest Rate**") except that during the period of and continuance of a default under the Note or Event of Default under this Mortgage the Note shall bear interest at a per annum rate of interest of Four percent (4%) in excess of the interest rate then in effect on the Note whether or not the Mortgagee has exercised its option to accelerate the maturity of the Note and declare the entire unpaid indebtedness Secured Hereby (as defined below) due and payable as more fully set forth in the Note ("**Default Rate**").

E. The Note is payable in installments with a final installment payment of principal and interest due on November 1, 2003 ("**Maturity Date**"), pursuant to the terms of the Note.

F. As used herein the term "**Note Rate**" shall mean the rate of interest then in effect on the Note whether the Interest Rate or Default Rate, as the case may be.

NOW, THEREFORE, in consideration of the Loan evidenced by the Note and of the sum of One and 00/100 Dollar (\$1.00) paid by the Mortgagee to the Mortgagor, the receipt whereof is hereby acknowledged, and for the purposes aforesaid the Mortgagor hereby MORTGAGES, GRANTS, BARGAINS, SELLS, TRANSFERS AND CONVEYS unto the Mortgagee, its successors and assigns, forever, AND GRANTS TO THE MORTGAGEE A SECURITY INTEREST IN, all of the following properties hereinafter set forth (all of the following being hereinafter collectively referred to as the "**Premises**"):

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## GRANTING CLAUSE A REAL PROPERTY

All the tracts or parcels of real property lying and being in the County of Cook, State of Illinois, all as more fully described in Exhibit "A" attached hereto and made a part hereof, together with all the estates and rights in and to the real property and in and to lands lying in streets, alleys and roads adjoining the real property and all buildings, structures, improvements, fixtures and annexations, access rights, easements, rights of way or use, servitudes, licenses, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the real property; together with all water rights (whether riparian, appropriative or otherwise whether or not appurtenant) now or hereafter relating to or used in connection with the real property and all shares of stock, if any, evidencing such rights.

## GRANTING CLAUSE B IMPROVEMENTS AND PERSONAL PROPERTY

All buildings, improvements, personal property, fixtures, fittings and furnishings, owned by Mortgagor and now or hereafter attached to, located at, or placed in the improvements on the Premises including, without limitation i) all machinery, fittings, fixtures, apparatus, equipment or articles used to supply heating, gas, electricity, air conditioning, water, light, waste disposal, power, refrigeration, ventilation, and fire and sprinkler protection, ii) all maintenance supplies and repair equipment, iii) all draperies, carpeting, floor coverings, screens, storm windows and window coverings, blinds, awnings, shrubbery and plants, iv) all elevators, escalators and shafts, motors, machinery, fittings and supplies necessary for their use (it being understood that the enumeration of any specific articles of property shall in no way be held to exclude any items of property not specifically enumerated), as well as renewals, replacements, proceeds, additions, accessories, increases, parts, fittings, insurance payments, awards and substitutes thereof, together with all interest of Mortgagor in any such items hereafter acquired, as well as the Mortgagor's interest in any lease, or conditional sales agreement under which the same is acquired, all of which personal property mentioned herein shall be deemed fixtures and accessory to the freehold and a part of the realty and not severable in whole or in part without material injury to the Premises.

## GRANTING CLAUSE C RENTS, LEASES AND PROFITS

All rents, income, accounts receivable, issues, contract rights, leases and profits now due or which may hereafter become due under or by virtue of any lease, license or agreement, whether written or verbal, for the use or occupancy of the Premises or any part thereof together with all tenant security deposits.

## GRANTING CLAUSE D JUDGMENTS AND AWARDS

All awards, compensation and settlements in lieu thereof made as a result of the taking by power of eminent domain of the whole or any part of the Premises, including any awards for damages sustained to the Premises, for a temporary taking, change of grade of streets or taking of access.

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As used herein the term "Collateral" shall mean all of the property, interests and rights described in Granting Clauses A through D above.

It is specifically understood that the enumeration of any specific articles of property shall in no wise exclude or be held to exclude any items of property not specifically mentioned. All of the Premises hereinabove described, real, personal and mixed, whether affixed or annexed or not, and all rights hereby conveyed and granted are intended to be as a unit and are hereby understood and agreed and declared to be appropriated to the use of the Premises, and shall for the purposes of this Mortgage be deemed to be real estate and conveyed and granted hereby.

TO HAVE AND TO HOLD THE SAME, together with the possession and right of possession of the Premises unto the Mortgagee and its successors and assigns, forever, to secure

- i) payment by the Mortgagor, its successors and assigns, to the Mortgagee, its successors and assigns, of the Loan in accordance with the terms and conditions of the Note, together with any substitutions, modifications, amendments, extensions or renewals thereof;
- ii) payment to the Mortgagee, its successors and assigns, at the times demanded and with interest thereon as provided in the Note, of all sums advanced (a) in protecting the lien of this Mortgage (b) in payment of taxes on the Premises (c) in payment of insurance premiums covering improvements thereon (d) in payment of principal and interest on prior liens (e) in payment of expenses and attorneys' fees herein provided for and (f) any and all sums advanced under this Mortgage;
- iii) all sums advanced for any other purpose authorized herein;
- iv) the keeping of and performance of the covenants and agreements herein contained;
- v) the keeping and performance of all of the terms and conditions of any and all other instruments evidencing and/or securing the Note.

The Note and all such sums and obligations, together with interest thereon, being collectively referred to as the "Indebtedness Secured Hereby."

AND IT IS FURTHER COVENANTED AND AGREED AS FOLLOWS:

## ARTICLE I

### GENERAL COVENANTS, AGREEMENTS, WARRANTIES

**1.1 PAYMENT OF INDEBTEDNESS: OBSERVANCE OF COVENANTS.** Mortgagor shall duly and punctually pay each and every installment of principal and interest on the Note and all other Indebtedness Secured Hereby, as and when the same shall become due, and shall duly and punctually perform and observe all of the covenants, agreements and provisions

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contained herein, in the Note and any other instrument given by the Mortgagor as security for the payment of the Note.

**1.2 MAINTENANCE: REPAIRS.** Mortgagor shall not abandon the Premises and shall keep and maintain the Premises in good condition, repair and operating condition free from any waste or misuse, and provided Mortgagee makes the insurance proceeds available to Mortgagor, shall promptly repair or restore any buildings, improvements or structures now or hereafter on the Premises which may become damaged or destroyed to their condition prior to any such damage or destruction. Except for Tenant buildouts, Mortgagor further agrees that without the prior consent of the Mortgagee it will not expand any improvements on the Premises, erect any new improvements or make any material alterations in any improvements which shall alter the basic structure, adversely affect the market value or change the existing architectural character of the Premises, nor remove or demolish any improvements, and shall complete within a reasonable time any buildings now or at any time in the process of erection on the Premises. Mortgagor shall not convert the Premises to other than the present use or subject the Premises to any condominium law or statute.

**1.3 COMPLIANCE WITH LAWS.** Mortgagor shall comply with all requirements of law, municipal ordinances and regulations affecting the Premises, including without limitation, the Americans with Disabilities Act, and shall comply with all private restrictions and covenants affecting the Premises and shall not acquiesce in or seek any rezoning classification affecting the Premises.

**1.4 PAYMENT OF OPERATING COSTS AND LIENS.** Mortgagor shall pay all operating costs and expenses of the Premises, shall keep the Premises free from levy, attachment, mechanics', materialmen's and other liens ("Liens") and shall pay when due all indebtedness which may be secured by mortgage, lien or charge on the Premises.

**1.5 PAYMENT OF IMPOSITIONS.** Subject to Section 2.2 hereof, Mortgagor shall pay when due and in any event before any penalty attaches all taxes, assessments, governmental charges, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever assessed or charged against or constituting a lien on the Premises or any interest therein ("Impositions") and will upon demand furnish to the Mortgagee proof of the payment of any such Impositions. In the event of a court decree or an enactment after the date hereof by any legislative authority of any law imposing upon a mortgagee or beneficiary of a deed of trust the payment of the whole or any part of the Impositions herein required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of mortgages or deeds of trust or debts secured by mortgages or deeds of trust or a beneficiary's interest in mortgaged premises, so as to impose such Imposition on the Mortgagee or on the interest of the Mortgagee in the Premises, then, in any such event, Mortgagor shall bear and pay the full amount of such Imposition, provided that if for any reason payment by Mortgagor of any such Imposition would be unlawful, or if the payment thereof would constitute usury or render the Indebtedness Secured Hereby wholly or partially usurious, Mortgagee, at its option, may declare the whole sum secured by this Mortgage with interest thereon to be immediately due and payable, without prepayment premium, or Mortgagee, at its option, may pay that amount or portion of such Imposition as renders the Indebtedness Secured Hereby unlawful or usurious, in which event Mortgagor shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of said Imposition.

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**1.6 CONTEST OF IMPOSITIONS, LIENS AND LEVIES.** Mortgagor shall not be required to pay, discharge or remove any Imposition or any Lien so long as the Mortgagor shall in good faith contest the same or the validity thereof by appropriate legal proceedings which shall operate to prevent the collection of the Lien or Imposition so contested and the sale of the Premises, or any part thereof, to satisfy the same, provided that the Mortgagor shall, prior to the date such Lien or Imposition is due and payable, have given such reasonable security as may be demanded by the Mortgagee to insure such payments plus interest or penalties thereon, and prevent any sale or forfeiture of the Premises by reason of such nonpayment. Any such contest shall be prosecuted with due diligence and the Mortgagor shall promptly after final determination thereof pay the amount of any such Lien or Imposition so determined, together with all interest and penalties which may be payable in connection therewith. Notwithstanding these provisions, Mortgagor shall (and if Mortgagor shall fail so to do, Mortgagee, may but shall not be required to) pay any such Lien or Imposition notwithstanding such contest if in the reasonable opinion of the Mortgagee, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed.

**1.7 PROTECTION OF SECURITY.** Mortgagor shall promptly notify Mortgagee of and appear in and defend any suit, action or proceeding that affects the Premises or the rights or interests of Mortgagee hereunder and the Mortgagee may elect to appear in or defend any such action or proceeding. Mortgagor agrees to indemnify and reimburse Mortgagee from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and reasonable attorneys' fees, and such amounts together with interest thereon at the rate then in effect under the Note shall become additional "Indebtedness Secured Hereby" and shall become immediately due and payable.

**1.8 ANNUAL STATEMENTS.** Mortgagor shall within ninety (90) days after the end of each calendar or fiscal year (whichever is applicable) furnish to the Mortgagee i) financial statements of the Premises for such year certified by Mortgagor including an itemization of rental income and operating expenses, tenants under leases, lease commencement and expiration dates, renewals, vacancies, capital expenditures with a statement of operating results and any such additional matters as Mortgagee may reasonably require, ii) financial statements, including a balance sheet and an income and expense statement showing consolidated operations for any corporate or partnership Mortgagor and for any corporate or partnership guarantor of all or any part of the Indebtedness Secured Hereby, for such year, all such statements to be prepared in reasonable detail by an independent accounting firm and conforming to generally accepted accounting principles, iii) the net worth statement of any individual Mortgagor or guarantor of the Note, personally certified, and iv) state and federal tax lien searches against Mortgagor. Such financial statements shall be prepared satisfactory to Mortgagee and shall be certified true and correct by Mortgagor or a certified public accountant. In the event Mortgagor or any of the guarantors of the Note fail to furnish any such statements after written request to Mortgagor, the Mortgagee may cause an audit to be made of the respective books and records at the sole cost and expense of the Mortgagor. Mortgagee also shall have the right to examine at their place of safekeeping at reasonable times all books, accounts and records relating to the operation of the Premises. Mortgagor shall promptly provide Mortgagee with copies of any and all reports or audits of the Premises or its operations received from any governmental authority, and copies of Mortgagor's response thereto.

**1.9 ADDITIONAL ASSURANCES.** Mortgagor agrees upon reasonable request by the Mortgagee to execute and deliver such further instruments, deeds and assurances including

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financing statements under the Uniform Commercial Code and to do such further acts as may be necessary or proper to carry out more effectively the purposes of this Mortgage and without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the granting clause hereof, or intended so to be. Mortgagor agrees to pay any recording fees, filing fees, note taxes, mortgage registry taxes or other charges arising out of or incident to the filing or recording of this Mortgage, such further assurances and instruments and the issuance and delivery of the Note.

**1.10 HAZARDOUS MATERIALS.** Mortgagor covenants, represents and warrants to Mortgagee, its successors and assigns, that to the best of Mortgagor's knowledge, the Premises and its existing and prior uses comply and have at all times complied with, and Mortgagor is not in violation of, has not violated and will not violate, in connection with the ownership, use, maintenance or operation of the Premises and the conduct of the business related thereto, any federal, state, county or local statutes, laws regulations, rules, ordinances, codes, standards, orders, licenses and permits of any governmental authorities relating to environmental matters (being hereinafter collectively referred to as the "Environmental Laws"), including by way of illustration and not by way of limitation (a) the Clean Air Act, the Federal Water Pollution Control Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and the Toxic Substances Control Act (including any amendments or extensions thereof and any rules, regulations, standards or guidelines issued pursuant to any of said Environmental Laws), and (b) all other applicable environmental standards or requirements. Without limiting the generality of the foregoing: (i) Mortgagor, its agents, employees and independent contractors, (a) have and will operate the Premises and have and at all times will receive, handle, use, store, treat, transport and dispose of all petroleum products and all other toxic, dangerous or hazardous chemicals, materials, substances, pollutants and wastes, and any chemical, material or substance exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority or which even if not so prohibited, limited or regulated, may or could pose a hazard to the health and safety of the occupants of the Premises or the occupants and/or owners of property near the Premises (all the foregoing being hereinafter collectively referred to as "Hazardous Materials") in strict compliance with all Environmental Laws, and (b) have removed from the Premises all Hazardous Materials; (ii) there are no existing or pending statutes, orders, standards, rules or regulations relating to environmental matters requiring any remedial actions or other work, repairs, construction or capital expenditures with respect to the Premises, nor has Mortgagor received any notice of any of the same; (iii) no Hazardous Materials have been or will be released into the environment, or have been or will be deposited, spilled, discharged, placed or disposed of at, on or near the Premises, nor has or will the Premises be used at any time by any person as landfill or a disposal site for Hazardous Materials or for garbage, waste or refuse of any kind; (iv) there are no electrical transformers or other equipment containing dielectric fluid containing polychlorinated biphenyls located in, on or under the Premises, nor is there any friable asbestos contained in, on or under the Premises, nor will Mortgagor permit the installation of same; (v) there are no locations off the Premises where Hazardous Materials generated by or on the Premises have been treated, stored, deposited or disposed of; (vi) there is no fact pertaining to the physical condition of either the Premises or the area surrounding the Premises (a) which Mortgagor has not disclosed to Mortgagee in writing prior to the date of this Mortgage, and (b) which materially adversely affects or will materially adversely affect the Premises or the use or enjoyment or the value thereof, or Mortgagor's ability to perform the transactions contemplated by this Mortgage; (vii) the mortgaging of the Premises by Mortgagor to Mortgagee does not require notice to or the prior approval, consent or permission of any federal, state or local governmental agency, body, board or official; (viii) no notices of any

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violation of any of the matters referred to in the foregoing sections relating to the Premises or its use have been received by Mortgagor and there are no writs, injunctions, decrees, orders or judgments outstanding, no lawsuits, claims, proceedings or investigations pending or threatened, relating to the ownership, use, maintenance or operation of the Premises, nor is there any basis for any such lawsuit, claim, proceeding or investigation being instituted or filed; and (ix) the Premises is not listed in the United States Environmental Protection Agency's National priorities List of Hazardous Waste Sites nor any other log, list, schedule, inventory or record of Hazardous Materials or Hazardous Waste sites whether maintained by the United States, any state or local governmental unit. The Mortgagor agrees to indemnify and reimburse the Mortgagee, its successors and assigns, for any breach of these representations and warranties and from any loss, damage, expense or cost arising out of or incurred by Mortgagee which is the result of a breach of, misstatement of or misrepresentation of the above covenants, representations and warranties, or for any loss, damage, expense or cost sustained as a result of there being located on the Premises any Hazardous Materials or dangerous, toxic or hazardous pollutants, chemicals, wastes or substances, together with all attorneys' fees incurred in connection with the defense of any action against the Mortgagee arising out of the above. These covenants, representations, warranties and indemnities shall be deemed continuing covenants, representations, warranties and indemnities running with the Land for the benefit of the Mortgagee, and any successors and assigns of the Mortgagee, including any purchaser at a sale under this Mortgage, any transferee of the title of the Mortgagee or any subsequent purchaser at a foreclosure sale, and any subsequent owner of the Premises claiming through or under the title of Mortgagee and, notwithstanding anything herein to the contrary, shall survive repayment of the Note, any termination, satisfaction or foreclosure of this Mortgage, and any transfer of the Premises. The amount of all such indemnified loss, damage, expense or cost, shall bear interest thereon at the rate of interest in effect on the Note and shall become so much additional Indebtedness Secured Hereby and shall become immediately due and payable in full on demand of the Mortgagee, its successors and assigns. The indemnification contained in this Section 1.10 shall be a personal monetary obligation of Mortgagor notwithstanding any provisions of this Mortgage to the contrary that limit or exculpate the personal liability of Mortgagor and/or require the Mortgagee to look solely to the security of the Premises.

Mortgagor hereby represents, warrants and certifies that: (i) the execution and delivery of the documents evidencing and/or securing the Loan is not a transfer of "real property", as "real property" is defined in the Illinois Responsible Property Transfer Act (765 ILCS 90/1 et. seq.), as amended from time to time ("RPTA"); (ii) there are no underground storage tanks located on, under or about the Premises which are subject to the notification requirements under Section 9002 of the Solid Waste Disposal Act, as now or hereafter amended (42 U.S.C. § 6991); and (iii) to the best of Mortgagor's knowledge, there is no facility located on or at the Premises which is subject to the reporting requirements of Section 312 of the federal Emergency Planning and Community Right to Know Act of 1986 and the federal regulations promulgated thereunder (42 U.S.C. § 11022), as "facility" is defined in RPTA. Nothing in this Section 1.10 shall preclude use of Hazardous Materials in the ordinary course of Mortgagor's or its tenants' business in compliance with law, and nothing in this Section 1.10 shall make Mortgagor liable for the acts of Mortgagee or its agents.

**1.11 CURRENT COMPLIANCE WITH LAWS.** To the best of Mortgagor's knowledge, the Premises as improved on the date hereof, comply with all laws, including requirements of any Federal, State, County, City or other governmental authority having jurisdiction over the Mortgagor or the Premises and including, but not limited to, any applicable zoning, occupational

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safety and health, energy and environmental laws, ordinances and regulations; and the Mortgagor has obtained all necessary consents, permits and licenses to construct, occupy and operate the Premises for its intended purposes.

**1.12 TITLE.** Mortgagor is the lawful owner of and has good and marketable fee simple absolute title to the Premises and will warrant and defend its title to the same free of all liens and encumbrances, other than the encumbrances permitted under the policy of Mortgagee's title insurance issued to Mortgagee in connection with this Mortgage ("Permitted Encumbrances") and Mortgagor has good right and lawful authority to grant, bargain, sell, convey, mortgage and grant a security interest in the Collateral as provided herein.

## **1.13 ERISA**

(a) Mortgagee represents and warrants to Mortgagor that, at the closing of the Loan and throughout the term of this Mortgage, the source of funds from which Mortgagee extends the Loan is its General Account, which is subject to the claims of its general creditors under state law.

(b) Mortgagor represents and warrants to Mortgagee that, as of the date of this Mortgage and throughout the term of this Mortgage, (i) Mortgagor is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), which is subject to Title I of ERISA, and (ii) the assets of the Mortgagor do not constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101.

(c) Mortgagor represents and warrants to Mortgagee that, as of the date of this Mortgage and throughout the term of this Mortgage (i) Mortgagor is not a "governmental plan" within the meaning of Section 3(32) of ERISA and (ii) transactions by or with Mortgagor are not subject to state statutes regulating investments or fiduciary obligations with respect to governmental plans.

(d) Mortgagor covenants and agrees to deliver to Mortgagee such certifications or other evidence at the closing of the Loan and from time to time throughout the term of this Mortgage, as requested by Mortgagee in its sole discretion, that (i) Mortgagor is not an "employee benefit plan" or a "governmental plan"; and (ii) Mortgagor is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) one or more of the following circumstances is true:

(A) Equity interests in Mortgagor are publicly offered securities, within the meaning of 29 C.F.R. Section 2510.3-101(b)(2); or

(B) Less than 25 percent of all equity interests in Mortgagor are held by "benefit plan investors" within the meaning of 29 C.F.R. Section 2510.3-101(f)(2); or

(C) Mortgagor qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. Section 2510.3-101(c) or (e).

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(e) Any of the following shall constitute an Event of Default under this Mortgage, entitling Mortgagee to exercise any and all remedies to which it may be entitled under this Mortgage or any of the other documents evidencing or securing the Note: (i) the failure of any representation or warranty made by Mortgagor under this Section to be true and correct in all respects, (ii) the failure of Mortgagor to provide Mortgagee with the written certifications and evidence referred to above, or (iii) the consummation by Mortgagor of a transaction which would cause the Mortgage or any exercise of Mortgagee's rights under the Documents executed in connection with the Loan to constitute a non-exempt prohibited transaction under ERISA or a violation of a state statute regulating governmental plans, subjecting Mortgagee to liability for violation of ERISA or such state statute.

(f) Mortgagor shall indemnify Mortgagee and defend and hold Mortgagee harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims and losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required in Mortgagee's sole discretion) that Mortgagee may incur, directly or indirectly, as a result of a default under the immediately preceding paragraph. This indemnity shall survive any termination, satisfaction or foreclosure of this Mortgage.

## ARTICLE II

### INSURANCE AND ESCROWS

**2.1 INSURANCE.** Mortgagor shall obtain, pay for and keep in full force and effect during the term of this Mortgage at its sole cost and expense the following policies of insurance:

- a) Insurance against loss by fire, lightning and risk customarily covered by standard extended coverage endorsement or all risks coverage, including the cost of debris removal, together with a full replacement cost endorsement and a vandalism and malicious mischief endorsement, all in the amount of not less than the full replacement cost of the improvements on the Premises;
- b) Broad Form Boiler and Machinery Insurance on all pressure fired vehicles or apparatus situated on the Premises with full repair and replacement cost coverage;
- c) flood insurance in the maximum obtainable amount but not to exceed the replacement cost of the improvements on the Premises unless satisfactory evidence is provided that the Premises are not within a flood plain as defined by the Federal Emergency Management Agency;
- d) earthquake insurance, in the maximum obtainable amount but not to exceed the replacement cost of the improvements on the Premises, if Mortgagee determines in its reasonable discretion the Premises is in an earthquake prone area;
- e) Rents Loss or Business Interruption Insurance covering risk of loss due to the occurrence of any hazards insured against under the required fire and extended coverage insurance in an amount equal to one (1) year's loss of rental income;

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- f) comprehensive general public liability insurance covering the legal liability of the Mortgagor against claims for bodily injury death or property damage occurring on, in or about the Premises in such amounts and with such limits as the Mortgagee may require; and
- g) such other forms of insurance as Mortgagee may reasonably require.

Such insurance policies shall be written on forms and with insurance companies satisfactory to Mortgagee, shall be in amounts sufficient to prevent the Mortgagor from becoming a co-insurer of any loss thereunder, shall insure the Mortgagee as its interests may appear, and shall bear a satisfactory standard mortgagee clause in favor of the Mortgagee with loss proceeds under any such casualty policies to be made payable to the Mortgagee. All required policies of insurance or acceptable certificates thereof together with evidence of the payment of current premiums therefor shall be delivered to and be held by the Mortgagee and shall provide that such policies may not be cancelled or modified without 30 days prior written notice to Mortgagee. The Mortgagor shall, within thirty (30) days prior to the expiration of any such policy, deliver other original policies or certificates of the insurer evidencing the renewal of such insurance together with evidence of the payment of current premiums therefor. In the event of a trustee's sale or foreclosure of this Mortgage, or any acquisition of the Premises by the Mortgagee, all such policies and any proceeds payable therefrom, whether payable before or after a trustee's sale or foreclosure, or during the period of redemption, if any, shall become the absolute property of the Mortgagee to be utilized at its discretion. In the event of a trustee's sale or foreclosure or the failure to obtain and keep any required insurance, the Mortgagor empowers the Mortgagee to effect the above insurance upon the Premises at Mortgagor's expense and for the benefit of the Mortgagee in the amounts and types aforesaid for a period of time covering the time of redemption from foreclosure sale, and if necessary therefore, to cancel any or all existing insurance policies. Annually Mortgagor agrees to cause its insurance coverage to be reappraised and furnish Mortgagee copies of the reappraisal reports and insurance recommendations.

**2.2 ESCROWS.** Mortgagor shall deposit with the Mortgagee, or at Mortgagee's request, with its servicing agent, on the first day of each and every month hereafter as a deposit to pay the costs of taxes, assessments and insurance premiums next due ("Charges"):

- a) Initially, a sum such that the amounts to be deposited pursuant to paragraph (b) below and such initial sum shall equal the estimated Charges; and
- b) Thereafter an amount equal to one-twelfth (1/12th) of the estimated annual Charges due on the Premises.

Mortgagee will, upon the presentation to the Mortgagee by the Mortgagor of the bills therefor, pay the Charges from such deposits or will upon presentation of receipted bills therefor, reimburse the Mortgagor for such payments made by the Mortgagor. In the event the deposits on hand shall not be sufficient to pay all of the estimated Charges when the same shall become due from time to time, or the prior deposits shall be less than the currently estimated monthly amounts, then the Mortgagor shall pay to the Mortgagee on demand any amount necessary to make up the deficiency. The excess of any such deposits shall be credited to subsequent payments to be made for such items. If a default or an Event of Default shall occur under the terms of this Mortgage the Mortgagee may, at its option, without being required so to do,

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apply any deposits on hand to the Indebtedness Secured Hereby, in such order and manner as the Mortgagee may elect. When the Indebtedness Secured Hereby has been fully paid any remaining deposits shall be returned to the Mortgagor. All deposits are hereby pledged as additional security for the Indebtedness Secured Hereby, shall be held for the purposes for which made as herein provided, may be held by Mortgagee or its servicing agent and may be commingled with other funds of the Mortgagee, or its servicing agent, shall be held with interest and shall not be subject to the decision or control of the Mortgagor. Interest shall be added to the Charges and applied as provided in this Section. On the first and each successive anniversary of the date of this Mortgage, Mortgagor shall pay Mortgagee or its servicing agent \$500 for managing the Charges. Neither Mortgagee nor its servicing agent shall be liable for any act or omission made or taken in good faith. In making any payments, Mortgagee or its servicing agent may rely on any statement, bill or estimate procured from or issued by the governmental payee without inquiry into the validity or accuracy of the same. If the taxes shown in the tax statement shall be levied on property more extensive than the Premises, then the amounts accrued shall be based on the entire tax bill and Mortgagor shall have no right to require an apportionment and Mortgagee or its servicing agent may pay the entire tax bill notwithstanding that such taxes pertain in part to other property and the Mortgagee shall be under no duty to seek a tax division or apportionment of the tax bill. Notwithstanding the foregoing, Mortgagee hereby waives the obligation in this section to make deposits for insurance premiums, subject to the following conditions:

1. This waiver is personal to Mortgagor only and is effective only so long as title is vested in Mortgagor and all payments on the Note are timely made and there are no other defaults, whether or not cured, under the Security Documents.
2. There is prompt payment before delinquency of the insurance premiums, with receipts for such payments to be immediately forwarded to Mortgagee, together with any other documentation necessary to complete the Mortgagee's records, including but not limited to the original insurance policies and proof of payment, which will be held by Mortgagee.

## ARTICLE III

### UNIFORM COMMERCIAL CODE SECURITY AGREEMENT

3.1 SECURITY AGREEMENT AND FINANCING STATEMENT UNDER UNIFORM COMMERCIAL CODE. This Mortgage shall constitute a security agreement as defined in the Uniform Commercial Code, as adopted in Illinois ("Code") in the Collateral. Any Collateral installed in or used in the Premises are to be used by the Mortgagor solely for Mortgagor's business purposes or as the equipment and fixtures leased or furnished by the Mortgagor, as landlord, to tenants of the Premises and such Collateral will be kept at the buildings on the Premises and will not be removed therefrom without the consent of the Mortgagee and may be affixed to such buildings but will not be affixed to any other real estate. The remedies of the Mortgagee hereunder are cumulative and separate, and the exercise of any one or more of the remedies provided for herein or under the Uniform Commercial Code shall not be construed as a waiver of any of the other rights of the Mortgagee including having any Collateral deemed part of the realty upon any foreclosure thereof. If notice to any party of the intended disposition of the Collateral is required by law in a particular instance, such notice shall be deemed commercially reasonable if given at least ten (10) days prior to such intended disposition and may be given by advertisement in a newspaper accepted for legal publications either separately

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or as part of a notice given to foreclose the real property or may be given by private notice if such parties are known to Mortgagee. Neither the grant of a security interest pursuant to this Mortgage nor the filing of a financing statement pursuant to the Code shall ever impair the stated intention of this Mortgage that all Collateral comprising the Premises and at all times and for all purposes and in all proceedings both legal or equitable shall be regarded as part of the real property hereunder irrespective of whether such item is physically attached to the real property or any such item is referred to or reflected in a financing statement. Mortgagor will on demand deliver all financing statements that may from time to time be required by Mortgagee to establish and perfect the priority of Mortgagee's security interest in the Premises and shall pay all expenses incurred by Mortgagee in connection with the renewal or extensions of any financing statements executed in connection with the Premises; and shall give advance written notice of any proposed change in Mortgagor's name, identity or structure and will execute and deliver to Mortgagee prior to or concurrently with such change all additional financing statements that Mortgagee may require to establish and perfect the priority of Mortgagee's security interest.

**3.2 MAINTENANCE OF PROPERTY.** Mortgagor will keep the Premises fully equipped and will replace all worn out or obsolete Collateral with fixtures or personal property comparable thereto when new, and will not, without Mortgagee's prior written consent, remove from the Premises any fixtures or personal property covered by this Mortgage unless the same is replaced by Mortgagor with an article of equal suitability and value when new, owned by Mortgagor free and clear of any lien or security interest (other than the Permitted Encumbrances and, in the case of maintenance and repair equipment, the rights of landlords under leases of such equipment) and the lien and security interest created by this Mortgage. All substituted items shall become a part of the Premises and subject to the lien of this Mortgage. Any amounts received or allowed Mortgagor upon the sale or other disposition of the removed items of Collateral shall be applied first against the cost of acquisition and installation of the substituted items. Nothing herein contained shall be construed to prevent any tenant from removing from the Premises trade fixtures, furniture and equipment installed by the tenant and removable by the tenant under its terms of the lease, on the condition, however, that subject to the terms of such tenant's lease, the tenant shall at its own cost and expense repair any and all damages to the Premises resulting from or caused by the removal thereof.

**3.3 [INTENTIONALLY OMITTED].**

**3.4 MORTGAGOR TO COMPLY WITH PRIOR SECURITY INSTRUMENTS.** Mortgagor shall at its sole cost and expense perform, comply with and discharge all obligations of Mortgagor under any prior secured financing arrangements (whether lease purchase, conditional sales or pure lease arrangements) for any property subject to this security interest. Mortgagor shall not permit a surrender, assignment or transfer of its interest in any such property without the prior written consent of Mortgagee nor permit or suffer a default to exist under such prior financing arrangements.

## ARTICLE IV

### APPLICATION OF INSURANCE AND AWARDS

**4.1 DAMAGE OR DESTRUCTION OF THE PREMISES.** Mortgagor shall give the Mortgagee prompt notice of any damage to or destruction of the Premises and in case of loss covered by policies of insurance the Mortgagee alone, is hereby authorized at its option to

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settle and adjust any claim arising out of such policies and collect and receipt for the proceeds payable therefrom. Any expense incurred by the Mortgagee in the adjustment and collection of insurance proceeds (including the cost of any independent appraisal of the loss or damage on behalf of Mortgagee) shall be reimbursed to the Mortgagee first out of any proceeds. In the event not more than 50% of the replacement cost of the improvements on either one of the two buildings located on the Premises are damaged by a fully insured casualty ("Casualty") the insurance proceeds shall be applied to the repair and restoration ("Restoration") of the Improvements under the following conditions:

- a. The Premises are capable of being restored to a complete architectural unit pursuant to plans and specifications acceptable to Mortgagee so that after restoration the Premises have the same use as existed prior to the Casualty and a value at least equal to that prior to the Casualty.
- b. Mortgagee is provided a sworn cost statement based on fixed, written bids which itemizes the total costs necessary to restore the Premises and if the insurance proceeds are insufficient to complete such restoration, Mortgagor deposits with Mortgagee in cash prior to commencing the Restoration the difference between such cost and the proceeds.
- c. Mortgagor proceeds promptly to restore and continues the Restoration in a diligent and timely manner.
- d. Disbursements of proceeds are to be upon completion and shall at Mortgagee's option be disbursed through the title insurer issuing the mortgagee's title policy.
- e. The proceeds shall be held by Mortgagee and shall be interest bearing.
- f. Mortgagee is to receive at the time of disbursement such lien protection as it and the title insurer shall require including lien waivers and an endorsement to its title policy as to continuing first lien status.
- g. No default shall have occurred and is continuing in the payment or performance of the Note or under any of the documents securing it that was not cured within the applicable grace period, if any.
- h. Mortgagor shall pay any actual expenses Mortgagee incurs including any such expenses for title insurance.
- i. No right to use proceeds for restoration shall be applicable to the last three (3) months of the Note prior to maturity.
- j. Any remaining proceeds shall at Mortgagee's option be applied without prepayment premium to the last maturing installment of the Note without any suspension of required payments.

Any proceeds or any part thereof not applied pursuant to the immediately preceding sentence shall be applied to the reduction of the Indebtedness Secured Hereby then most remotely to be paid whether due or not, without the application of any prepayment premium, or to the

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restoration or repair of the Premises, the choice of application to be solely at the discretion of Mortgagee.

**4.2 CONDEMNATION.** Mortgagor shall give the Mortgagee prompt notice of any actual or threatened condemnation or eminent domain proceedings affecting the Premises and Mortgagor hereby assigns, transfers and sets over to the Mortgagee the entire proceeds of any award or claim for damages or settlement in lieu thereof for all or any part of the Premises taken or damaged under such eminent domain or condemnation proceedings, the Mortgagee being hereby authorized to intervene in any such action and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds. Mortgagor will not enter into any agreements with the condemning authority permitting or consenting to the taking of the Premises or agreeing to a settlement unless prior written consent of Mortgagee is obtained. Any expenses incurred by the Mortgagee in intervening in such action or collecting such proceeds, including reasonable attorneys' fees, shall be reimbursed to the Mortgagee first out of the proceeds. If Mortgagor is not currently in default in the Note or this Mortgage or other Security Documents, in the event less than 50% of the Premises are taken by an eminent domain proceeding and such taking does not take any of the improvements or necessary parking, so much of the condemnation awards as is necessary for restoration shall be applied to Restoration under and subject to the conditions of Section 4.1. Condemnation awards not applied pursuant to the immediately preceding sentence shall be applied upon or in reduction of the Indebtedness Secured Hereby then most remotely to be paid, whether due or not, without the application of any prepayment premium, or to the restoration or repair of the Premises, the choice of application to be solely at the discretion of Mortgagee.

**4.3 DISBURSEMENT OF INSURANCE AND CONDEMNATION PROCEEDS.** Any restoration or repair shall be done under the supervision of an architect acceptable to Mortgagee and pursuant to plans and specifications reasonably approved by the Mortgagee. In any case where Mortgagee may elect or be required to apply the proceeds to repair or restoration or permit the Mortgagor to so apply the proceeds they shall be held by Mortgagee for such purposes and will be disbursed by Mortgagee to defray the costs of such restoration or repair under such safeguards and controls as Mortgagee may reasonably establish to assure completion in accordance with the approved plans and specifications and free of liens or claims. Mortgagor shall on demand deposit with Mortgagee any sums necessary to make up any deficits between the actual cost of the work and the proceeds and provide such lien waivers and completion bonds as Mortgagee may reasonably require. Except for additional funds deposited by Mortgagor which shall, if available after construction, be returned to Mortgagor, any surplus which may remain after payment of all costs of restoration or repair may at the option of the Mortgagee be applied on account of the Indebtedness Secured Hereby then most remotely to be paid, whether due or not, without application of any prepayment premium or shall be returned to Mortgagor, the choice of application to be solely at the discretion of Mortgagee.

## ARTICLE V

### LEASES AND RENTS

**5.1 INTENTIONALLY OMITTED.**

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**5.2 MORTGAGEE'S RIGHT TO PERFORM UNDER LEASES.** Should the Mortgagor fail to perform, comply with or discharge any material obligations of Mortgagor under any lease or should the Mortgagee become aware of or be notified by any tenant under any lease of a failure on the part of Mortgagor to so perform, comply with or discharge its obligations under said lease, Mortgagee may, but shall not be obligated to, and without further demand upon the Mortgagor, and without waiving or releasing Mortgagor from any obligation in this Mortgage contained, remedy such failure, and the Mortgagor agrees to repay upon demand all sums incurred by the Mortgagee in remedying any such failure together with interest at the then rate in effect on the Note. All such sums, together with interest as aforesaid shall become so much additional Indebtedness Secured Hereby, but no such advance shall be deemed to relieve the Mortgagor from any default hereunder.

**5.3 ASSIGNMENT OF LEASES AND RENTS.** The Mortgagor does hereby sell, assign and transfer unto Mortgagee all of the leases, rents, issues, income and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any agreement for the use or occupancy of the Premises, it being the intention of this Mortgage to establish, and this is, an absolute and present transfer and assignment of all such leases and agreements and all of the rents, income and profits from the Premises unto the Mortgagee and the Mortgagor does hereby appoint irrevocably the Mortgagee its true and lawful attorney in its name and stead, which appointment is coupled with an interest, to collect all of said rents, income, and profits; provided, Mortgagee grants the Mortgagor the privilege, revocable, to collect and retain such rents, income, and profits unless and until an Event of Default exists under this Mortgage. Upon an Event of Default, the privilege granted Mortgagor hereunder to collect the rents, income and profits of the Premises and pledge the same as permitted hereby shall thereupon automatically terminate, and Mortgagee may, at its option, without notice, in person or by agent, with or without taking possession of or entering the Premises, with or without bringing any action or proceeding, or by a receiver duly appointed, give, or require Mortgagor to give, notice to any or all tenants under any lease authorizing and directing the tenant to pay such rents, income and profits to Mortgagee, such agent, or receiver as the case may be; collect all of the rents, issues, income and profits; enforce the payment thereof and exercise all of the rights of the landlord under any lease and all of the rights of Mortgagee hereunder; enter upon, take possession of, manage and operate said Premises, or any part thereof; cancel, enforce or modify any leases, and fix or modify rents, and do any acts which the Mortgagee deems reasonably proper to protect the security hereof. Any rents, issues, income and profits collected shall be applied to the costs and expenses of operation, management and collection, including reasonable attorneys' fees, to the payment of the fees and expenses of any agent or receiver so acting, to the costs incurred by the Mortgagee, including attorneys' fees, to the payment of taxes, assessments, insurance premiums and expenditures for the management, repair and upkeep of the Premises, to the performance of landlord's obligations under any leases and to the Indebtedness Secured Hereby all in such order as the Mortgagee may require. The entering upon and taking possession of the Premises, the collection of such rents, issues, income and profits and the application thereof as aforesaid shall not cure or waive any defaults under this Mortgage or affect any notice of default or invalidate any act done pursuant to such notice nor in any way operate to prevent the Mortgagee from pursuing any other remedy which it may now or hereafter have under the terms of this Mortgage or any other security given for the Indebtedness Secured Hereby nor shall it in any way be deemed to constitute the Mortgagee a mortgagee-in-possession.

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## ARTICLE VI

### RIGHTS OF MORTGAGEE

**6.1 RIGHT TO CURE DEFAULT.** If Mortgagor shall fail to comply with any of the covenants or obligations of this Mortgage, the Mortgagee may, but shall not be obligated to, without further notice, and without waiving or releasing Mortgagor from any obligation in this Mortgage contained, remedy such failure, and the Mortgagor agrees to repay upon demand all sums incurred by the Mortgagee in remedying any such failure together with interest at the then rate in effect on the Note. All such sums, together with interest as aforesaid shall become so much additional Indebtedness Secured Hereby, but no such advance shall be deemed to relieve the Mortgagor from any failure hereunder.

**6.2 NO CLAIM AGAINST THE MORTGAGEE.** Nothing contained in this Mortgage shall constitute any consent or request by the Mortgagee, express or implied, for the performance of any labor or services or for the furnishing of any materials or other property in respect of the Premises or any part thereof, nor as giving the Mortgagor or any party in interest with Mortgagor any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would create any personal liability against the Mortgagee in respect thereof or would permit the making of any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the lien of this Mortgage.

**6.3 INSPECTION.** Mortgagor will permit the Mortgagee's authorized representatives to enter the Premises at reasonable times for the purpose of inspecting the same; provided the Mortgagee shall have no duty to make such inspections and shall not incur any liability or obligation for making or not making any such inspections.

**6.4 WAIVERS; RELEASES; RESORT TO OTHER SECURITY, ETC.** Without affecting the liability of any party liable for payment of any Indebtedness Secured Hereby or performance of any obligation contained herein, and without affecting the rights of the Mortgagee with respect to any security not expressly released in writing, the Mortgagee may, at any time, and without notice to or the consent of Mortgagor or any party in interest with the Premises or the Note:

- a) release any person liable for payment of all or any part of the Indebtedness Secured Hereby or for performance of any obligation herein;
- b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the Indebtedness Secured Hereby or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof;
- c) accept any additional security;
- d) release or otherwise deal with any property, real or personal, including any or all of the Premises, including making partial releases of the Premises; or
- e) resort to any security agreements, pledges, contracts of guarantee, assignments of rents and leases or other securities, and exhaust any one or more of said

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securities and the security hereunder, either concurrently or independently and in such order as it may determine.

## 6.5 WAIVER OF REDEMPTION, APPRAISEMENT, HOMESTEAD, MARSHALING.

Mortgagor hereby waives any and all rights of redemption to the full extent permitted by law. Mortgagor further agrees, to the full extent permitted by law, that in case of an Event of Default, neither Mortgagor nor anyone claiming through or under it will set up, claim or seek to take advantage of any homestead, reinstatement, appraisement, valuation, stay or extension laws now or hereafter in force, or take any other action which would prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Premises or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat. Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Illinois Mortgage Foreclosure Law (135 ILCS 5/15 - 1101 et. seq.) (herein called the "Act")) or residential real estate (as defined in Section 15-1219 of the Act), and to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 15-1601 of the Act. Mortgagor further waives any rights available with respect to marshalling of assets so as to require the separate sales of any portion of the Premises, or as to require the Mortgagee to exhaust its remedies against a specific portion of the Premises before proceeding against the other and does hereby expressly consent to and authorize the sale of the Premises or any part thereof as a single unit or parcel or as separate parcels.

6.6 EVASION OF PREPAYMENT PREMIUM. If an Event of Default shall occur and the Indebtedness Secured Hereby is accelerated in full a tender of such amount necessary to satisfy the accelerated amount shall be considered an evasion of the prepayment restrictions of the Note and the Mortgagee may demand in addition to all other sums due it by reason of an Event of Default the premium then due under the Note as if Mortgagor had voluntarily prepaid the same.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

7.1 EVENTS OF DEFAULT. It shall be an "Event of Default" under this Mortgage upon the happening of any of the following:

- a) failure to comply with any of the provisions of the Note, including without limitation, the failure to make any payment on the Note whether principal, interest, premium or late charge, when and as the same becomes due (whether at the stated maturity or at a date fixed for any installment payment or any accelerated payment date or otherwise) and such default continues for five (5) days after written notice to Mortgagor; or
- b) failure to pay, perform or comply with when due any other Indebtedness Secured Hereby and such default continues for five (5) days after written notice to Mortgagor; or

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- c) failure to comply with or perform any of the other terms, conditions or covenants of this Mortgage or any other document or instrument securing the Note or executed in connection with the Loan and such failure shall continue for a period of thirty (30) days (or such longer period, not to exceed 90 days after notice to Mortgagor, as may be required to cure such default with the exercise of diligence) after notice thereof to Mortgagor; or
- d) if Mortgagor or any of the guarantors of the Note shall fail to pay their debts as they become due, make an assignment for the benefit of its creditors, or shall admit in writing their inability to pay their debts as they become due, or shall file a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter existing, or shall become "insolvent" as that term is generally defined under the Federal Bankruptcy Code, or shall in any involuntary bankruptcy case commenced against them file an answer admitting insolvency or inability to pay their debts as they become due, or shall fail to obtain a dismissal of such case within ninety (90) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or shall have a custodian, trustee or receiver appointed for, or have any court take jurisdiction of their property, or any part thereof, in any proceeding for the purpose of reorganization, arrangement, dissolution or liquidation, and such custodian, trustee or receiver shall not be discharged, or such jurisdiction shall not be relinquished, vacated or stayed within ninety (90) days of the appointment; or
- e) a judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien or be issued or levied against the Premises and shall not be released or fully bonded within sixty (60) days after its entry, issue or levy; or
- f) any material representation or warranty made by Mortgagor herein, in the Note or in any other instrument given as security for the Note shall be false, breached or dishonored and such act has a material adverse effect on the security; or
- g) if Mortgagor or any of the guarantors of the Note shall be adjudged incompetent or a conservator, custodian or guardian be appointed to handle their affairs, or if any of the guarantors of the Note shall die and satisfactory provisions are not made for the substitution of the liability of said guarantor's estate for the repayment of the Indebtedness Secured Hereby.

**7.2 MORTGAGEE'S RIGHT TO ACCELERATE.** If an Event of Default shall occur hereunder, the Mortgagee may declare the entire unpaid principal balance of the Note together with all other Indebtedness Secured Hereby to be immediately due and payable and thereupon all such unpaid principal balance of the Note together with all accrued interest thereon at the Note Rate and all other Indebtedness Secured Hereby shall be and become immediately due and payable.

**7.3 REMEDIES.** Upon the occurrence of an Event of Default the Mortgagee shall be, and is hereby authorized and empowered to exercise all of its rights and remedies available

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hereunder including the foreclosure of this Mortgage judicially. The proceeds of any sale under this Mortgage will be applied in the following manner:

FIRST: Payment of the costs and expenses incurred in connection with the foreclosure of this Mortgage, including without limitation legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Mortgagee, together with interest on all such advances from date of disbursement at the default interest rate under the Note from time to time or at the maximum rate permitted to be charged under the applicable law if that is less.

SECOND: Payment of all sums expended by Mortgagee under the terms of this Mortgage and not yet repaid, together with interest on such sums from date of disbursement at the Note Rate or the maximum rate permitted by applicable law if that is less.

THIRD: Payment of the Indebtedness Secured Hereby in any order that the Mortgagee chooses.

FOURTH: The remainder, if any, to the person or persons legally entitled to it.

7.4 MORTGAGEE'S RIGHT TO ENTER AND TAKE POSSESSION, OPERATE AND APPLY INCOME. If an Event of Default shall have occurred, Mortgagor, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Premises, and to the extent permitted by law, Mortgagee itself, or by such officers or agents as it may appoint, is hereby expressly authorized to enter and take possession of all or any portion of the Premises and may exclude Mortgagor and its agents and employees wholly therefrom, and Mortgagor shall vacate and surrender possession of the Premises to Mortgagee. If Mortgagor shall for any reason fail to surrender or deliver the Premises or any part thereof after Mortgagee's demand, Mortgagee may obtain a judgment or decree conferring on Mortgagee the right to immediate possession or requiring Mortgagor to deliver immediate possession of all or part of the Premises to Mortgagee, to the entry of which judgment or decree Mortgagor hereby specifically consents. Mortgagor shall pay to Mortgagee, upon demand, all costs and expenses of obtaining such judgment or decree and reasonable compensation to Mortgagee, its attorneys and agents, and all such costs, expenses and compensation shall, until paid, be secured by the lien of this Mortgage. Upon every such entering upon or taking of possession, Mortgagee, to the extent permitted by law, may hold, store, use, operate, manage and control the Premises and conduct the business thereof, and, from time to time:

(i) perform such construction, make all necessary and proper maintenance, repairs, renewals, replacements, additions and improvements thereto and thereon, and purchase or otherwise acquire additional fixtures and personal property;

(ii) insure or keep the Premises insured;

(iii) manage and operate the Premises and exercise all the rights and powers of Mortgagor, on its behalf or otherwise, with respect to the same;

(iv) enter into agreements with others to exercise the powers herein granted Mortgagee, all as Mortgagee from time to time may determine; and Mortgagee may collect and receive all the rents, income and other benefits of the Premises, including those past due as

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well as those accruing thereafter; and shall apply the monies so received by Mortgagee, in such order and manner as Mortgagee may determine, to (1) the payment of interest, principal and other payments due and payable on the Note or pursuant to this Mortgage or to any other Indebtedness Secured Hereby, (2) deposits for taxes and assessments, (3) the payment or creation of reserves for payment of insurance, taxes, assessments and other proper charges or liens or encumbrances upon the Premises or any part thereof, and (4) the compensation, expenses and disbursements of the agents, attorneys and other representatives of Mortgagee; and

(v) exercise such remedies as are available to Mortgagee under the documents evidencing and/or securing the Loan or at law or in equity.

**7.5 RECEIVER.** If an Event of Default shall occur, the Mortgagee shall be entitled as a matter of right without notice and without giving bond and without regard to the solvency or insolvency of the Mortgagor, or waste of the Premises or adequacy of the security of the Premises, and whether or not proceedings have been brought to enforce this Mortgage, to have a receiver appointed and who shall in addition to all the rights and powers granted to it under the terms of its receivership shall have all the rights and powers granted the Mortgagee hereunder including the right to the possession of the Premises, to collect the rents, income and profits therefrom and otherwise deal with and manage the Premises and apply such rents, income and profits to the payment of taxes, assessments, insurance premiums and expenditures for the management, repair and upkeep of the Premises, to the performance of landlord's obligations under any leases and to the Indebtedness Secured Hereby. The receiver appointed by the court shall be unaffiliated with Mortgagor.

**7.6 RIGHTS UNDER UNIFORM COMMERCIAL CODE.** In addition to the rights available to a mortgagee of real property Mortgagee shall also have all the rights, remedies and recourse available to a secured party under the Uniform Commercial Code including the right to proceed under the provisions of the Uniform Commercial Code governing default as to any property which is subject to the security interest created by the Mortgage or to proceed as to such personal property in accordance with the procedures and remedies available pursuant to a foreclosure of real estate.

**7.7 DUE ON SALE OR MORTGAGING, ETC.** In the event of (a) a sale, conveyance, transfer, pledge, grant of a security interest in, hypothecation, or encumbrance of (i) the Premises, or any part thereof, or any interest therein or (ii) the Mortgagor's voting stock, if the Mortgagor is a corporation, or (iii) a partnership interest, if the Mortgagor is a partnership, or (iv) the beneficial interest under the trust or any portion thereof, if the Mortgagor is a trust, or (v) an ownership or other membership or other participation interest of a principal, if the Mortgagor is a limited liability company, or (vi) ownership interest in underlying owners, if the Mortgagor is owned by separate entity, or (b) the sale, conveyance or transfer of all or substantially all of the assets of the Mortgagor or of any general partner or manager of the Mortgagor, (c) the issuance of any (i) additional voting stock, if the Mortgagor is a corporation, or (ii) additional partnership interests, if the Mortgagor is a partnership, or (iii) additional ownership interests in underlying owners, if the Mortgagor is owned by a separate entity, or (d) a change in the control, either directly or indirectly, of the management of the Mortgagor, whether any of the above occur voluntarily, involuntarily, or by operation of law, then at the sole option of the Mortgagee, the Mortgagee may declare the entire Indebtedness Secured Hereby, due and payable in full and call for payment of the same in full at once with the prepayment premium as provided for in the Note for a voluntary prepayment at that time. The

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terms of this Section shall not apply to transfers of title or interest under any will or testament or applicable law of descent. A consent by the Mortgagee to any one transaction shall not be deemed a consent to or waiver of its right to consent to future or successive transactions. Any change in the legal or equitable title of the Premises or in the beneficial ownership of the Premises whether or not of record and whether or not for consideration shall be deemed a transfer of an interest in the Premises. Notwithstanding the foregoing, (i) a one-time transfer of the Premises, other than a public syndication, made after the third anniversary of the date of this Mortgage will be permitted subject to the following:

- a. No default shall have occurred in the payment or performance of the Note, this Mortgage or any other agreement securing payment of the Note (collectively, the "Security Documents");
- b. Mortgagee's approval of the transferee's credit standing, financial statement, and management abilities;
- c. The payment to Mortgagee of a transfer fee equal to one percent (1%) of the then principal balance of the Note and the payment to Mortgagee's correspondent of a fee equal to one fourth of one percent (.25%) of the principal balance of the Note;
- d. The payment of all actual out-of-pocket expenses related to the transfer including the fees of Mortgagee's Special Counsel;
- e. The assumption of the Note and other loan documents by the transferee; and
- f. the purchase price exceeds \$3,750,000,

(ii) provided no default shall have occurred in the payment or performance of the Note, or under any of the Security Documents, Mortgagee will permit the following transfers without fee:

- a. Transfers between the shareholders, members or partners of Mortgagor;
- b. Transfers of an individual's interest to spouses, children, or trusts of the partners or shareholders of Mortgagor, the sole beneficiary of which are such persons; provided, however, that no such transfer shall relieve any such individual of any liability under the Note or any of the Security Documents;
- c. Involuntary transfers of Partnership or corporate or membership interests without default following death or incapacity or pursuant to testamentary tax planning to family members;

(iii) Mortgagee shall consent to a second mortgage in favor of David Friedman in an amount not to exceed \$310,000, with the interest rate not to exceed 9%, if there is no Event of Default, the net operating income of the Premises available for debt service is not less than 125 percent of the combined debt service on the Note and the secondary financing, assuming full disbursement of the second loan, the combined total of the Note and the second loan (assuming full disbursement of the second loan) do not exceed 75 percent of the value of the Premises as determined by an appraisal acceptable to Mortgagee by an appraiser approved by Mortgagee, Mortgagor pays Mortgagee a fee equal to one percent (1%) of the principal balance

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of the second mortgage assuming full disbursement, the second mortgage lender executes a subordination agreement acceptable to Mortgagee, fully subordinating the lien of its second mortgage and all of its other rights to Mortgagee, and Mortgagor pays all of Mortgagee's actual out-of-pocket expenses, including attorney's fees, relating to the secondary financing, and (iv) nothing in this Section 7.7 or the Note shall apply to space leases made in the ordinary course of business.

With respect to a transfer permitted by clause (i) above, Mortgagee shall have the right to impose such other requirements reasonably deemed necessary to assure the enforceability of the Note and continued perfection of its security interests including the right to require acceptable management of the Premises.

7.8 RIGHTS CUMULATIVE. Each right, power or remedy herein conferred upon the Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to Mortgagee, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. No delay or omission by the Mortgagee in the exercise of any right, power or remedy arising hereunder or arising otherwise shall impair any such right, power or remedy or the right of the Mortgagee to resort thereto at a later date or be construed to be a waiver of any default or event of default under this Mortgage or the Note.

7.9 RIGHT TO DISCONTINUE PROCEEDINGS. In the event Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted under this Mortgage and shall thereafter elect to discontinue or abandon the same for any reason, Mortgagee shall have the unqualified right to do so and in such event Mortgagor and Mortgagee shall be restored to their former positions with respect to the Indebtedness Secured Hereby. This Mortgage, the Premises and all rights, remedies and recourse of the Mortgagee shall continue as if the same had not been invoked.

## ARTICLE VIII

### MISCELLANEOUS

8.1 RELEASE OF MORTGAGE. When all Indebtedness Secured Hereby has been paid and all other obligations of Mortgagor have been satisfied, Mortgagee shall deliver to Mortgagor a release of this Mortgage.

8.2 CHOICE OF LAW. This Mortgage is made and executed pursuant to and is to be construed according to the laws of the State of Illinois and shall be governed by the laws of said State.

8.3 SUCCESSORS AND ASSIGNS. This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon Mortgagor and their successors and assigns including without limitation each and every from time to time record owner of the Premises or any other person having an interest therein, shall run with the land and shall inure to the benefit of the Mortgagee and its successors and assigns. In the event that the ownership of the Premises becomes vested in a person or persons other than the Mortgagor, the Mortgagee shall not have any obligation to deal with such successor or successors in interest

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unless such transfer is permitted by this Mortgage and then only upon being notified in writing of such change of ownership. Upon such notification, the Mortgagee may thereafter deal with such successor in place of Mortgagor without any obligation to thereafter deal with Mortgagor and without waiving any liability of Mortgagor hereunder or under the Note. No change of ownership shall in any way operate to release or discharge the liability of the Mortgagor hereunder unless such release or discharge is expressly agreed to in writing by the Mortgagee.

**8.4 UNENFORCEABILITY OF CERTAIN CLAUSES.** The unenforceability or invalidity of any provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

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

**8.6 USURY LAW.** Notwithstanding anything to the contrary contained in the Note or in this Mortgage, all agreements which either now are or which shall become agreements between Mortgagor and Mortgagee are hereby limited so that in no contingency or event whatsoever shall the total liability for payments in the nature of interest, additional interest and other charges exceed the applicable limits imposed by the usury laws of the State of Illinois. If any payments in the nature of interest, additional interest and other charges made under the Note or under this Mortgage are held to be in excess of the applicable limits imposed by the usury laws of the State of Illinois, it is agreed that any such amount held to be in excess shall be considered payment of principal hereunder, and the indebtedness evidenced hereby shall be reduced by such amount so that the total liability for payments in the nature of interest, additional interest and other charges shall not exceed the applicable limits imposed by the usury laws of the State of Illinois, in compliance with the desires of Mortgagor and Mortgagee. This provision shall never be superseded or waived and shall control every other provision of the Note and this Mortgage and all agreements between Mortgagor and Mortgagee, or their successors and assigns.

**8.7 NOTICES.** Any notice which any party hereto may desire or may be required to give to any other party shall be in writing and the mailing thereof by certified mail to their respective addresses as set forth herein, or to such other places any party hereo may hereafter by notice in writing designate shall constitute service of notice hereunder.

**8.8 COMMERCIAL PROPERTY.** The Premises are not used principally, or at all, for agricultural or farming purposes. Mortgagor warrants, represents, covenants and agrees, as a material inducement to the granting of the Loan, that all of the proceeds of the Loan shall be used for business or commercial purposes and no part of said proceeds shall be used for personal, family, household or agricultural purposes.

**8.9 FUTURE ADVANCES.** This Mortgage secures all future advances of Mortgagee to Mortgagor. The maximum amount of indebtedness secured by this Mortgage shall not exceed \$50,000,000.00.

**8.10 COSTS AND EXPENSES.** All attorneys' fees and other costs incurred in connection with the foreclosure of this Mortgage and all expenses incurred by Mortgagee to the

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extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

**8.11 JURY TRIAL WAIVER.** Mortgagor and Mortgagee each hereby waive the right of a jury trial in each and every action on the Note or any of the other documents evidencing or securing the Loan, it being acknowledged and agreed that any issues of fact in any such action are more appropriately determined by the courts; further Mortgagor hereby consents and subjects itself to the jurisdiction of the courts of the State of Illinois and, without limiting the generality of the foregoing, to the venue of such courts in the County in which the Premises are located.

**8.12 NON-RECOURSE LIABILITY.** Mortgagor shall have no personal liability with respect to the repayment of the Loan except as provided herein. Nothing contained herein or in any other document evidencing or securing the Note or executed in connection with the Loan shall limit Mortgagee's other rights and remedies against Mortgagor or the general partners or members of Mortgagor and Mortgagor shall not be relieved, exonerated or exculpated for any personal liability, loss or deficiency suffered or sustained by the Mortgagee as a result of:

- a. collection of rents for more than one month in advance;
- b. misapplication of any of the following with respect to the Premises:
  - (i) insurance or condemnation proceeds
  - (ii) security deposits of tenants
  - (iii) rent or other income from the Premises;
- c. permitting or suffering to occur any intentional or negligent waste of all or any portion of the Premises;
- d. the effect of any law, governmental standard or regulation applicable to Mortgagor and/or the Premises, or a representation of Mortgagor, with respect to (i) hazardous or toxic waste or materials or environmental matters occurring before Mortgagee acquires title to the Premises, (ii) the Americans with Disabilities Act of 1990, as amended, or (iii) ERISA; or
- e. any intentional tort committed by Mortgagor which adversely affects the value of the Premises.

Notwithstanding the foregoing, the Loan shall become fully recourse and any agreement not to pursue recourse liability shall become null and void and shall be of no further force or effect in the event of any material fraud or misrepresentation by Mortgagor or any of Mortgagor's general partners or members in connection with the documents evidencing or securing the Note or executed in connection with the Loan, the application for the Loan, or any other aspect of the Loan.

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IN WITNESS WHEREOF, Mortgagor has caused these presents to be executed as of the date first above written.

VISION PARK RIDGE, L.L.C.  
an Illinois limited liability company

By Vision PR L.L.C., an Illinois limited liability company, its Managing Member

By *Bruce Heckman*  
Bruce Heckman  
One of its Managing Members

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

I, *Marjorie J. Zessar*, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT Bruce Heckman, a managing member of Vision PR L.L.C., managing member of Vision Park Ridge, L.L.C., personally known to me to be the same person whose name is subscribed to the foregoing instrument as such managing member, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said corporation.

GIVEN under my hand and notarial seal this \_\_\_ day of April, 1997.

OFFICIAL SEAL  
MARJORIE J ZESSAR  
NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXP. JUNE 26, 1999

*Marjorie J. Zessar*  
Notary Public

M1:0239356.02

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## EXHIBIT A

### Legal Description

#### PARCEL 1:

LOT 1 IN RENAISSANCE II, A RESUBDIVISION OF LOT 2 OF WILLIAMSBURG OFFICE COMPLEX, A SUBDIVISION BEING PART OF THE SOUTHEAST 1/4 OF THE NORTHEAST 2/4 OF SECTION 21 AND PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED AUGUST 12, 1975 AS DOCUMENT 23185011, ALL IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

LOT 2 IN RENAISSANCE II, A RESUBDIVISION OF LOT 2 OF WILLIAMSBURG OFFICE COMPLEX, A SUBDIVISION BEING PART OF THE SOUTH EAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 21 AND PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED AS DOCUMENT 23185011, ON AUGUST 12, 1975, ALL IN COOK COUNTY, ILLINOIS.

#### PARCEL 3:

EASEMENT FOR INGRESS AND EGRESS, PARKING AND SURFACE AND SUBSURFACE DRAINAGE FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY DECLARATION AND GRANT OF EASEMENT RECORDED MARCH 31, 1986 AS DOCUMENT 86121687, IN COOK COUNTY, ILLINOIS OVER AND UPON LAND DESCRIBED THEREIN, AS FOLLOWS:

LOTS 1, 2, 4 AND 5 IN RENAISSANCE II AS AFORESAID; LOT 1 IN WILLIAMSBURG OFFICE COMPLEX, A RESUBDIVISION OF PART OF THE SOUTH EAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 21 AND A PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 21 AND A PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, BOTH IN TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 12, 1975 AS DOCUMENT 23185011, IN COOK COUNTY, ILLINOIS; AND

LOT 1 IN WILLIAM L. KUNKEL AND CO'S RESUBDIVISION OF CERTAIN LOTS AND PARTS OF LOTS IN BLOCK 3, AND ALL OF THE VACATED ALLEY IN SAID BLOCK, TOGETHER WITH PART OF THE SOUTH 1/2 OF VACATED ASHLAND AVENUE, AND PART OF VACATED FARRELL AVENUE, ALL BEING IN FARRELL PARK, BEING A SUBDIVISION OF LOT 8 IN GARLAND ESTATES DIVISION OF LANDS IN SECTION 16 AND SECTION 21, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 4:

EASEMENT FOR INGRESS AND EGRESS, PARKING AND ACCESS TO AND MAINTENANCE AND REPAIR OF CERTAIN SANITARY AND STORM SEWER LINES AND WATER MAINS, FOR THE BENEFIT OF PARCEL 2 AS CREATED BY THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS RECORDED JANUARY 4, 1980 AS DOCUMENT 25306315 OVER AND UPON LOTS 1 THROUGH 5 IN RENAISSANCE II, A RESUBDIVISION AS AFORESAID, IN COOK COUNTY, ILLINOIS.

Common address: 1460 & 1480 Northwest Highway, Park Ridge, Illinois  
Property Tax I.D. Nos.: 09-21-206-016-0000; 09-22-110-05-0000; 09-21-206-017-0000;  
09-21-206-018-0000



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