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THIS DOCUMENT PREPARED BY  
AND WHEN RECORDED

MAIL TO:

Bank of America National  
Trust and Savings Association  
Commercial Mortgage Services  
50 California St., 12<sup>th</sup> Floor  
San Francisco, CA 94111  
Unit No.: 9372  
Attn.: Lou Barnett  
Loan No.: 3049251

DEPT-01 RECORDING \$93.00  
T30009 TRAN 2650 06/01/98 11:32:00  
\$5212 RC \*-98-452604  
COOK COUNTY RECORDER

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## MORTGAGE WITH ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING ILLINOIS

The parties to this Mortgage with Assignment of Rents and Leases, Security Agreement and Fixture Filing (this "Mortgage"), dated as of May 12, 1998, are A.S.B. Properties LLC, an Illinois limited liability company, as mortgagor and debtor ("Mortgagor"), with a mailing address at 3900 W. Chase, Lincolnwood, IL 60645, and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, together with its successors and assigns, as mortgagee and secured party ("Mortgagee"), with a mailing address at Commercial Mortgage Loan Servicing Unit #1777, P.O. Box 3609, Los Angeles, CA 90051-3609.

### 1. Grant and Secured Obligations.

1.1 Grant. To secure payment and performance of the Secured Obligations described in Section 1.2 below, Mortgagor hereby irrevocably and unconditionally grants, conveys, mortgages and warrants to Mortgagee, with right of entry and possession, all estate, right, title and interest which Mortgagor now has or may hereafter acquire in and to the following property (together with the Personality (as hereinafter defined) being hereinafter collectively referred to as the "Property"):

(a) The real property located in the County of Cook, State of Illinois, as described in Exhibit A attached hereto (the "Land"), together with all existing and future easements and rights to the Land;

Commercial Mortgage Services Origination  
Non-Recourse Loan Program  
N:mnavarro/asb1/mortgage

BOX 333-CTT

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(b) All buildings, structures and improvements now or hereafter located on the Land (the "Improvements");

(c) All existing and future appurtenances, privileges, rights, easements and tenements of the Land, including all minerals, oil, gas, other hydrocarbons and any other commercially valuable substances which may be in, under or produced from any part of the Land, all wastewater capacity rights and reservations, if any, and all other rights relating to sewage treatment capacity, water capacity and utilities serving the Land or Improvements, all development rights and credits, air rights, all water and water rights (whether or not appurtenant), and any land lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Land and Improvements;

(d) All rents, income, revenues, issues and profits of or from the Land or the Improvements and any and all leases, subleases, licenses, concessions or other agreements which grant a possessory interest in and to, or the right to use, all or any part of the Property, whether now or hereafter existing or entered into, including all cash and security deposits, advance rentals and deposits or payments of similar nature;

(e) All fixtures (as that term is hereinafter defined);

(f) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, the Improvements or the other property described above into cash or liquidated claims, including all proceeds of any insurance policies, present and future, payable because of loss sustained to all or part of the Property, whether or not such insurance policies are required by Mortgagee, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Property or related to the construction of the Improvements; and

(g) All additions to, substitutions and replacements for, and changes in any of the property described above.

1.2. Secured Obligations. Mortgagor makes the grant, conveyance and mortgage set forth in Section 1.1, makes the irrevocable and absolute assignment set forth in Article 2, and grants the security interest set forth in Article 3, all for the purpose of securing the following obligations (collectively, the "Secured Obligations," individually, a "Secured Obligation");

(a) Payment of all obligations at any time owing under the promissory note (the "Note") dated as of the date of this Mortgage in the stated principal amount of Three Hundred Ninety Thousand and no/100 Dollars (\$390,000.00) (the "Loan") payable by Mortgagor as maker to the order of Mortgagee and due on June 1, 2013;

(b) Payment and performance of all covenants and obligations of Mortgagor under this Mortgage;

(c) Payment and performance of all additional obligations of Mortgagor under any of the other "Loan Documents" as defined in the Note; provided that this Mortgage does not secure any Loan Document or any provision in any Loan Document that is expressly stated to be unsecured;

(d) Payment and performance of all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when a writing evidences the parties' agreement that the advance or obligation be secured by this Mortgage;

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(e) All interest and charges on all Secured Obligations, including prepayment fees, late charges and loan fees; and

(f) All modifications, extensions and renewals of any of the Secured Obligations, however evidenced, including: (i) modifications of the required principal payment dates or interest payment dates or both; (ii) deferring or accelerating payment dates; and (iii) modifications, extensions or renewals at a different rate of interest whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

All persons who may acquire an interest in the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each agreement made in connection with the Secured Obligations.

## 2. Assignment of Lessor's Interest in Leases and Assignment of Rents.

2.1. Absolute Assignment. Mortgagor hereby absolutely and presently assigns to Mortgagee the following:

(a) All of Mortgagor's right, title and interest in, to and under all existing and future leases, licenses and other agreements relating to the use or occupancy of the Property (collectively, the "Leases," individually, a "Lease"), including (i) all guaranties of and security for lessees' performance under any and all Leases, and (ii) all amendments, extensions, renewals or modifications to any Lease; and

(b) All deposits (whether for security or otherwise), rents, issues, profits, revenues, royalties, rights, benefits and income of and from the Property, including liquidated damages following default and all proceeds payable under any policy of insurance covering loss of rents, together with the continuing right to collect and receive the same, and together with all rights and claims that Mortgagor may have against any party under the Leases or against any other occupant of the Property (collectively, the "Rents").

THIS IS AN ABSOLUTE ASSIGNMENT, NOT AN ASSIGNMENT FOR SECURITY ONLY.

2.2. Grant of License. Mortgagee hereby confers upon Mortgagor a license (the "License") to collect and retain the Rents as they become due and payable, so long as no Event of Default (as defined in Section 7.1 below) shall exist and be continuing. If an Event of Default has occurred and is continuing, Mortgagee shall have the right, which it may choose to exercise in its sole discretion, to terminate the License without notice to or demand upon Mortgagor, and without regard to the adequacy of Mortgagee's security under this Mortgage.

2.3. Collection and Application of Rents. Subject to the License granted to Mortgagor under Section 2.2 above, Mortgagee has the right, power and authority to collect any and all Rents. Mortgagor hereby appoints Mortgagee its attorney-in-fact, which power of attorney is with full power of substitution and coupled with an interest, to perform any and all of the following acts as Mortgagee, in its sole discretion, may elect:

- (a) Demand, receive and enforce payment of any and all Rents;
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Mortgagor or in the name of Mortgagee for any and all Rents.

Mortgagee may, in its sole discretion, choose to collect Rents either with or without taking possession of the Property. Even if Mortgagee is collecting and applying Rents as permitted under this Mortgage, Mortgagee shall still be entitled, upon an Event of Default, to exercise and invoke every right and remedy provided to it under this Mortgage.





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2.4. Notice. All lessees under the Leases are hereby irrevocably authorized and notified by Mortgagor to rely upon and to comply with any notice or demand by Mortgagee for the payment to Mortgagee of any rent or other sums which may become due under the Leases or for the performance of their undertakings under the Leases. The lessees shall have no right or duty to inquire as to whether any Event of Default has actually occurred or is then existing hereunder. Mortgagor hereby waives any right, claim or demand which Mortgagor may now or hereafter have against any lessee by reason of such payment of Rents to Mortgagee. Mortgagor agrees that any such payment shall discharge the lessee's obligation to make such payment to Mortgagee.

2.5. Proceeds. Mortgagee shall have the right to apply all amounts received by it pursuant to the assignment granted in this Article 2 to pay any of the following amounts and in such order as Mortgagee shall deem appropriate: (a) the Secured Obligations; (b) all expenses of the Property, including the salaries, fees, commissions and wages of a managing agent and such other employees, agents or independent contractors as Mortgagee deems necessary or desirable; (c) all taxes, charges, claims, assessments, or any other liens against the Property; (d) all premiums for all insurance Mortgagee deems necessary or desirable; (e) the cost of all alterations, renovations, repairs or replacements; and (f) all expenses incident to taking and retaining possession of the Property. Neither the demand for nor collection of Rents by Mortgagee shall constitute any assumption by Mortgagee of any obligation under any Lease. Mortgagee is obligated to account only for such Rents as are actually collected or received by Mortgagee.

2.6. Mortgagee Not Responsible. Regardless of whether or not Mortgagee takes possession of the Property, Mortgagee is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose;
- (b) Responsible for performing any of the obligations of Mortgagor under any Lease;
- (c) Responsible for any waste committed by any lessee or any other party, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or
- (d) Liable in any manner for the use, occupancy, enjoyment or operation of all or any part of the Property.

2.7. Rights Cumulative. Mortgagor has executed a separate Assignment of Leases and Rents dated as of the date of this Mortgage (the "Assignment") assigning to Mortgagee all of Mortgagor's right, title and interest, as landlord, in and to the Leases. All rights and remedies granted to Mortgagee under the Assignment shall be in addition to all rights and remedies granted to Mortgagee under this Mortgage.

### 3. Grant of Security Interest.

3.1. Grant of Security Interest. To further secure payment and performance of the Secured Obligations, Mortgagor hereby grants to Mortgagee a security interest in, and unconditionally and irrevocably assigns, conveys, pledges, mortgages, transfers, delivers, deposits, sets over and confirms unto Mortgagee, all of Mortgagor's right, title and interest now or hereafter acquired in and to the following personal property (collectively, the "Personalty"):

- (a) All tangible personal property of every kind and description, including all goods, materials, supplies, tools, books, records, chattels, furniture, Fixtures (as that term is hereinafter defined), equipment and machinery, including, without limiting the generality of the foregoing classifications, all fire sprinkler, alarm, security, heating, ventilating, air conditioning, electrical, and plumbing systems, used in connection with the occupancy or operation of all or any part of the Land and the Improvements, whether stored on the Land or elsewhere;

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(b) All rights to the payment of money, accounts, reserves, charges, fees, deferred payments, refunds, contract rights, instruments, documents and chattel paper, savings and deposits, insurance policies, and other receivables, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Mortgagor with third parties (including all utility deposits), all accounts maintained with or for the benefit of Mortgagee, including, and to the extent applicable, the Tax and Insurance Impound Account, the TILC Reserve Account, the Replacement Reserve Account (each as defined below), and any other reserve accounts required by Mortgagee (collectively, the "Reserve Accounts"), all funds, including interest on such funds, held in such Reserve Accounts, all instruments and documents now or hereafter evidencing such sums or the Reserve Accounts, and all powers, rights and privileges pertaining to the Reserve Accounts (including the right to make withdrawals therefrom);

(c) All general intangibles (to the extent not included under clause (b) above) relating to the Land, the Improvements, and/or any business now or later to be conducted thereon by Mortgagor, including all permits, licenses and goodwill, books, records and files, management agreements, architectural and engineering plans, specifications and drawings, and as-built drawings; which arise from or relate to the Land, the Improvements, and/or any of the foregoing property described in this Section 3.1, all claims to or demands for the voluntary or involuntary conversion of any of the Land, the Improvements or the other property described above into cash or liquidated claims, all Claims (as defined in Section 5.13(a) below), all proceeds of any insurance policies, present and future, payable because of loss sustained to all or part of the Property, whether or not such insurance policies are required by Mortgagee, all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Property or related to the construction of the Improvements; and

(d) All substitutions, replacements, additions, accessions and proceeds for or to any of the foregoing property described in this Section 3.1.

3.2. Financing Statements. Mortgagor shall execute one or more financing statements and such other documents as Mortgagee may from time to time require to perfect or continue the perfection of Mortgagee's security interest in any Personality. Mortgagor shall pay all fees and costs that Mortgagee may incur in filing such documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. If Mortgagor fails to execute any financing statements or other documents for the perfection or continuation of any security interest, Mortgagor hereby appoints Mortgagee as its true and lawful attorney-in-fact to execute any such documents on its behalf. Such power of attorney is with full power of substitution and coupled with an interest.

3.3. Possession and Use of Collateral. So long as no Event of Default exists and is continuing, Mortgagor may possess, use, transfer and dispose of any of the Personality (other than the Reserve Accounts) in the ordinary course of Mortgagor's business so long as any such possession, use, transfer or disposal will not have a material and adverse effect on the use, occupancy, operation or value of the Property.

3.4. Rights with Respect to Reserve Accounts. Mortgagor agrees that Mortgagee, or any entity servicing the Loan for Mortgagee, shall have exclusive dominion and control over the Reserve Accounts. Notice of the assignment and security interest granted to Mortgagee herein may be delivered by Mortgagee at any time to the financial institution with whom the Reserve Accounts have been established. Mortgagee, or such servicing agent, shall have possession of all passbooks or certificates for the Reserve Accounts. Mortgagor hereby acknowledges and agrees that the advancement of funds from the Reserve Accounts as provided in this Mortgage is at Mortgagor's direction. Mortgagor hereby waives all right to withdraw funds from the Reserve Accounts. Upon an Event of Default, Mortgagee may, without notice or demand on Mortgagor, at its option: (a) exercise any and all

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rights and remedies of a secured party under any applicable Uniform Commercial Code, and/or (b) exercise any other remedies available at law or in equity. The exercise of Mortgagee's rights with respect to the Reserve Accounts shall not in any way prejudice or affect Mortgagee's right to initiate and complete a judicial or nonjudicial foreclosure under this Mortgage.

3.5. Security Agreement. This Mortgage constitutes a security agreement under the Uniform Commercial Code of the state in which the Property is located, as amended or recodified from time to time (the "Uniform Commercial Code") covering all Personalty.

## 4. Fixture Filing.

4.1. Fixture Filing; Description of Fixtures. This Mortgage constitutes a fixture filing under the Uniform Commercial Code and covers property which includes goods which are or are to become fixtures on the Land or the Improvements. "Fixtures" shall include all articles of personal property now or hereafter attached to, placed upon or used in connection with the Land or the Improvements, together with all goods and other property which may become so related to the Land or the Improvements, that an interest in them arises under real estate law.

## 5. Representations, Warranties and Covenants of Mortgagor.

5.1. Representations and Warranties. Mortgagor hereby represents, warrants and covenants that as of the date hereof and continuing until all Secured Obligations are paid and performed in full that:

(a) This Mortgage creates a first priority lien on the Property;

(b) Mortgagor lawfully holds and possesses fee simple title to all of the Land and Improvements and good title to all Property other than the Land and Improvements, free and clear of all liens, charges, encumbrances, and security interests whatsoever, except encumbrances approved by Mortgagee in writing. Mortgagor will forever warrant and defend its title to the Property, and the validity, enforceability, and priority of the lien and security interest created hereby, against the claims of all persons;

(c) Mortgagor (i) is duly organized, validly existing and in good standing under the laws of its state of organization or incorporation; (ii) is duly qualified to transact business and is in good standing in the state where the Property is located; and (iii) has all necessary approvals, governmental and otherwise, and full power and authority to own the Property and carry on its business as now conducted and proposed to be conducted;

(d) Mortgagor has full power and authority to grant this Mortgage, and the execution, delivery, and performance of the Loan Documents (i) constitute the valid and binding obligations of Mortgagor and are enforceable against Mortgagor in accordance with their terms; (ii) have been authorized by all necessary action; (iii) have received all necessary approvals and consents; (iv) will not violate, conflict with, result in a breach of, or constitute (with notice or lapse of time, or both) a default under any law, any order or judgment of any court or governmental authority, the articles of incorporation or organization, bylaws, partnership or trust agreement, or other governing instrument of Mortgagor, or any indenture or other agreement to which Mortgagor is a party or by which it or any of its property is or may be bound or affected; (v) will not result in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of its assets, except the lien and security interest created hereby; and (vi) will not require any authorization or license from, or any filing with, any governmental or other body (except for the recordation of this instrument in the appropriate land records in the state where the Property is located and except for Uniform Commercial Code filings relating to the security interest created hereby);

(e) The financial statements of Mortgagor, and of each general partner, member, guarantor, or any other party, as applicable, previously delivered by Mortgagor to Mortgagee are: (i) materially complete and

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correct; (ii) present fairly the financial condition of such party, including all material contingent liabilities; and (iii) have been prepared in accordance with the same accounting standard used by Mortgagor to prepare the financial statements delivered to and approved by Mortgagee in connection with the making of the Loan. Since the respective dates of such financial statements, no assets or properties reflected on such financial statements have been sold, transferred, pledged or encumbered except as disclosed in writing by Mortgagor to Mortgagee and approved in writing by Mortgagee. Also since the respective dates of such financial statements, there has been no material adverse change in the business condition (financial or otherwise), operations, properties or prospects of Mortgagor or any other subject thereof;

(f) There is no action, suit, or proceeding, judicial, administrative, or otherwise (including any condemnation or similar proceeding), pending or, to the best of Mortgagor's knowledge and belief after due inquiry, threatened or contemplated against, or affecting, Mortgagor or the Property;

(g) The Property and Improvements are not located in an area identified by the Secretary of Housing and Urban Development, or any successor thereof, as an area having special flood, mudslide, and/or flood-related erosion hazards pursuant to the National Flood Insurance Act of 1968 or the Flood Disaster Protection Act of 1973, as amended, or any successor law, or, if any portion of the Improvements is located within any such area, Mortgagor has obtained and will maintain the insurance required by Mortgagee below;

(h) The Property, and the present and contemplated uses and occupancy thereof, are in full compliance with all applicable zoning ordinances, building codes, land use, and other similar laws, including the Americans With Disabilities Act of 1990, as amended from time to time (42 U.S.C. Section 12101 et seq.). All certificates of occupancy and all other licenses, permits and other authorizations required by applicable law for the existing use of the Property are valid and in full force and effect;

(i) The Property is served by all required utilities; all public roads and streets necessary to serve the Land and Improvements have been completed, and serviceable in all weather, and, where required by the appropriate governmental entities, have been dedicated to and formally accepted by such governmental entities;

(j) Except as shown in the property condition survey or other engineering reports delivered to or obtained by Mortgagee and approved by Mortgagee, the Property is in good repair and is free and clear from damage caused by fire or other casualty;

(k) There are no mechanics' or similar liens or claims which have been filed for work, labor or material (and no rights are outstanding that under law could give rise to any such liens) affecting the Property which are or may be prior to or equal in priority to the lien of this Mortgage;

(l) Except as shown in the survey delivered to Mortgagee, none of the improvements which were included for the purpose of determining the appraised value of the Property lies outside of the boundaries or building restriction lines of the Property and no buildings or other improvements located on adjoining properties encroach upon the Property;

(m) All taxes and governmental assessments, insurance premiums, water, sewer and municipal charges, and ground rents, if any, that are due and owing as of the date hereof have been paid;

(n) There is no homestead or other exemption available to Mortgagor which would materially interfere with the right to sell the Property at a trustee's sale or the right to foreclose this Mortgage;

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(o) The Property is assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements is assessed and taxed together with the Property or any portion thereof;

(p) Mortgagor is not and will not be 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, the assets of Mortgagor do not and will not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA, and none of the transactions contemplated hereby will result in a "prohibited transaction" for purposes of Title I of ERISA. In addition, Mortgagor is not and will not be a "governmental plan" within the meaning of Section 3(32) of ERISA and transactions by Mortgagor are not and will not be subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans;

(q) Mortgagor is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended, and the related Treasury Department regulations, including temporary regulations;

(r) Mortgagor is solvent, and no bankruptcy, reorganization, insolvency or similar proceeding under any state or federal law with respect to Mortgagor has been initiated, and Mortgagor has received reasonably equivalent value for the granting of this Mortgage;

(s) The Loan is solely for the business purpose of Mortgagor, and is not for personal, family, household, or agricultural purposes;

(t) No portion of the Property has been or will be purchased with proceeds of any illegal activity; and

(u) Mortgagor has conducted a comprehensive review and assessment of Mortgagor's computer applications with respect to the "year 2000 problem" (that is, the risk that computer applications may not be able to properly perform date-sensitive functions after December 31, 1999) and, based on that review and inquiry, Mortgagor does not believe the year 2000 problem will result in a material adverse change in Mortgagor's business condition (financial or otherwise), operations, properties or prospects, or ability to repay the Loan.

5.2. Performance of Secured Obligations. Mortgagor shall promptly pay and perform each Secured Obligation in accordance with its terms.

5.3. Liens, Charges and Encumbrances. Mortgagor shall immediately discharge any lien on the Property to which Mortgagee has not consented in writing. Subject to Mortgagor's right to contest such matters pursuant to Section 8.10 below, Mortgagor shall pay when due each obligation secured by or reducible to a lien, charge or encumbrance which may encumber all or any part of the Property.

5.4. Insurance. Mortgagor shall, at Mortgagor's expense, maintain in force and effect on the Property at all times the following insurance:

(a) All-risk property insurance with policy limits in an amount not less than the full insurable value of the Property on a replacement cost basis (including tenant improvements), and business interruption or rent loss insurance, as appropriate, in an amount equal to twelve (12) months of the Property's projected gross income and an extended period of indemnity endorsement providing an additional twelve (12) months' business interruption or rent loss insurance after the Property has been restored or until the projected gross income returns to the level that existed prior to the happening of the loss, whichever is the first to occur. Each policy or policies shall

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contain a replacement cost endorsement and either an agreed amount endorsement (to avoid the operation of any co-insurance provisions) or a waiver of any co-insurance provisions, all subject to Mortgagee's approval. The determination of the replacement cost amount shall be adjusted annually to comply with the requirements of the insurer issuing such coverage or, at Mortgagee's election, by reference to such indexes, appraisals or information as Mortgagee determines in its reasonable discretion. All property and business interruption or rent loss insurance policies must include a lender's loss payable endorsement (438 BFU or its equivalent) issued in favor of Mortgagee.

(b) Commercial general liability insurance providing minimum limits of at least \$3,000,000 for bodily injury and property damage for any single occurrence and \$3,000,000 general aggregate. If the Improvements contain elevators, the minimum limits must be at least \$5,000,000 for any single occurrence and \$5,000,000 general aggregate. During any construction on the Land, Mortgagor's general contractor for such construction shall also provide the insurance required under this subparagraph (b). Mortgagee shall have the right to periodically review the amount of said liability insurance being maintained by Mortgagor and to require an increase in the amount of said liability insurance should Mortgagee deem an increase to be reasonably prudent under then existing circumstances. All commercial general liability insurance policies must name Mortgagee as an additional insured.

(c) If applicable, workers' compensation insurance providing statutory benefits of the state in which the Property is located and employer's liability insurance providing minimum limits of \$1,000,000 for each accident with respect to any work or operation performed on or about or in connection with the Property.

(d) If the Land or any part thereof is identified by the Secretary of Housing and Urban Development as being situated in an area now or subsequently designated as a "special flood hazard area," flood insurance in an amount equal to one hundred percent (100%) of the replacement cost of the Improvements or the maximum amount of flood insurance available, whichever is the lesser.

(e) Such other insurance on the Property or on any replacements or substitutions thereof or additions thereto as may from time to time be required by Mortgagee against other insurable hazards or casualties and in such amounts which at the time are commonly insured against in the case of property similarly situated, including, but not limited to, earthquake insurance if the Property is located in an area with a high degree of seismic activity, pollution liability insurance for storage properties, "Builder's All-Risk Completed Value" or "Course of Construction" insurance policy during the period of any construction on the Land or renovation or alteration of the Improvements, and boiler and machinery coverage where a steam boiler or other pressure vessel is present at the Property, due regard being given to the height and type of buildings, their construction, location, use and occupancy.

All policy forms, limits, deductibles and retentions are subject to the approval of Mortgagee. Mortgagee may require such other insurance as it deems necessary. All policies of insurance must be issued by insurance companies approved by Mortgagee. All insurance companies must have BEST'S financial and performance ratings of A- or better with any size designator or B+VII or better. Each policy of insurance (except worker's compensation) shall provide Mortgagee with at least thirty (30) days' prior written notice of cancellation or material change.

Mortgagor shall deliver to Mortgagee evidence that all insurance policies have been paid current. Mortgagor shall provide Mortgagee with certified copies of the insurance policies and original certificates of insurance satisfactory to Mortgagee. Mortgagor shall renew all such insurance and deliver to Mortgagee certificates evidencing such renewals at least thirty (30) days before any such insurance shall expire. Mortgagor agrees that all insurance policies, whether or not required or requested by Mortgagee, shall provide that all proceeds shall be payable to Mortgagee, its successors and assigns, pursuant to a mortgagee clause. Mortgagor further agrees that all insurance policies: (i) shall provide for at least thirty (30) days' prior written notice to Mortgagee prior to any cancellation or termination thereof and prior to any modification thereof which affects the interest of Mortgagee; and (ii) shall contain an endorsement or

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agreement by the insurer that any loss shall be payable to Mortgagee in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor which might otherwise result in forfeiture of such insurance. Approval of any insurance by Mortgagee shall not be a representation of the solvency of any insurer or the sufficiency of any amount of insurance. In the event Mortgagor fails to provide and maintain the policies of insurance required by this Mortgage, Mortgagee may, but shall not be obligated to, procure such insurance and Mortgagor shall pay all amounts advanced by Mortgagee, together with interest thereon at the Default Rate from and after the date advanced by Mortgagee until repaid by Mortgagor. Any amounts so advanced by Mortgagee, together with interest thereon, shall be secured by this Mortgage. Mortgagee shall not be responsible for the insolvency of the insurer or other failure of the insurer to perform, even though Mortgagee has caused the insurance to be placed with the insurer after failure of Mortgagor to furnish such insurance.

5.5. Payment of Taxes. Subject to Mortgagor's right to contest such matters pursuant to Section 8.10 below, and except to the extent paid under Section 5.6 below, Mortgagor shall pay, prior to the date on which any penalty or interest will accrue thereon, all taxes, levies, charges and assessments (individually, an "Imposition" and collectively, "Impositions"), imposed by any public or quasi-public authority or utility company which are (or if not paid, may become) a lien on the Property or any interest in it. If any Imposition becomes past due or delinquent, in addition to all other rights and remedies, Mortgagee may require Mortgagor to present evidence that it has been paid in full, including all penalties and interest, within ten (10) days after written notice by Mortgagee to Mortgagor.

5.6. Tax and Insurance Impound Account.

(a) Tax and Insurance Impound. Mortgagor shall establish, maintain and fund an impound account with Mortgagee (the "Tax and Insurance Impound Account") for the payment of Impositions and insurance on the Property. The Tax and Insurance Impound Account shall constitute additional security for the Secured Obligations.

(b) Deposits to Tax and Insurance Impound. Concurrently with the first disbursement under the Loan Documents, Mortgagor shall make an initial deposit to the Tax and Insurance Impound Account of an amount which, when added to the monthly deposits to be made as specified below, will be sufficient to satisfy the next due Impositions, insurance premiums and other similar charges. On each monthly payment date under the Note, Mortgagor shall pay to Mortgagee, for deposit into the Tax and Insurance Impound Account, (i) one-twelfth (1/12th) of the amount of all Impositions payable or reasonably estimated by Mortgagee to be payable during the next ensuing twelve (12) months, plus (ii) one-twelfth (1/12th) of an amount sufficient in the reasonable estimation of Mortgagee to pay the insurance premiums due for the renewal of the insurance policies required under Section 5.4 above upon their expiration. Required deposits into the Tax and Insurance Impound Account shall be added together with the Regular Payments under the Note and with any other sums required under the Loan Documents, all of which shall be paid monthly as an aggregate sum by Mortgagor to Mortgagee until the Note and all Secured Obligations are paid and performed in full. No earnings or interest on the Tax and Insurance Impound Account shall be payable to Mortgagor unless otherwise required under applicable law.

(c) Disbursements from Tax and Insurance Impound. So long as no Event of Default exists, all sums in the Tax and Insurance Impound Account shall be held by Mortgagee to pay the Impositions and insurance premiums. In its sole discretion, Mortgagee may retain a third party tax lien service to obtain tax certificates or other evidence or estimates of tax due or to become due and Mortgagor shall promptly reimburse Mortgagee for the cost of retaining any such service. Any unpaid reimbursements for any tax lien service will be added to the Secured Obligations. Mortgagor shall be responsible for ensuring Mortgagee's receipt, at least thirty (30) days prior to the respective due date for payment, of all bills, invoices and statements for all Impositions and insurance premiums to be paid. So long as no Event of Default exists, Mortgagee shall pay the governmental authority or other party entitled to payment directly to the extent funds are available for such purpose in the Tax and Insurance Impound Account. In making any payment from the Tax and Insurance Impound Account, Mortgagee shall be entitled to rely

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on any tax lien service or any bill, statement or estimate procured from the appropriate public office or insurance company or agent without any inquiry into the accuracy, validity, enforceability or contestability of any tax, assessment, valuation, sale, forfeiture, tax lien or title or claim thereof.

5.7. INTENTIONALLY OMITTED.

5.8. Replacement Reserve.

(a) Replacement Reserve. If initially or subsequently required by Mortgagee, Mortgagor shall establish, maintain and fund a repair reserve account with Mortgagee (the "Replacement Reserve Account") as additional security for the Secured Obligations. The Replacement Reserve Account will be used to reimburse costs and expenses incurred by Mortgagor in connection with capital repairs, replacements and improvements performed at the Property, including performance of work to the roofs, gutters, paving, driveways, exterior walls, exterior doors and doorways, windows, elevators and mechanical and HVAC equipment (collectively, the "Repairs").

(b) Deposits to Replacement Reserve. On each monthly payment date under the Note, Mortgagor shall pay to Mortgagee, for deposit into the Replacement Reserve Account, one-twelfth (1/12th) of the amount reasonably estimated by Mortgagee to be due for Repairs to be made to the Property during the calendar year. Required deposits into the Replacement Reserve Account, in the amount of **Five Hundred Thirty-nine and 19/100 Dollars (\$539.19)** per month, shall be added together with the Regular Payments under the Note and with any other sums required under the Loan Documents, all of which shall be paid monthly as an aggregate sum by Mortgagor to Mortgagee until the Note and all Secured Obligations are paid and performed in full. Upon notice to Mortgagor, Mortgagee may adjust the deposits into the Replacement Reserve Account each to a monthly amount equal to one-twelfth (1/12th) of the amount reasonably estimated by Mortgagee to be due for Repairs to the Property during the current calendar year. Funds deposited in the Replacement Reserve Account shall be held in an interest-bearing business savings account and interest shall be credited to Mortgagor. All such interest shall be and become part of the Replacement Reserve Account and shall be disbursed in accordance with this Section 5.8.

(c) Disbursements from Replacement Reserve. So long as no Event of Default exists, Mortgagee shall make disbursements for Repairs from the Replacement Reserve Account to the extent funds are available on deposit for that purpose, on a quarterly basis in increments of no less than **Three Thousand and no/100 Dollars (\$3,000.00)**. Such disbursements shall be made within ten (10) business days after delivery by Mortgagor of a form of draw request acceptable to Mortgagee, together with the following: (i) written certification by Mortgagor in form and substance satisfactory to Mortgagee that the applicable Repairs have been completed; (ii) invoices, receipts or other evidence satisfactory to Mortgagee verifying the cost of performing the Repairs; (iii) reimbursement of all out-of-pocket fees and expenses incurred by Mortgagee in making any site visit; (iv) if required by Mortgagee, for draw requests exceeding Ten Thousand Dollars (\$10,000), affidavits, lien waivers and/or releases from all parties who furnished materials and/or services in connection with the requested payment; (v) if required by Mortgagee, for draw requests exceeding Twenty Thousand Dollars (\$20,000), the items described in subclause (iv) above, plus a written certification from an inspecting architect or other third party acceptable to Mortgagee describing the completed Repairs and verifying the completion and value of such Repairs, and also, if required by Mortgagee, a copy of the new certificate of occupancy for the portion of the Improvements covered by the Repairs if the new certificate of occupancy is required by law, or a written certification by Mortgagor that no new certificate of occupancy is required. Mortgagee may require a site visit of the Property under Section 5.17 below in order to verify completion of Repairs prior to making any disbursement. In making any payment from the Replacement Reserve Account, Mortgagee shall be entitled to rely on any bill, statement or estimate procured from the appropriate public office, contractor or insurance company or agent without any inquiry into the accuracy, validity, enforceability or contestability of any cost, expense, commission, assessment, lien or title or claim thereof.

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Mortgagee reserves the right to make any disbursement from the Replacement Reserve Account directly to the party furnishing materials and/or services.

## 5.9. Deferred Maintenance.

Mortgagor shall perform immediate repairs correcting code violations; (i) east elevation limestone mortar joints; (ii) elevation limestone at lintels; and (iii) exterior stairs and decks. (collectively the "Capital Repairs"). Mortgagor agrees to complete all Capital Repairs within sixty (60) days after the recordation of this Mortgage.

Mortgagor shall deliver to Mortgagee the following: (i) written certification by Mortgagor in form and substance satisfactory to Mortgagee that all Capital Repairs have been completed; (ii) invoices, receipts or other evidence satisfactory to Mortgagee verifying the cost of performing the Capital Repairs; (iii) affidavits, lien waivers and/or releases from all parties who furnished materials and/or services in connection with the Capital Repairs; (iv) a written certification from an inspecting architect or other third party acceptable to Mortgagee describing the completed Capital Repairs and verifying the completion; and (v) a copy of the new certificate of occupancy for the portion of the Improvements covered by the Capital Repairs if the new certificate of occupancy is required by law, or a written certification by Mortgagor that no new certificate of occupancy is required. Mortgagee may require a site visit of the Property under Section 5.17 below in order to verify completion of all Capital Repairs.

## 5.10. INTENTIONALLY OMITTED.

5.11. Additional Rights and Provisions Regarding Reserve Accounts. Unless otherwise explicitly required by applicable law, the Reserve Accounts shall not be or be deemed to be escrow or trust funds. At Mortgagee's option and in Mortgagee's discretion, the Reserve Accounts may either be held in separate accounts or be commingled with the general funds of Mortgagee. The Reserve Accounts are solely for the protection of Mortgagee. With respect to the Reserve Accounts, Mortgagee shall have no responsibility beyond the allowance of due credit for the sums actually received or beyond the payment or reimbursement of the costs and expenses for which such accounts were established in accordance with their terms. Upon assignment of this Mortgage by Mortgagee, any funds in the Reserve Accounts shall be turned over to the assignee and any responsibility of Mortgagee as assignor with respect thereto shall terminate. If the funds in any Reserve Account should exceed the amount of payments actually applied by Mortgagee for the purposes of the account, Mortgagee in its sole discretion shall either return any excess to Mortgagor or credit such excess against future deposits to be made to that Reserve Account. In allocating any such excess, Mortgagee may deal with the person shown on Mortgagee's records as being the owner of the Property. If any Reserve Account should fail to contain sufficient funds to make the required payments, Mortgagor shall deposit with Mortgagee an amount which Mortgagee shall reasonably estimate as sufficient to make up the deficiency within ten (10) days after written notice thereof to Mortgagor. If Mortgagor fails to deposit the full amount of the deficiency in accordance with any such notice, Mortgagee shall have the option, but not the obligation, to advance funds to make such deposit. All such advances by Mortgagee shall be secured by this Mortgage and shall be immediately paid by Mortgagor on demand, together with interest thereon at the Default Rate from the date incurred by Mortgagee until paid by Mortgagor. Upon payment and performance in full of the Secured Obligations or at such earlier time as Mortgagee in its sole discretion may elect, the balances of the Reserve Accounts shall be refunded to Mortgagor or the person shown on Mortgagee's records to be the owner of the Property and no other party shall have any right or claim thereto. The requirements of this Mortgage concerning Reserve Accounts in no way supersede, limit or waive any other rights or obligations of the parties under any of the Loan Documents or under any applicable law.

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## 5.12. Leases and Rents.

(a) Mortgagor covenants that: (i) all Leases shall be written on the standard form of lease which shall have been approved by Mortgagee; (ii) upon request, Mortgagor shall furnish Mortgagee with executed copies of all Leases; (iii) no material changes may be made to the Mortgagee approved standard lease form without the prior written consent of Mortgagee, which approval shall not be unreasonably withheld; and (iv) all renewals of Leases and all proposed Leases shall provide for rental rates and terms comparable to existing local market rates and terms and shall be arm's length transactions.

(b) Mortgagor further covenants that, except to the extent Mortgagor is acting in the normal course of business and in a manner consistent with sound and customary leasing and management practices for similar properties in the community in which the Property is located, Mortgagor: (i) shall observe and perform all material obligations imposed upon the lessor under the Leases; (ii) shall enforce all of the terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed or performed; (iii) shall not modify any of the Leases, terminate or accept the surrender of any Lease, or waive or release any other party from any obligation or condition under any Lease; and (iv) shall not collect any of the Rents more than one (1) month in advance.

## 5.13. Damages and Insurance and Condemnation Proceeds.

(a) Mortgagor hereby absolutely and irrevocably assigns to Mortgagee, and authorizes the payor to pay to Mortgagee, the following claims, causes of action, awards, payments and rights to payment (collectively, "Claims"): (i) all awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking which affects any part of the Property; (ii) all awards and other Claims arising out of any warranty affecting any part of the Property or for damage or injury to any part of the Property; (iii) all proceeds of any insurance policies payable because of loss sustained to any part of the Property, whether or not such insurance policies are required by Mortgagee, and (iv) all interest which may accrue on any of the foregoing.

(b) Mortgagor shall give Mortgagee prompt written notice of the occurrence of any casualty loss or the institution of any condemnation proceedings concerning the Property. Mortgagee may participate in any suits or proceedings relating to any Claim and Mortgagee is hereby authorized, in its own name or in Mortgagor's name, to adjust any loss covered by any insurance (whether or not such insurance was requested or required by Mortgagee) or any condemnation claim or cause of action, and to settle or compromise any such Claim. Mortgagor shall deliver to Mortgagee any instruments required to permit Mortgagee's participation. Notwithstanding the foregoing, Mortgagee shall not participate in the adjustment of any Claim which does not exceed the lesser of (i) five percent (5%) of the then outstanding principal balance of the Note, and (ii) Two Hundred and Fifty Thousand Dollars (\$250,000).

(c) All awards, proceeds and other sums described in this Section 5.13 shall be payable to Mortgagee. All proceeds shall be applied first to reimburse Mortgagee for its costs and expenses of recovering the proceeds, including attorneys' fees. Upon satisfaction of each of the following conditions, Mortgagor shall be permitted to use the balance of the proceeds ("Net Claims Proceeds") to pay the costs of repairing or reconstructing the Property:

(i) Mortgagee's approval of the plans and specifications, cost breakdown, construction contract, construction schedule, contractor and payment and performance bond (if required by Mortgagee);

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(ii) Evidence that the Property's operations and income after the work will be sufficient to pay the operating expenses of the Property and debt service on the Secured Obligations with the same coverage ratios considered by Mortgagee in its determination to make the Loan;

(iii) Mortgagee's determination that the Net Claims Proceeds are sufficient to pay the total cost of the work, including all development costs and interest due on the Secured Obligations until the work is complete; or Mortgagor must provide (or deposit with Mortgagee) its own funds equal to the difference between the Net Claims Proceeds and the total cost of the work, as estimated by Mortgagor and approved by Mortgagee;

(iv) Receipt of evidence satisfactory to Mortgagee that all necessary governmental approvals and permits can be obtained to allow the rebuilding and reoccupancy of the Property;

(v) No Event of Default shall exist and be continuing; and

(vi) The Improvements shall take no more than nine (9) months to reconstruct and shall be completed at least three (3) months prior to the stated maturity date of the Note.

(d) If the foregoing conditions are met to Mortgagee's reasonable satisfaction, Mortgagee shall hold the Net Claims Proceeds and any funds which Mortgagor is required to provide in an interest-bearing account and shall disburse them to Mortgagor to pay the costs of the work. Mortgagor shall provide evidence reasonably satisfactory to Mortgagee that the work has been completed satisfactorily and lien-free. Interest on the funds shall accrue at the rate of interest then paid by Mortgagee on deposited funds to regular savings account customers and shall be credited to Mortgagor. Mortgagor agrees that the conditions described above are reasonable. If one or more of the foregoing conditions are not satisfied, or if an Event of Default occurs after Mortgagee's receipt of the Net Claims Proceeds, Mortgagee may, at Mortgagee's absolute discretion and regardless of whether Mortgagee's security is impaired, apply all or any of the Net Claims Proceeds to pay or prepay (without any Prepayment Fee (as defined in the Note)) the Secured Obligations in such order and in such amounts as it may elect. Notwithstanding the foregoing, Mortgagee's rights shall be subject to applicable law governing use of the Net Claims Proceeds, if any.

5.14. Maintenance and Preservation of Property. Mortgagor shall: (a) keep the Property in good condition and repair; (b) complete or restore promptly and in good order the Property or any part thereof which may be damaged or destroyed (unless Mortgagee otherwise elects to apply the insurance proceeds to reduce the Secured Obligations); (c) comply and cause the Property to comply with (i) all laws, ordinances, regulations and standards, (ii) all covenants, conditions, restrictions and equitable servitudes, whether public or private, and (iii) all requirements of insurance companies and any bureau or agency which establishes standards of insurability; (d) operate and manage the Property at all times in a professional manner and do all other acts which may be reasonably necessary to maintain and preserve its value; (e) promptly after execution, deliver to Mortgagee a copy of any management agreement concerning the Property and any subsequent amendments and waivers; and (f) execute and acknowledge all further documents, instruments and other papers as Mortgagee deems necessary or appropriate to preserve, continue and perfect the benefits of this Mortgage. Mortgagor shall not: (g) remove or demolish all or any material part of the Property; (h) alter the exterior of the Property or the roof or other structural elements of the Property in a manner which materially and adversely affects the value of the Property; (i) initiate or agree to any change in any zoning or other land classification which adversely affects the Property; (j) materially alter the type of occupancy or use of the Property; or (k) commit or permit waste of the Property.

5.15. Hazardous Waste and Other Substances.

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(a) Definitions. For purposes of this Section 5.15 the following terms have the following meanings:

(i) "Environmental Laws" means any and all federal, state and local laws (whether under common law, statute, rule, regulation or otherwise), requirements under permits or other authorizations issued with respect thereto, and other orders, decrees, judgments, directives or other requirements of any governmental authority relating to or imposing liability or standards of conduct (including disclosure or notification) concerning protection of human health or the environment or Hazardous Substances or any activity involving Hazardous Substances, all as previously and in the future to be amended. The foregoing notwithstanding, for purposes of the representations and warranties set forth in subsection 5.15(b) the term "Environmental Laws" shall mean only those Environmental Laws in full force and effect as of the date of this Mortgage.

(ii) "Hazardous Substance" means, but is not limited to, any substance, chemical, material or waste (A) the presence of which causes a nuisance or trespass of any kind; (B) which is regulated by any federal, state or local governmental authority because of its toxic, flammable, corrosive, reactive, carcinogenic, mutagenic, infectious, radioactive, or other hazardous property or because of its effect on the environment, natural resources or human health and safety, including, but not limited to, petroleum and petroleum products, asbestos-containing materials, polychlorinated biphenyls, lead and lead-based paint, radon, radioactive materials, flammables and explosives; or (C) which is designated, classified, or regulated as being a hazardous or toxic substance, material, pollutant, waste (or a similar such designation) under any federal, state or local law, regulation or ordinance, including under any Environmental Law such as the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §11001 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §1801 et seq.), or the Clean Air Act (42 U.S.C. §7401 et seq.).

(iii) "Release" means any release, deposit, discharge, emission, leaking, leaching, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Substances.

(b) Environmental Representations and Warranties. Except as otherwise fully disclosed by Mortgagor to Mortgagee in writing detailing any exceptions to the following environmental representations and warranties or fully disclosed to Mortgagee in the written reports prepared from the environmental assessments of the Property, Mortgagor hereby represents and warrants to Mortgagee, that, as of the date hereof: (i) neither the Property nor any operations of Mortgagor are in violation of any Environmental Laws or any permit or other authorization issued pursuant thereto; (ii) no Hazardous Substances are, or to the best of Mortgagor's knowledge and belief after due inquiry, have been handled, generated, stored, processed or otherwise managed on or at the Property except for those substances used by Mortgagor or tenants under Leases at the Property in the ordinary course of their businesses and in compliance with all Environmental Laws; (iii) there are not, to the best of Mortgagor's knowledge and belief after due inquiry, any past or present Releases of Hazardous Substances in, on, under or from the Property; (iv) the Property is not subject to any private or governmental lien or judicial or administrative notice or action relating to Hazardous Substances; (v) there are no existing or closed underground storage tanks or other underground storage receptacles for Hazardous Substances on the Property; (vi) Mortgagor has received no notice of, and to the best of Mortgagor's knowledge and belief after due inquiry, there exists no investigation, action, proceeding or claim by any agency, authority or unit of government or by any third party which could result in any liability, penalty, sanction or judgment under any Environmental Laws with respect to any condition, use or operation of the Property or any of Mortgagor's operations, nor does Mortgagor know of any basis for such a claim; (vii) there has been no claim by any party that any use, operation or condition of the Property or any of Mortgagor's operations has caused any nuisance or any other liability or adverse condition on the Property or

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any other property nor does Mortgagor know of any basis for such a claim; (viii) there are no agreements, consent orders, decrees, judgments, license or permit conditions or other orders or directives of any federal, state or local court, governmental agency or authority or agreements, whether settlement agreements or otherwise, with any third parties relating to the ownership, use, operation, sale, transfer or conveyance of the Property that require any change in the present condition of the Property or any work, repairs, construction, containment, clean up, investigations, studies, removal or other remedial action or capital expenditures with respect to the Property; and (ix) the Property is not "Real Property" as defined in the Illinois Responsible Property Transfer Act of 1988, 765 ILCS 90/1 et seq.

(c) Environmental Covenants. Mortgagor covenants and agrees that Mortgagor: (i) shall keep or cause the Property to be kept free from Hazardous Substances (except those substances used by Mortgagor or lessees under Leases at the Property in the ordinary course of their businesses and in compliance with all Environmental Laws); (ii) shall not install or use any underground storage tanks, shall not itself engage in and shall expressly prohibit all tenants of space in the Improvements from engaging in the use, generation, handling, storage, production, processing or management of Hazardous Substances, except in the ordinary course of their businesses and in compliance with all Environmental Laws; (iii) shall not itself cause or allow and shall expressly prohibit the Release of Hazardous Substances at, on, under, or from the Property; shall itself comply and shall expressly require all tenants and any other persons who may come upon the Property to comply with all Environmental Laws; (iv) shall keep the Property free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Mortgagor or any other person or entity ("Environmental Liens"); (v) shall comply and cause all occupants of the Property to comply with the recommendations of any qualified environmental engineer or other expert that apply or pertain to the Property; and, (vi) without limiting the generality of the foregoing, during the term of this Mortgage, shall not install in the Improvements on the Property, or permit to be installed in the Improvements on the Property, asbestos or any substance containing asbestos.

(d) Notice and Access. Mortgagor shall promptly notify Mortgagee in writing if Mortgagor knows, suspects or believes there is or are (i) any Hazardous Substances, other than those used by Mortgagor or tenants under Leases at the Property in the ordinary course of their businesses and in compliance with all Environmental Laws, present on the Property; (ii) any Release of Hazardous Substances in, on, under, from or migrating towards the Property; (iii) any non-compliance with Environmental Laws related in any way to the Property; (iv) any actual or potential Environmental Liens; (v) any investigation or action or claim, whether threatened or pending, by any governmental agency or third party pertaining to the Release of Hazardous Substances in, on, under, from, or migrating towards the Property; and (vi) any installation of wells, piping, or other equipment at the Property to investigate, remediate or otherwise address any Release of Hazardous Substances at, on, in or in the vicinity of the Property. Mortgagor shall promptly, at Mortgagor's sole cost and expense, take all reasonable actions with respect to any Hazardous Substances or other environmental condition at, on, or under the Property or other affected property, including all investigative, monitoring, removal, containment and remedial actions in accordance with all applicable Environmental Laws, including the payment, at no expense to Mortgagee, of all clean-up, administrative and enforcement costs of applicable governmental agencies which may be asserted against the Property in all instances as necessary to (A) comply with all applicable Environmental Laws; (B) protect human health or the environment; (C) allow continued use, occupation, or operation of the Property; and (D) maintain fair market value of the Property (collectively, the "Completion of the Clean-up"). In the event Mortgagor fails to do so, Mortgagee may, but shall not be obligated or have any duty to, cause the Completion of the Clean-up of the Property or other affected property. Mortgagor hereby grants to Mortgagee and its agents and employees access to the Property as provided in Section 5.17 below, and a license to remove any items deemed by Mortgagee to be Hazardous Substances and to do all things Mortgagee shall deem necessary to cause the Completion of the Clean-up of the Property.

(e) Indemnification. Mortgagor covenants and agrees, at Mortgagor's sole cost and expense, to indemnify, defend (at trial and appellate levels, and with attorneys, consultants and experts acceptable to



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Mortgagee), and hold Mortgagee harmless for, from and against any and all liens, damages, losses, liabilities, obligations, settlement payments, penalties, claims, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including reasonable attorneys', consultants' and experts' fees and disbursements actually incurred in investigating, defending, settling or prosecuting any claim, litigation or proceeding) which may at any time be imposed upon, incurred by or asserted against Mortgagee or the Property, and arising directly or indirectly from or out of: (i) the past, present or future presence, Release or threat of Release of any Hazardous Substances on, in, under or affecting all or any portion of the Property or any surrounding areas, regardless of whether or not caused by or within the control of Mortgagor; (ii) the past, present or future violation of any Environmental Laws relating to or affecting the Property or Mortgagor's operations, whether or not caused by or within the control of Mortgagor; (iii) the failure by Mortgagor to comply fully with the terms and conditions of this Section 5.15; (iv) any misrepresentation or inaccuracy in or the breach of any representation or warranty contained in this Section 5.15; or (v) the enforcement of this Section 5.15, including any liabilities that arise as a result of the actions taken or caused to be taken by Mortgagee under this Section 5.15, the cost of assessment, containment and/or removal of any and all Hazardous Substances from all or any portion of the Property or any surrounding areas, the cost of any actions taken in response to the presence, Release or threat of Release of any Hazardous Substances on, in, under or affecting any portion of the Property or any surrounding areas to prevent or minimize such Release or threat of Release so that it does not migrate or otherwise cause or threaten danger to present or future public health, safety, welfare or the environment, and costs incurred to comply with the Environmental Laws in connection with all or any portion of the Property or any surrounding areas. Mortgagee's rights under this Section 5.15 shall survive payment in full of the Secured Obligations and shall be in addition to all other rights of Mortgagee under this Mortgage, the Note and the other Loan Documents. The foregoing notwithstanding, Mortgagor's obligations under this Section 5.15 with regard to any Post Transfer Indemnification Responsibilities (as hereinafter defined) shall be limited to such obligations directly or indirectly arising out of or resulting from any Hazardous Substances that were present or released in, on, or around any part of the Property, or in the soil, groundwater or soil vapor on or under the Property at any time before or while Mortgagor held title to or was in possession or control of the Property ("Mortgagor's Continuing Responsibility"); provided, however, that any Post Transfer Indemnification Responsibilities incurred or suffered by Mortgagee shall be presumed, unless shown by a preponderance of the evidence to the contrary, to be Mortgagor's Continuing Responsibility. "Post Transfer Indemnification Responsibilities" shall mean any obligations under this subsection 5.15(e) to indemnify, defend, and hold Mortgagee harmless arising after Mortgagee ceases to hold a security interest in the Property or acquires title to the Property as a result of foreclosure, deed in lieu of foreclosure, or other transfer of the Property.

(f) Site Visits, Observation and Testing. Mortgagee and its agents and representatives shall have the right at any reasonable time to enter and visit the Property as provided in Section 5.17 below.

(g) INTENTIONALLY OMITTED.

(h) Lead-Based Paint Acknowledgment and Operations and Maintenance. Without limiting the generality of the foregoing, Mortgagor acknowledges that the Property may contain paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight ("Lead-Based Paint"), as disclosed by an assessment report performed by EMG dated March 5, 1998 ("Lead-Based Paint Report"). In addition, Mortgagor shall develop, implement and carry out within thirty (30) days after the date hereof an operations and maintenance plan for Lead-Based Paint on the Property ("LBP O&M Plan"). Mortgagor further acknowledges its responsibility to be aware of, and fully versed in all rules, regulations, laws, and ordinances governing the use or condition of Lead-Based Paint in, on or around the Property (collectively, "Lead-Based Paint Requirements"). Mortgagor further acknowledges and agrees that Mortgagee has no duty to provide Mortgagor with any information regarding the Lead-Based Paint Requirements or any interpretation thereof. Mortgagor agrees, at Mortgagor's sole expense, to follow any recommendations in the Lead-Based Paint Report and to maintain the Property in strict compliance with both the LBP O&M Plan and all applicable Lead-Based Paint Requirements. Compliance, among other things, includes the proper preparation and maintenance of all records,

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papers and forms required by the LBP O&M Plan and the Lead-Based Paint Requirements, especially those necessary to demonstrate or document compliance therewith. Such records shall be maintained until the Secured Obligations are paid and performed in full and shall be made available to Mortgagee for review after reasonable notice by Mortgagee. Mortgagee has no duty, however, to review those records and no liability shall be imposed on Mortgagee as a result of any such records review that Mortgagee may undertake. In no event shall Mortgagee's review of any such records be a representation that the Property or Mortgagor's actions or omissions with regard to any Lead-Based Paint on the Property has been or shall be in compliance with any Environmental Law or any other applicable law.

(i) INTENTIONALLY OMITTED.

(j) INTENTIONALLY OMITTED.

## 5.16. Financial Statements.

(a) Statements Required. So long as any Secured Obligation remains outstanding, Mortgagor shall provide to Mortgagee the following:

(i) Quarterly Operating Statement. Within thirty (30) days after and as of the end of each fiscal quarter, an operating statement, signed and dated by Mortgagor and in a form acceptable to Mortgagee, detailing the revenues received, the expenses incurred, and the net operating income before and after debt service (principal and interest) and major capital improvements for that quarter and containing appropriate year to date information;

(ii) Annual Income Schedule. Within ninety (90) days after and as of the end of each fiscal year, a schedule, signed and dated by Mortgagor and in a form acceptable to Mortgagee, detailing the total revenues received, total expenses incurred, total cost of all capital improvements, total debt service and total cash flow relating to the Property during the fiscal year, including all information requested under any of the Loan Documents;

(iii) Quarterly Leasing Schedule. Within thirty (30) days after and as of the end of each calendar quarter, a schedule in a form acceptable to Mortgagee, signed and dated by Mortgagor, showing the following lease information with regard to each tenant: the name of the tenant, monthly or other periodic rental amount, dates of commencement and expiration of the lease, and payment status;

(iv) Annual Balance Sheet. Within ninety (90) days after and as of the end of each fiscal year, a balance sheet, signed and dated by Mortgagor and in a form acceptable to Mortgagee (or audited financial statements if Mortgagor obtains them), showing all assets and liabilities of Mortgagor;

(v) Tax Returns. Copies of Mortgagor's federal income tax returns within fifteen (15) days of the date such returns are filed; and

(vi) Other Information. From time to time, such other information with regard to Mortgagor, principals of Mortgagor, guarantors or the Property as Mortgagee may reasonably request in writing.

(b) Form; Warranty. Mortgagor agrees that all financial statements to be delivered to Mortgagee pursuant to this Section shall: (i) be complete and correct; (ii) present fairly the financial condition of the party; (iii) disclose all liabilities that are required to be reflected or reserved against, including all material contingent liabilities; and (iv) be prepared in accordance with the same accounting standard used by Mortgagor to prepare the

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financial statements delivered to and approved by Mortgagor in connection with the making of the Loan or other accounting standards acceptable to Mortgagee. Mortgagor agrees that all leasing schedules and other information to be delivered to Mortgagee pursuant to this Section 5.16 shall not contain any misrepresentation or omission of a material fact. As of the date of delivery of any financial statement required under this Section 5.16, Mortgagor shall be deemed to have represented and reaffirmed to Mortgagee that there has been no material adverse change in the business condition (financial or otherwise), operations, properties or prospects of Mortgagor or any other subject thereof, nor have any assets or properties been sold, transferred, assigned, mortgaged, pledged or encumbered since the date of such financial statement except as disclosed by Mortgagor in a writing delivered to Mortgagee.

(c) Failure to Deliver Financial Statements. Mortgagor acknowledges and agrees that Mortgagee's willingness to extend the Loan at the interest rate and on the other terms and conditions provided in the Loan Documents is based, in material part, on the timely performance by Mortgagor of all of the terms and conditions of the Loan Documents, including, without limitation, the covenant to timely deliver to Mortgagee the financial statements requested in Section 5.16(a) above, and that the failure to timely deliver such financial statements will expose Mortgagee to increased risks associated with the possible deterioration in the creditworthiness of Mortgagor and/or the value of the security for the Loan, and will result in Mortgagee incurring additional administrative expenses (which may include regulatory reporting requirements) in servicing the Loan. The monetary cost of such risk and the amount of such expenses are difficult and impractical to ascertain. To compensate Mortgagee for the increased credit risk and administrative expenses it will incur in such an event, if Mortgagor fails to timely deliver the financial statements required by Section 5.16(a) above, and without limiting or impairing Mortgagee in the exercise of any of the other rights and remedies available to Mortgagee under this Mortgage or any other Loan Document based on said default, Mortgagor shall pay to Mortgagee a late charge equal to Five Hundred Dollars (\$500), which charge shall be due and payable together with the next Regular Payment due under the Note after the date on which the applicable statement is due together with an additional charge of Five Hundred Dollars (\$500) per month, for each subsequent calendar month that Mortgagor fails, following written notice from Mortgagee, to deliver to Mortgagee the required financial statements, which additional charge shall be due and payable monthly together with the next Regular Payment due under the Note after the date on which Mortgagee delivers said notice to Mortgagor. Mortgagor acknowledges and agrees that the foregoing late charge represents a fair and reasonable estimate, considering all of the factors and circumstances existing as of the date hereof, of the costs Mortgagee will incur by reason of the late delivery of the required financial statements.

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5.17. Site Visits, Observation and Testing. Mortgagee and its agents and representatives shall have the right at any reasonable time to enter and visit the Property for the purpose of performing appraisals, to audit and examine the books and records of Mortgagor relating to the Property, and to make copies of the same. In addition, Mortgagee and its agents and representatives shall have the right at any reasonable time to enter and visit the Property for the purposes of observing the Property, taking and removing soil or groundwater samples, and conducting tests on any part of the Property. Mortgagee shall have no duty, however, to visit or observe the Property or to conduct tests, and no site visit, observation or testing by Mortgagee shall impose any liability on Mortgagee. In no event shall any site visit, observation or testing by Mortgagee be a representation that Hazardous Substances are or are not present in, on or under the Property, or that there has been or shall be compliance with any law, regulation or ordinance pertaining to Hazardous Substances or any other applicable governmental law. Neither Mortgagor nor any other party is entitled to rely on any site visit, observation or testing by Mortgagee. Mortgagee owes no duty of care to protect Mortgagor or any other party against, or to inform Mortgagor or any other party of, any Hazardous Substances or any other adverse condition affecting the Property. Mortgagee may in its discretion disclose to Mortgagor or any other party any report or findings made as a result of, or in connection with, any site visit, observation or testing by Mortgagee. Mortgagor understands and agrees that Mortgagee makes no representation or warranty to Mortgagor or any other party regarding the truth, accuracy or completeness of any such report or findings that may be disclosed. Mortgagor also understands that, depending on the results of any site visit, observation or testing by Mortgagee which are disclosed to Mortgagor, Mortgagor may have a legal obligation to notify one or more environmental agencies of the results and that such reporting requirements are

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site-specific and are to be evaluated by Mortgagor without advice or assistance from Mortgagee. Mortgagee shall give Mortgagor reasonable notice before entering the Property. Mortgagee shall make reasonable efforts to avoid interfering with Mortgagor's use of the Property in exercising any rights provided in this Section.

5.18. Compliance with Laws. Mortgagor shall comply with all federal, state and local laws, rules and regulations applicable to the Property, including all zoning and building requirements and all requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), as amended from time to time. Mortgagor shall maintain in full force and effect at all times (a) all certificates of occupancy and other licenses, permits and authorizations required by applicable law for the existing use of the Property, and (b) all permits, franchises, licenses, trademarks, trade names, patents and fictitious names, if any, required by applicable law for Mortgagor to conduct the business in which Mortgagor is now engaged with respect to the Property.

5.19. Change in Tax Laws. If any governmental entity shall enact any law or regulation which imposes a tax on the issuance of the Note, the making of the Loan, or the recording of this Mortgage, Mortgagor shall pay such tax in the manner required by such law. If any law, regulation, order or court decree has the effect of imposing upon Mortgagee the payment of the taxes required to be paid by Mortgagor, in whole or in part, or of changing in any way the laws relating to the taxation of mortgages, deeds of trust or similar instruments, or the manner of collection of taxes, so as to affect this Mortgage or the Secured Obligations, then Mortgagor, upon demand by Mortgagee, shall pay such taxes, or reimburse Mortgagee for such taxes; provided, however, that if in the opinion of Mortgagee (a) it might be unlawful to require Mortgagor to make such payment, or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Mortgagee may elect by written notice to Mortgagor, to declare the Secured Obligations to be due and payable in full within thirty (30) days. Nothing in this Section shall require Mortgagor to pay any income, franchise or excise tax imposed upon Mortgagee unless such taxes are levied against the income of Mortgagee in lieu of the taxes required to be paid by Mortgagor under this Section 5.19 or under Section 5.5.

5.20. Mortgagor's Waivers. Mortgagor, for itself and its successors and assigns, to the fullest extent permitted by law, hereby knowingly, intentionally and voluntarily with and upon the advice of competent counsel: (a) waives, releases, relinquishes and forever forgoes all rights of valuation, appraisal, stay of execution, reinstatement and notice of election or intention to mature or declare due the Secured Obligations (except such notices as are specifically provided for herein); (b) waives, releases, relinquishes and forever forgoes all right to a marshalling of the assets of Mortgagor, including the Property, or to direct the order in which the Property shall be sold in the event of foreclosure; and (c) waives, releases, relinquishes and forever forgoes all rights and periods of redemption provided under applicable law. To the fullest extent permitted by law, Mortgagor shall not have or assert any right under any statute or rule of law pertaining to the exemption of homestead or other exemption under any federal, state or local law now or hereafter in effect, to defeat, reduce or affect the right of Mortgagee under the terms of this Mortgage to a sale of the Property. Further, Mortgagor hereby knowingly, intentionally and voluntarily waives, releases, relinquishes and forever forgoes all present and future statutes of limitations as a defense to any action to enforce the provisions of this Mortgage or to collect any of the Secured Obligations to the fullest extent permitted by law.

5.21. Management. The Property shall be managed either by: (a) Mortgagor; or (b) an entity affiliated with Mortgagor; or (c) a professional property management company approved by Mortgagee. Any management services performed by an affiliated entity or a professional property management company shall be pursuant to a written agreement approved by Mortgagee. Mortgagor represents, warrants and covenants that any existing management agreement includes, and any future management agreement entered into by Mortgagor shall include, a provision which provides that the management agreement is automatically terminated upon the transfer of the Property by Mortgagor, either by sale, foreclosure, deed in lieu of foreclosure, or otherwise, to Mortgagee or any other purchaser of the Property. Upon and during the continuance of an Event of Default or an uncured default under the management contract, Mortgagee shall have the right to terminate, or to direct Mortgagor to terminate,



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the management contract upon thirty (30) days' notice and to retain, or to direct Mortgagor to retain, a new management agent approved by Mortgagee.

## 5.22. Compensation; Exculpation; Indemnification.

(a) Mortgagor agrees to pay the maximum fees permitted by law, or reasonable fees as may be charged by Mortgagee when the law provides no maximum limit, for any services that Mortgagee may render in connection with this Mortgage, including Mortgagee's delivery of a statement of the Secured Obligations. Mortgagor shall also pay or reimburse all of Mortgagee's costs and expenses which may be incurred in rendering such services. Mortgagor further agrees to pay or reimburse Mortgagee for all costs, expenses and other advances which may be incurred or made by Mortgagee in any efforts to enforce this Mortgage, including any rights or remedies afforded to Mortgagee under Section 7.2 below.

(b) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person for any of the following matters: (i) Mortgagee's exercise of or failure to exercise any rights, remedies or powers granted to it in this Mortgage; (ii) Mortgagee's failure or refusal to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Property or under this Mortgage; or (iii) any loss sustained by Mortgagor or any third party resulting from Mortgagee's failure to lease the Property, or from any other act or omission of Mortgagee in managing the Property, after an Event of Default, unless the loss is caused by the willful misconduct and bad faith of Mortgagee. Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee.

(c) Mortgagor agrees to indemnify and defend Mortgagee against and hold it harmless for, from and against all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which either may suffer or incur: (i) in performing any act required or permitted by this Mortgage or any of the other Loan Documents or by law; (ii) because of any failure of Mortgagor to perform any of the Secured Obligations; or (iii) because of any alleged obligation of or undertaking by Mortgagee to perform or discharge any of the representations, warranties, conditions, covenants or other obligations of Mortgagor in any document relating to the Property other than the Loan Documents. This agreement by Mortgagor to indemnify, defend and hold Mortgagee harmless shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release of this Mortgage.

5.23. Defense and Notice of Claims and Actions. At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Mortgage and the rights and powers of Mortgagee created under it, against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing if any claim is asserted which does or could affect any of these matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.24. Representations, Warranties and Covenants with Respect to Single Purpose Entity, Maintenance of Separate Existence. Mortgagor represents, warrants and covenants as of the date hereof and until such time that all Secured Obligations are paid and performed in full, that Mortgagor:

(a) Does not own and will not own any encumbered asset other than (i) the Property, and (ii) incidental personal property necessary for the operation of the Property;

(b) Is not engaged and will not engage in any business other than the ownership, management and operation of the Property and 5860 N. Kenmore Avenue, Chicago, IL 60660;

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(c) Will not dissolve, terminate or materially amend the terms of its partnership or operating agreement, articles of incorporation, by-laws or other organizational documents, and Mortgagor further covenants, for itself and its general partners or managing members, if applicable, that each will not modify its organizational documents in a manner which would adversely affect Mortgagor's existence as a special purpose, single asset entity;

(d) Will not enter into any merger or consolidation, or liquidate or dissolve itself, or acquire all or substantially all the business or assets of, or any stock or other beneficial ownership of, any entity;

(e) Has not incurred and will not incur any debt, secured or unsecured, direct or contingent (including guarantying any obligation), other than (i) the Loan, and (ii) advances or trade debt or accrued expenses incurred in the ordinary course of business of operating the Property; no other debt may be secured (senior, subordinate or *pari passu*) by the Property;

(f) Will not enter into any contract or agreement with any general partner, managing member, principal, affiliate or any other party which is directly or indirectly controlling, controlled by or under common control with Mortgagor or any guarantor, as applicable, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with third parties other than an affiliate;

(g) Has not made and will not make any loans or advances to any third party (including any affiliate);

(h) Will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate, any constituent party of Mortgagor, or any guarantor);

(i) Will maintain books and records and bank accounts separate from those of its constituent parties and of its affiliates;

(j) Will not commingle the funds and other assets of Mortgagor with those of any affiliate or any other person;

(k) Has and will maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or any other person;

(l) Will file its own tax returns or if part of a consolidated group, it shall be shown as a separate member;

(m) Will utilize its own letterhead and telephone and will maintain its own separate office;

(n) Will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(o) Will not sell, encumber or otherwise dispose of all or substantially all of the Property, and will not enter into or consent to any restrictions on the use, operation and development of the Property inconsistent with the present use of the Property or seek the partition of the Property;

(p) Does not and will not hold itself out to be responsible for the debts or obligations of any other person;

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(q) Will not hold title to Mortgagor's assets other than in Mortgagor's name; and

(r) Will not institute proceedings to be adjudicated bankrupt or insolvent; or consent to the institution of bankruptcy or insolvency proceedings against it; or file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy; or consent to the appointment of a receiver, liquidator, assignee, trustee (or other similar official) of Mortgagor or a substantial part of Mortgagor's property, except as provided in this Mortgage with respect to the Property; or make any assignment for the benefit of creditors; or admit in writing its inability to pay its debts generally as they become due.

## 6. Sale, Transfer, or Encumbrance of the Property.

6.1. Die-on-Sale or Encumbrance. Mortgagor acknowledges that Mortgagee has relied upon the principals of Mortgagor and their experience in owning and operating properties similar to the Property in connection with the closing of the Loan. Accordingly, except as expressly permitted in this Section 6.1, an Event of Default shall occur if all or any part of the Property or any ownership interest in Mortgagor shall be sold, conveyed, assigned, pledged, mortgaged or otherwise transferred, whether voluntarily or involuntarily, without the prior written consent of Mortgagee. Upon an Event of Default, Mortgagee shall have the right, at its option, to declare all of the Secured Obligations immediately due and payable and to otherwise exercise any of its other rights and remedies contained in Article 7 of this Mortgage. If such acceleration occurs during any period when a Prepayment Fee (as defined in the Note) is payable under the Note, then such Prepayment Fee shall also then be immediately due and payable as though Mortgagor were prepaying all of the Secured Obligations on the date of such acceleration. For the purposes of this Section 6.1: (a) in the event either Mortgagor or any of its general partners is a corporation or trust, the sale, conveyance, transfer or disposition of more than ten percent (10%) of the issued and outstanding capital stock of Mortgagor or any of its general partners or of the beneficial interest of such trust (or the issuance of new shares of capital stock in Mortgagor or any of its general partners so that immediately after such issuance the total capital stock then issued and outstanding is more than one hundred ten percent (110%) of the total immediately prior to such issuance) shall be deemed to be a transfer of an interest in the Property, and (b) in the event Mortgagor or any general partner of Mortgagor is a limited partnership, a general partnership, a limited liability partnership, a joint venture company or a limited liability company, a change in the ownership interests in any general partner, any joint venturer or any managing member, either voluntarily, involuntarily or otherwise, or the sale, conveyance, transfer, hypothecation or encumbering of all or any portion of the interest of any such general partner, joint venturer or managing member in Mortgagor or such general partner (whether in the form of a beneficial or partnership interest or in the form of a power of direction, control or management, or otherwise), shall be deemed to be a transfer of an interest in the Property. Mortgagee may withhold its consent to any requested transfer at Mortgagee's sole discretion. Notwithstanding the foregoing, however, (i) limited partnership interests in Mortgagor or in any general partner of Mortgagor shall be freely transferable without the consent of Mortgagee, (ii) non-managing member limited liability company interests in Mortgagor or non-managing member limited liability company interests of any member of Mortgagor shall be freely transferable without the consent of Mortgagee, and (iii) any involuntary transfer caused by the death of Mortgagor or any general partner, shareholder, joint venturer, member, or beneficial owner of a trust shall not be an Event of Default so long as Mortgagor is reconstituted, if required, following such death and so long as those persons responsible for the management of the Property remain unchanged as a result of such death or any replacement management is approved by Mortgagee within sixty (60) days after the occurrence of such event.

6.2. One Time Right of Transfer of Property. Notwithstanding the foregoing provisions of Section 6.1(a) above, Mortgagee shall consent, no more than once, to a sale, conveyance or transfer of the Property in its entirety (hereinafter, "Sale") to any person or entity provided that each of the following terms and conditions are satisfied:

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(a) No Event of Default shall exist nor would any Event of Default exist upon such sale, including under Section 5.24;

(b) Mortgagor gives Mortgagee written notice of the terms of such prospective Sale at least ninety (90) days prior to the scheduled date of Sale and pays to Mortgagee an application fee in an amount equal to the fee charged by Mortgagee to loan applicants at the time. Mortgagor shall concurrently with such notice provide Mortgagee with all information concerning the proposed transferee of the Property (hereinafter, "Buyer") as Mortgagee would require in evaluating an initial extension of credit to a borrower. Mortgagee shall have the right to approve or disapprove the proposed Buyer. In determining whether to give or withhold its approval of the proposed Buyer, Mortgagee shall consider the Buyer's experience and track record in owning and operating facilities similar to the Property, the Buyer's financial strength, and the Buyer's general business standing. Notwithstanding Mortgagee's agreement to consider the foregoing factors, Mortgagee's approval shall be given or withheld based on what Mortgagee determines to be commercially reasonable in Mortgagee's sole discretion and, if given, may be given subject to such conditions as Mortgagee believes appropriate;

(c) Mortgagor pays Mortgagee, concurrently with the closing of such Sale, a non-refundable assumption fee in an amount equal to all out-of-pocket costs and expenses, including attorneys' fees, incurred by Mortgagee in connection with the Sale plus an amount equal to the greater of Ten Thousand Dollars (\$10,000) or one percent (1.0%) of the then outstanding principal balance of the Note;

(d) The Buyer assumes and agrees to pay the Secured Obligations subject to the provisions of Section 6 of the Note and, prior to or concurrently with the closing of such Sale, the Buyer executes, without any cost or expense to Mortgagee, such documents and agreements as Mortgagee shall reasonably require to evidence the assumption and delivers such legal opinions as Mortgagee may require;

(e) Mortgagor and the Buyer execute, without any cost or expense to Mortgagee, new financing statements or financing statement amendments and any additional documents reasonably requested by Mortgagee;

(f) Mortgagor delivers to Mortgagee, without any cost or expense to Mortgagee, such endorsements to Mortgagee's title insurance policy, hazard insurance endorsements or certificates and other similar materials as Mortgagee may deem necessary at the time of the Sale, all in form and substance satisfactory to Mortgagee; and

(g) Such Sale is not construed so as to relieve any current guarantor or indemnitor of its obligations under any guaranty or indemnity agreement executed in connection with the Loan and each current guarantor and indemnitor executes such documents and agreements as Mortgagee shall reasonably require to evidence the ratification of each guaranty and indemnity agreement; provided, however, Mortgagee shall release the current guarantor or indemnitor from all obligations under its guaranty or indemnity agreement arising after the closing of the Sale if a new guarantor or indemnitor acceptable to Mortgagee, in its sole discretion, executes a new guaranty or indemnity agreement in form and substance satisfactory to Mortgagee.

## 7. Events of Default; Remedies.

7.1. Events of Default: Mortgagor will be in default under this Mortgage upon the occurrence of any one or more of the following events ("Event of Default");

(a) Monetary. Mortgagor fails to make any payment due under the Note, or fails to make any payment demanded by Mortgagee under this Mortgage or in any other Loan Document, within ten (10) days after the date due;

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(b) Failure to Perform. Mortgagor fails to perform any other covenant, obligation or condition set forth in the Note, this Mortgage or in any other Loan Document other than Mortgagor's payment obligations referred to in Section 7.1(a) above, and the continuance of such failure or default for thirty (30) days after written notice from Mortgagee to Mortgagor, or, if Mortgagor promptly commences to cure the default, but is unable, using reasonable diligence, to cure the default within thirty (30) days, such longer period of time as long as Mortgagor is proceeding with reasonable diligence to cure the default, but in no event shall the cure period exceed an additional sixty (60) days; provided, however, notwithstanding the foregoing, the occurrence of any of the events described in clauses (e) through (g) of this Section 7.1 are non-curable Events of Default;

(c) Representations and Warranties. Any representation, warranty, certificate or other statement (financial or otherwise) made or furnished by or on behalf of Mortgagor, or a guarantor or indemnitor, if any, to Mortgagee or in connection with any of the Loan Documents, shall be false, incorrect, incomplete or misleading in any material respect when made or furnished;

(d) Prohibited Transfer or Encumbrance. Mortgagor sells, conveys, mortgages, encumbers, pledges or otherwise transfers all or any part of the Property or any interest therein (including ownership interests in Mortgagor) in violation of the terms of Section 6.1 above;

(e) Voluntary Bankruptcy, Insolvency, Dissolution. The occurrence of any of the following events: (i) Mortgagor's filing a petition for relief under the Bankruptcy Reform Act of 1978, as amended or recodified ("Bankruptcy Code"), or under any other present or future state or federal law regarding bankruptcy, reorganization or other relief to debtors (collectively, "Debtor Relief Law"); or (ii) Mortgagor's filing any pleading in any involuntary proceeding under the Bankruptcy Code or other Debtor Relief Law which admits the jurisdiction of a court to regulate Mortgagor or the Property or the petition's material allegations regarding Mortgagor's insolvency; or (iii) Mortgagor's making a general assignment for the benefit of creditors; or (iv) Mortgagor's applying for, or the appointment of, a receiver, trustee, custodian or liquidator of Mortgagor or any of its property; or (v) the filing by or against Mortgagor of a petition seeking the liquidation or dissolution of Mortgagor or the commencement of any other procedure to liquidate or dissolve Mortgagor;

(f) Involuntary Bankruptcy. Mortgagor's failure to effect a full dismissal of any involuntary petition under the Bankruptcy Code or other Debtor Relief Law that is filed against Mortgagor or in any way restrains or limits Mortgagor or Mortgagee regarding the Loan or the Property, prior to the earlier of the entry of any order granting relief sought in the involuntary petition or forty-five (45) days after the date of filing of the petition;

(g) Partners and Guarantors. The occurrence of an event specified in clauses (e) or (f) of this Section 7.1 as to any of Mortgagor's general partners if it is a partnership, any of Mortgagor's managing members if it is a limited liability company, or to Mortgagor's majority shareholder if it is a corporation, or any guarantor or other person or entity in any manner obligated to Mortgagee under the Loan Documents;

(h) Withdrawal or Dissolution. Any withdrawal, dissolution, termination, partial or complete liquidation, merger or consolidation of Mortgagor, or any of these events happens to any of Mortgagor's general partners if it is a partnership, any of Mortgagor's managing members if it is a limited liability company, or to Mortgagor's majority shareholder if it is a corporation;

(i) Death of Guarantor or Indemnitor. The death, incapacity or withdrawal of any guarantor under any indemnity or guaranty executed in connection with the Loan, and Mortgagor's failure to provide a substitute or replacement acceptable to Mortgagee within sixty (60) days after the occurrence of such event; and

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(j) Material Adverse Change. The occurrence, or the reasonable likelihood of occurrence, of a material adverse change in Mortgagor's business condition (financial or otherwise), operations, properties or prospects, or ability to repay the Loan.

7.2. Remedies. At any time after an Event of Default, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Acceleration. Mortgagee may declare any or all of the Secured Obligations to be due and payable immediately;

(b) Collect Rents and Profits. With or without taking possession of the Property, sue for or otherwise collect the Rents, including those past due and unpaid;

(c) Appointment of Receiver. Mortgagee may apply to any court of competent jurisdiction for appointment of a receiver for all or any part of the Property, as a matter of strict right and without notice to Mortgagor and without regard to the adequacy of the Property for the repayment of the Secured Obligations or the solvency of Mortgagor or any person or persons liable for the payment of the Secured Obligations. Mortgagor hereby irrevocably consents to such appointment, waives any and all notices of and defenses to such appointment and agrees not to oppose any such application by Mortgagee. The receiver shall have all of the usual powers and duties of receivers in similar cases, including the full power to hold, develop, rent, lease, manage, maintain, operate and otherwise use or permit the use of the Property upon such terms and conditions as said receiver may deem to be prudent and reasonable under the circumstances. Such receivership shall, at the option of Mortgagee, continue until full payment of all Secured Obligations or until title to the Property shall have passed by foreclosure sale under this Mortgage or deed in lieu of foreclosure. Nothing herein is to be construed to deprive Mortgagee of any other right, remedy or privilege Mortgagee may now have or may subsequently have under the law to have a receiver appointed;

(d) Entry; Cure; Protection of Security. Mortgagee, in person, by agent or by court-appointed receiver, may cure any default of Mortgagor. In connection with any such cure, to the fullest extent permitted by law, Mortgagee may, at Mortgagee's sole discretion, also enter, take possession of, manage and operate all or any part of the Property, and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: taking and possessing all of Mortgagor's or the then owner's books and records; entering into, enforcing, modifying, or canceling leases on such terms and conditions as Mortgagee may consider proper; obtaining and evicting tenants; fixing or modifying rents; collecting and receiving any payment of money owing to Mortgagor; completing any unfinished construction; contracting for and making repairs and alterations; appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Mortgagee under, this Mortgage; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under this Mortgage; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee;

(e) Uniform Commercial Code Remedies. Mortgagee may exercise any or all of the rights and remedies Mortgagee may have with respect to the Personality under this Mortgage, the Uniform Commercial Code, or otherwise at law;

(f) Foreclosure; Lawsuits. Mortgagee shall have the right, in one or several concurrent or consecutive proceedings, to foreclose the lien hereof upon the Property or any part thereof, for the Secured Obligations, or any part thereof, by any proceedings appropriate under applicable law. Mortgagee or its nominee may bid and become the purchaser of all or any part of the Property at any foreclosure or other sale hereunder, and

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the amount of Mortgagee's successful bid shall be credited on the Secured Obligations. Without limiting the foregoing, Mortgagee may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction;

(g) Sale of Personal Property. Mortgagee shall have the discretionary right to cause some or all of the Property, which constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

(i) For purposes of this power of sale, Mortgagee may elect to treat as personal property any Property which is intangible or which can be severed from the Land or Improvements without causing structural damage. If it chooses to do so, Mortgagee may dispose of any personal property, in any manner permitted by Article 9 of the ILLINOIS Uniform Commercial Code, including any public or private sale, or in any manner permitted by any other applicable law.

(ii) In connection with any sale or other disposition of such Property, Mortgagor agrees that the following procedures constitute a commercially reasonable sale: Mortgagee shall mail written notice of the sale to Mortgagor not later than forty-five (45) days prior to such sale. Once per week during the four weeks immediately preceding such sale, Mortgagee will publish notice of the sale in a local daily newspaper of general circulation. Upon receipt of any written request, Mortgagee will make the Property available to any bona fide prospective purchaser for inspection during reasonable business hours. Notwithstanding, Mortgagee shall be under no obligation to consummate a sale if, in its judgment, none of the offers received by it equals the fair value of the Property offered for sale. The foregoing procedures do not constitute the only procedures that may be commercially reasonable;

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(h) Application of Funds in Reserve Accounts. Upon an Event of Default, Mortgagee, may, without notice or demand on Mortgagor, at Mortgagee's option, withdraw any or all of the funds then remaining in the Reserve Accounts and apply the same, after deducting all costs and expenses of safekeeping, collection and delivery (including attorneys' fees, costs and expenses) against the Secured Obligations in whatever order and manner Mortgagee should determine in its sole and absolute discretion, and the excess, if any, shall be paid to Mortgagor. No such application of the funds held in the Reserve Accounts shall be deemed to cure any default hereunder. In lieu of or in addition to the foregoing, upon an Event of Default, Mortgagee may, without notice or demand on Mortgagor, at Mortgagee's option, (i) exercise any and all rights and remedies of a secured party under any applicable Uniform Commercial Code; and/or (ii) exercise any other remedies available at law or in equity. By exercising any of its rights or remedies under this Mortgage, including taking possession of the Reserve Accounts, Mortgagee shall not be deemed to have exercised any equitable right of setoff or foreclosed any statutory banker's lien. Accordingly, the exercise of any or all of Mortgagee's rights and remedies under this Mortgage or under any of the other Loan Documents shall not in any way prejudice or affect Mortgagee's right to initiate and complete a foreclosure under this Mortgage; or

(i) Other Rights. To exercise such other rights as Mortgagee may have at law or in equity or pursuant to the terms and conditions of this Mortgage or any of the other Loan Documents.

7.3. Single or Multiple Foreclosure Sales. If the Property consists of more than one lot, parcel or item of property, Mortgagee may: (a) designate the order in which the lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and (b) elect to dispose of the lots, parcels and/or items through a single consolidated sale or disposition to be held or made under or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two (2) or more such sales or dispositions; or in any other manner Mortgagee may deem to be in its best interests (any such foreclosure sale or disposition, a "Foreclosure Sale;" any two (2) or more, "Foreclosure Sales"). If it chooses to have more than one (1) Foreclosure

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Sale, Mortgagee at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as it may deem to be in its best interests. No Foreclosure Sale shall terminate or affect the liens of this Mortgage on any part of the Property which has not been sold, until all of the Secured Obligations have been paid in full.

7.4. Credit Bids. At any Foreclosure Sale, any person, including Mortgagor or Mortgagee, may bid for and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for that property, Mortgagee may settle for the purchase price by crediting the sales price of the property against the following obligations:

(a) First, the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to pay or reimburse Mortgagee under this Mortgage; and

(b) Second, all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose.

7.5. Application of Foreclosure Sale Proceeds. The proceeds of any Foreclosure Sale shall be applied in the following manner: (a) first, to pay the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee under this Mortgage; (b) second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Mortgagee under the terms of this Mortgage which remain unpaid; (c) third, to pay all other Secured Obligations in any order as Mortgagee in its sole discretion may choose; and (d) fourth, to remit the remainder, if any, to the person or persons entitled to it as required by law.

7.6. Waiver of Marshalling Rights. Mortgagor waives all rights, legal or equitable, it may now or hereafter have to require marshalling of assets or to require upon foreclosure sales of assets in a particular order. Each successor and assign of Mortgagor, including any holder of a lien subordinate to this Mortgage, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

7.7. No Cure or Waiver. Neither Mortgagee's nor any receiver's entry upon and taking possession of all or any part of the Property, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Mortgagee or any receiver shall cure or waive any Event of Default or notice of default under this Mortgage, or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid or performed and Mortgagor has cured all other Events of Default hereunder), or impair the status of the security, or prejudice Mortgagee in the exercise of any right or remedy.

7.8. Payment of Costs, Expenses and Attorneys' Fees. Mortgagor agrees to pay to Mortgagee immediately and upon demand all costs and expenses incurred by Mortgagee in the enforcement of the terms and conditions of this Mortgage (including statutory trustee's fees, court costs and attorneys' fees, whether incurred in litigation or not) with interest from the date of expenditure until said sums have been paid at the Default Rate.

7.9. Remedies Cumulative. All rights and remedies of Mortgagee provided hereunder are cumulative and are in addition to all rights and remedies provided by applicable law (including specifically that of foreclosure of this instrument as though it were a mortgage) or in any other agreements between Mortgagor and Mortgagee. Mortgagee may enforce any one or more remedies or rights hereunder successively or concurrently.

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7.10. Releases, Extensions, Modifications and Additional Security. Mortgagee may, at any time, perform any of the following acts without incurring any liability or giving notice to any person: (a) release any person liable for payment of any Secured Obligation; (b) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation; (c) accept additional real or personal property of any kind as security for any Secured Obligation; (d) alter, substitute or release any property securing the Secured Obligations; (e) consent to the making of any plat or map of the Property or any part of it; (f) join in granting any easement or creating any restriction affecting the Property; (g) join in any subordination or other agreement affecting this Mortgage or the lien of it; or (h) reconvey the Property or any part of it without any warranty.

## 8. Miscellaneous Provisions.

8.1. Additional Provisions. The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage and supersede all prior negotiations. The Loan Documents also grant further rights to Mortgagee and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and to the Property.

8.2. No Waiver or Cure. Each waiver by Mortgagee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Mortgagee to take action on account of any default of Mortgagor. Consent by Mortgagee to any act or omission by Mortgagor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Mortgagee's consent to be obtained in any future or other instance.

8.3. Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

8.4. Joint and Several Liability. If Mortgagor consists of more than one person, each shall be jointly and severally liable for the faithful performance of all of Mortgagor's obligations under this Mortgage.

8.5. Applicable Law. This Mortgage shall be governed by and construed in accordance with the laws of the state where the Property is located, except to the extent that any of such laws may now or hereafter be preempted by Federal law.

8.6. Successors in Interest; Transfer of Loan. The terms, covenants and conditions of this Mortgage shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Section 8.6 does not waive the provisions of Section 6.1. Mortgagee and any successor may, at any time, sell, transfer, or assign the Note, this Mortgage and the other Loan Documents, and any or all servicing rights with respect thereto, or grant participations therein or issue mortgage pass-through certificate or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement (the "Securities"). Mortgagee may forward to each purchaser, transferee, assignee, servicer, participant, investor in such Securities or any rating agency (a "Rating Agency") rating such Securities (all of the foregoing entities collectively referred to as an "Investor") and each prospective Investor; all documents, financial and other information which Mortgagee now has or may hereafter acquire relating to (a) the Loan; (b) the Property and its operation (including, without limitation, copies of all leases, subleases or any other agreements concerning the use and occupancy of the Property); and/or (c) any party connected with the Loan (including, without limitation, Mortgagor, any partner or member of Mortgagor, any constituent partner or member of Mortgagor, and any guarantor). In connection with such Securities, Mortgagor further agrees that the Loan Documents shall be sufficient evidence of the obligations of Mortgagor to each Investor, and Mortgagor shall, within fifteen (15) days after request by Mortgagee, deliver an estoppel certificate verifying for the benefit of Mortgagee and any other party designated by Mortgagee the status and the terms and provisions of the Loan in form and substance acceptable to Mortgagee, and enter into such amendments or modifications to the Loan Documents as may be reasonably required in order to facilitate the Securities without

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impairing Mortgagor's rights or increasing Mortgagor's obligations. The representations, warranties, obligations, covenants, and indemnity obligations of Mortgagor under the Loan Documents shall also benefit and apply with respect to any purchaser, transferee, assignee, participant, servicer or investor.

8.7. Interpretation. Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Mortgage are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." The word "obligations" is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment fees, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions. No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Mortgage. The Exhibits to this Mortgage are hereby incorporated in this Mortgage.

8.8. Attorneys' Fees. If any lawsuit, suit or proceeding is commenced which arises out of or relates to the Note, this Mortgage, the other Loan Documents or the Loan, the prevailing party shall be entitled to recover from each other party such sums as the court may adjudge to be reasonable attorneys' fees in the action, in addition to costs and expenses otherwise allowed by law. In all other situations, including any matter arising out of or relating to any proceeding under any Debtor Relief Law, Mortgagor agrees to pay all of Mortgagee's costs and expenses, including attorneys' fees, which may be incurred in enforcing or protecting Mortgagee's rights or interests. From the time(s) incurred until paid in full to Mortgagee all such sums shall bear interest at the Default Rate.

8.9. In-House Counsel Fees. Whenever Mortgagor is obligated to pay or reimburse Mortgagee for any attorneys' fees, those fees shall include the allocated costs for services of in-house counsel.

8.10. Permitted Contests. After prior written notice to Mortgagee, Mortgagor may contest, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any lien, levy, tax or assessment, or any lien of any laborer, mechanic, materialman, supplier or vendor, or the application to Mortgagor or the Property of any law or the validity thereof, the assertion or imposition of which, or the failure to pay when due, would constitute an Event of Default; provided that (a) Mortgagor pursues the contest diligently, in a manner which Mortgagee determines is not prejudicial to Mortgagee, and does not impair the lien of this Mortgage; (b) the Property, or any part or interest therein, shall not be in any danger of being sold, forfeited or lost by reason of such proceedings; (c) in the case of the contest of any law or other legal requirement, Mortgagee shall not be in any danger of any civil or criminal liability; and (d) if required by Mortgagee, Mortgagor deposits with Mortgagee any funds or other forms of assurance (including a bond or letter of credit) satisfactory to Mortgagee to protect Mortgagee from the consequences of the contest being unsuccessful. Mortgagor's right to contest pursuant to the terms of this provision shall in no way relieve Mortgagor of its obligations under the Loan or to make payments to Mortgagee as and when due.

8.11. Counting of Days. The term "days" when used herein shall mean calendar days. If any time period ends on a Saturday, Sunday or holiday officially recognized by the state within which the Property is located, the period shall be deemed to end on the next succeeding business day. The term "business day" when used herein shall mean a weekday, Monday through Friday, except a legal holiday or a day on which banking institutions in San Francisco, California, are authorized by law to be closed.

8.12. Relationship of the Parties. The relationship between Mortgagor and Mortgagee is that of a borrower and a lender only and neither of those parties is, nor shall it hold itself out to be, the agent, employee, joint venturer or partner of the other party.

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8.13. Time of Essence. Time is of the essence with respect to all provisions of this Mortgage.

8.14. Release. When all of the Secured Obligations have been paid in full and all fees and other sums owed by Mortgagor have been received, upon the written request of Mortgagor, Mortgagee shall release this Mortgage, the lien created thereby, and all notes and instruments evidencing the Secured Obligations. Mortgagor shall pay any costs of preparation and recordation of such release.

8.15. Further Assurances. Mortgagor shall, upon demand by Mortgagee execute, acknowledge (if appropriate) and deliver any and all documents and instruments and do or cause to be done all further acts reasonably necessary or appropriate to effectuate the provisions hereof.

8.16. Severability. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

8.17. Limited Recourse. Mortgagee's recovery against Mortgagor with respect to Mortgagor's obligations under the Note, this Mortgage and the other Loan Documents is limited as provided in the Note.

8.18. WAIVER OF TRIAL BY JURY. MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN, THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY MORTGAGOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MORTGAGEE IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY MORTGAGOR.

8.19. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in person to the intended addressee, or by depositing the same with a reputable overnight delivery service for next business day delivery, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the intended addressee at its address set forth below or at such other address as may be designated by such party as herein provided. All notices, demands and requests shall be effective upon personal delivery, or one (1) business day after being deposited with the private courier service, or two (2) business days after being deposited in the United States mail as required above. Rejection or other refusal to accept or the inability to deliver because of changed address or which no notice was given as herein required shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto at least fifteen (15) days' prior written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

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Address Where Notices  
to Mortgagor Are to be Sent:

3900 W. Chase,  
Lincolnwood, IL 60645

Address Where Notices to  
Mortgagee Are to be Sent:

Bank of America National Trust  
and Savings Association  
Commercial Mortgage Loan  
Servicing Unit #1777  
P.O. Box 3609  
Los Angeles, CA 90051-3609

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first above written.

MORTGAGOR:

A.S.B. Properties LLC,  
an Illinois limited liability company

By: Stjepan Basic  
Stjepan Basic, Manager

By: [Signature]  
Anna Basic, Manager

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Commercial Mortgage Services Origination  
Non-Recourse Loan Program  
N:\mnavarro\asb1\mortgage

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## EXHIBIT A

Exhibit A to MORTGAGE WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING executed as of May 12, 1998, by A.S.B. Properties LLC, an Illinois limited liability company, as "Mortgagor," to Bank of America National Trust and Savings Association, a national banking association, as "Mortgagee."

### Description of Property

LOTS 38 AND 37 IN BLOCK 2 IN FREDERICK W. BRUMMEL AND COMPANY'S LINCOLN BRYN MAWR WESTERN SUBDIVISION OF THE NORTHEAST 1/4 IN SECTION 12, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE STREET AND ALLEY) ACCORDING TO THE PLAT OF SAID SUBDIVISION RECORDED APRIL 12, 1923 AS DOCUMENT 7879542, IN COOK COUNTY, ILLINOIS.

### Street Address of Property

5536 North Campbell Avenue, Chicago, IL 60660

APN: 13-12-207-024-0000 and 13-12-207-025-0000

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## RIDER TO MORTGAGE WITH ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (ILLINOIS)

**R-1 Illinois Mortgage Foreclosure Law.** The Mortgage is hereby amended by adding the following paragraph thereto.

**(a) Benefits to Act.** Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101) (the "Act"), including all amendments thereto which may become effective from time to time after the date hereof. If any provision of the Act which is specifically referred to herein may be repealed, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

**(b) Insurance.** Wherever provision is made in the Mortgage for insurance policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure all such rights and powers of the Mortgagee shall continue in the Mortgagee as judgment creditor or mortgagee until confirmation of sale.

**(c) Protective Advances.** All advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by the Mortgage or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:

(i) all advances by Mortgagee in accordance with the terms of the Mortgage to: (1) preserve or maintain, repair, restore or rebuild the improvements upon the mortgaged real estate; (2) preserve the lien of the Mortgage or the priority thereof; or (3) enforce the Mortgage, as referred to in Subsection (b)(5) of Section 5/15-1302 of the Act;

(ii) payments by Mortgagee of: (1) when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (2) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Premises or any part thereof; (3) other obligations authorized by the Mortgage; or (4) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the Act;

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

(iv) attorneys' fees and other costs incurred: (1) in connection with the foreclosure of the Mortgage as referred to in Sections 1504 (d)(2) and 5/15-1510 of the Act; (2) in connection with any action, suit or proceeding brought by or against the Mortgagee for the enforcement of the Mortgage or arising from the interest of the Mortgagee hereunder; or (3) in the preparation for the commencement or defence of any such foreclosure or other action related to the Mortgage or the mortgaged real estate;

(v) Mortgagee's fees and costs, including attorneys' fees, arising between the entry of judgment

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ADDITIONAL INFORMATION



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(v) application of income in the hands of any receiver or Mortgagee in possession; and

(vi) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Sections 5/15-1508 and Section 5/15-1511 of the Act.

**(d) Mortgagee in Possession.** In addition to any provision of the Mortgage authorizing the Mortgagee to take or be placed in possession of the Premises, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Premises or at its request to have a receiver appointed, and such receiver, or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in the Mortgage, all powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1703 of the Act.

**(e) Waiver of Redemption.** Mortgagor acknowledges that the Premises does not constitute agricultural real estate, as said term is defined in Section 5/15-1201 of the Act or residential real estate as defined in Section 5/15-1219 of the Act. Pursuant to Section 5/15-1601 (b) of the Act, Mortgagor hereby waives any and all right to redemption.

**R-2 Future Advances.** At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures as part of the Secured Obligations the payment of all loan commissions, service charges, liquidated damages, attorneys' fees, expenses and advances due to or incurred by Mortgagee in connection with the Secured Obligations, all in accordance with the Note, this Mortgage, and the other Loan Documents; provided, however, that in no event shall the total amount of the Secured Obligations, including loan proceeds disbursed plus any additional charges, exceed two hundred percent (200%) of the face amount of the Note.

**R-3 Waiver.** Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatever claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor claim, take or insist upon the benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

(a) Mortgagor hereby expressly waives any and all rights of redemption from sale, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15 - 1601 or other applicable law or replacement statutes; and

(b) Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise granted or delegated to Mortgagee but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted.

**R-4 Business Loan.** Mortgagor represents and agrees that the loan evidenced by the Note and secured hereby is a business loan within the purview of Illinois Compiled Statutes 815 ILCS 205/4 (or any substitute, amended, or replacement statutes) and is transacted solely for the purpose of carrying on or acquiring the business of Mortgagor or, if Mortgagor is a trustee for the purpose of carrying on or acquiring the business of the beneficiaries of the Mortgagor as contemplated by said Section.

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of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 5/15-1508 of the Act;

(vi) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 5/15-1512 of the Act;

(vii) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (1) if the Premises or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof which are required to be paid; (2) if Mortgagor's interest in the Premises is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (3) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or Mortgagee takes possession of the Premises imposed by Subsection (c)(1) of Section 5/15-1704 of the Act; (4) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (5) payments required or deemed by Mortgagee to be for the benefit of the Premises or required to be made by the owner of the mortgaged real estate under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Premises; (6) shared or common expense assessments payable to any association or corporation in which the owner of the Premises is a member in any way affecting the Premises; (7) if the loan secured hereby is a construction loan, costs incurred by Mortgagee for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (8) pursuant to any lease or other agreement for occupancy of the Premises for amounts required to be paid by mortgagor; and (9) if the Mortgage is insured, payments of FHA or private mortgage insurance required to keep insurance in force.

All Protective Advances shall be so much additional indebtedness secured by the Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after a default under the terms of the Note.

The Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time the Mortgage is recorded pursuant to Subsection (b)(1) of Section 5/15-1302 of the Act.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in:

- (i) determination of the amount of indebtedness secured by the Mortgage at any time;
- (ii) the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (iii) if right of redemption has not been waived by the Mortgagor in the Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Act;
- (iv) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Act;

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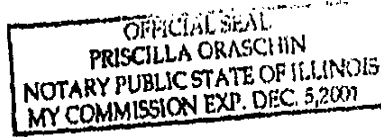
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## ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF Illinois  
COUNTY OF Cook

On May 18<sup>th</sup> 1998 before me, PRISCILLA ORASCHIN, personally appeared STEFAN & ANNA BASIC, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Priscilla Oraschin

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