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Property of Cook County Clerk's Office

MORTGAGE AND SECURITY AGREEMENT

from

DB BEVERLY, L.L.C.

to

WILMINGTON TRUST COMPANY  
not in its individual capacity, but solely as Owner Trustee

Dated as of April 6<sup>th</sup>, 1998

BOX 333-CTI

MORTGAGE AND SECURITY AGREEMENT  
(Chicago (Beverly), Illinois)

THIS MORTGAGE AND SECURITY AGREEMENT, dated as of April 6, 1998 (this "Mortgage"), made by **DB BEVERLY, L.L.C.**, an Illinois limited liability company (the "Mortgagor"), in favor of **WILMINGTON TRUST COMPANY**, not in its individual capacity, but solely as Owner Trustee (the "Mortgagee").

Preliminary Statement

Pursuant to a Project Loan Agreement, dated as of the date hereof (as amended, supplemented or otherwise modified from time to time, the "Project Loan Agreement"), the Mortgagee has agreed to make loans to the Mortgagor in an aggregate amount not to exceed \$4,348,592.30 upon the terms and subject to the conditions set forth therein, to be evidenced by the Project Loan Note issued by the Mortgagor under the Project Loan Agreement.

The Mortgagor is the legal and beneficial owner of the Mortgaged Property (as defined below).

In order to secure the due and punctual payment of the principal of and premium, if any, and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Project Loan (terms used herein and not defined herein are used as defined in the Project Loan Agreement) when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Mortgagor to the Mortgagee under the Project Loan Agreement and the other Project Loan Documents to which the Mortgagor is or is to be a party and the due and punctual performance of all covenants, agreements, obligations and liabilities of the Mortgagor under or pursuant to the Project Loan Agreement and the other Project Loan Documents (the "Obligations"), the Mortgagor has executed and delivered this Mortgage to the Mortgagee.

NOW, THEREFORE, in consideration of the premises, the Mortgagor hereby agrees with the Mortgagee as follows:

TO SECURE payment of all the obligations and amounts advanced under the Project Loan Agreement, THE MORTGAGOR HEREBY GRANTS TO THE MORTGAGEE A LIEN UPON AND A SECURITY INTEREST IN, AND HEREBY MORTGAGES AND WARRANTS, GRANTS, ASSIGNS, TRANSFERS AND SETS OVER TO THE MORTGAGEE:

(A) the parcel(s) of real property described on Schedule A (together with the Land, Improvements, Appurtenant Rights, Fixtures and Equipment relating thereto being collectively referred to as the "Property");

(B) all the estate, right, title, claim or demand whatsoever of the Mortgagor, in possession or expectancy, in and to the Property or any part thereof;

(C) all right, title and interest of the Mortgagor in and to all of the fixtures, furnishings and fittings of every kind and nature whatsoever, and all appurtenances and additions thereto and substitutions or replacements thereof (together with, in each case, attachments, components, parts and accessories) currently owned or subsequently acquired by the Mortgagor and now or subsequently attached to, or contained in or used or usable in any way in connection with any operation or letting of the Property (all of the foregoing in this paragraph (C) being referred to as the "Fixtures");

(D) all right, title and interest of the Mortgagor in and to all of the fixtures, chattels, business machines, machinery, apparatus, equipment, furnishings, fittings and articles of personal property of every kind and nature whatsoever, and all appurtenances and additions thereto and substitutions or replacements thereof (together with, in each case, attachments, components, parts and accessories) currently owned or subsequently acquired by the Mortgagor and now or subsequently attached to, or contained in or used or usable in any way in connection with any operation or letting of the Property, including without limitation, all screens, awnings, shades, blinds, curtains, draperies, artwork, carpets, rugs, storm doors and windows, furniture and furnishings, heating, electrical, and mechanical equipment, lighting switchboards, plumbing, ventilating, air conditioning and air-cooling apparatus, refrigerating, and incinerating equipment, refrigerators, display cases, elevators, loading and unloading equipment and systems, stoves, ranges, laundry equipment, cleaning systems (including window cleaning apparatus), telephones, communication systems (including satellite dishes and antennae), televisions, computers, sprinkler systems and other fire prevention and extinguishing apparatus and materials, security systems, motors, engines, machinery, pipes, pumps, tanks, conduits, appliances, fittings and fixtures of every kind and description (all of the foregoing in this paragraph (D) being referred to as the "Equipment");

(E) all right, title and interest of the Mortgagor in and to all substitutes and replacements of, and all additions and improvements to, the Improvements and the Fixtures and Equipment, subsequently acquired by the Mortgagor or constructed, assembled or placed by the Mortgagor on the Land, immediately upon such acquisition, release, construction, assembling or placement, including, without limitation, any and all building materials whether stored at the Property or offsite, and, in each such case, without any further mortgage, conveyance, assignment or other act by the Mortgagor;

(F) all right, title and interest of the Mortgagor in, to and under all trade names, trade marks, logos, copyrights, good will and books and records relating to or used in

connection with the operation of the Property or the Fixtures or any part thereof; and all general intangibles related to the operation of the Improvements now existing or hereafter arising;

(G) all right, title and interest of the Mortgagor in and to all unearned premiums under insurance policies now or subsequently obtained by the Lessee relating to the Property or the Fixtures and the Mortgagor's interest in and to all proceeds of any such insurance policies (including title insurance policies) including the right to collect and receive such proceeds; and all awards and other compensation, including the interest payable thereon and the right to collect and receive the same, made to the present or any subsequent owner of the Property for the taking by eminent domain, condemnation or otherwise, of all or any part of the Property or any easement or other right therein;

(H) all right, title and interest of the Mortgagor in and to (i) all consents, licenses, building permits, certificates of occupancy and other governmental approvals relating to construction, completion, occupancy, use or operation of the Property or any part thereof and (ii) all Plans and Specifications relating to the Property;

(I) subject to the Assignment of Lease, all Rent and all other rents, payments, purchase prices, receipts, revenues, issues and profits payable under the Lease or pursuant to any other lease with respect to the Property; and

(J) all proceeds, both cash and noncash, of the foregoing;

(All of the foregoing property and rights and interests now owned or held or subsequently acquired by the Mortgagor and described in the foregoing clauses (A) through (J) are collectively referred to as the "Mortgaged Property"); PROVIDED THAT EXCLUDED from the Mortgaged Property at all times and in all respects shall be all Excepted Payments and all Excepted Rights and the Mortgaged Property shall be subject at all times and in all respects to all Shared Rights.

TO HAVE AND TO HOLD the Mortgaged Property and the rights and privileges hereby mortgaged unto the Mortgagee, its successors and assigns for the uses and purposes set forth, until all of the Obligations are paid.

1. Definitions. Capitalized terms used but not otherwise defined in this Mortgage shall have the respective meanings specified in Appendix A to the Project Loan Agreement of even date herewith entered into between Mortgagor and Mortgagee. An "Event of Default" shall mean an Event of Default under, and as defined in, the Project Loan Agreement.

2. Payment of Obligations. The Mortgagor shall pay the Obligations in accordance with the terms of the Project Loan Agreement and the Project Loan Documents and perform each term to be performed by it under the Project Loan Agreement and the Project Loan Documents.

3. Other Covenants. At any time and from time to time, upon the written request of the Mortgagee, and at the sole expense of the Mortgagor, the Mortgagor will promptly and duly execute and deliver such further instruments and documents and take such further actions as the Mortgagee reasonably may request for the purposes of obtaining or preserving the full benefits of this Mortgage and of the rights and powers granted by this Mortgage.

4. Default; Remedies. (a) If an Event of Default has occurred and is continuing:

(i) the Mortgagee, in addition to all other remedies available at law or in equity, shall have the right forthwith to enter upon and take possession of the Mortgaged Property, and to let the Mortgaged Property and receive the rents, issues and profits thereof, to make repairs and to apply said rentals and profits as provided in the Assignment of Lease, after payment of all necessary or proper charges and expenses, on account of the amounts hereby secured (subject to the Excepted Rights, the Shared Rights and the Excepted Payments);

(ii) the Mortgagee shall, as a matter of right, at the option of the Mortgagee, be entitled to the appointment of a receiver for the Mortgaged Property, and the Mortgagor hereby consents to such appointment and waives notice of any application therefor; and

(iii) the Mortgagee, in its discretion, may, with or without entry, personally or by attorney, sell all or any part of the Mortgaged Property at such place or places and in such other manner as may now or hereafter be authorized by law. Notice of any sale by Mortgagee pursuant to the provisions hereof shall state the time and place when and where the same is to be made and shall contain a brief general description of the property to be sold and shall be sufficiently given if given in a manner provided by law. Upon completion of any sale or sales as specified above, Mortgagee shall transfer and deliver, or cause to be transferred and delivered, to the accepted purchaser or purchasers the property so sold and, to the extent permitted by law, Mortgagee is hereby irrevocably appointed the true and lawful attorney-in-fact of Mortgagor, in its name and stead, to make all necessary transfers of property thus sold and, for that purpose, Mortgagee may execute and deliver, for and in the name of Mortgagor, all necessary instruments of assignment and transfer, Mortgagor hereby ratifying and confirming all that its said attorney-in-fact shall lawfully do by virtue hereof. The power granted hereby shall be deemed to be coupled with an interest and to be irrevocable.

(b) If an Event of Default has occurred and is continuing, the Mortgagee may proceed by an action at law, suit in equity or other appropriate proceeding, to protect and enforce its rights, whether for the foreclosure of the lien of this Mortgage, or for the specific performance of any agreement contained herein or for an injunction against the violation of any of the terms hereof.

(c) The Mortgagor hereby waives the benefit of all appraisal, valuation, stay, extension and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale of the Mortgaged Property or any interest therein.

(d) Mortgagor agrees that, to the extent permitted by law, this Mortgage may be foreclosed by Mortgagee, at its option, pursuant to the provisions of the Illinois Mortgage Foreclosure Act 735 ILCS 5/15-1101, et seq., as the same may be amended or renumbered from time to time.

5. Remedies Not Exclusive. The Mortgagee shall be entitled to enforce payment of the indebtedness and performance of the Obligations and to exercise all rights and powers under this Mortgage or under any of the other Project Loan Documents or other agreement or any laws now or hereafter in force, notwithstanding some or all of the Obligations may now or hereafter be otherwise secured, whether by mortgage, security agreement, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, shall prejudice or in any manner affect the Mortgagee's right to realize upon or enforce any other security now or hereafter held by the Mortgagee, it being agreed that the Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee in such order and manner as the Mortgagee may determine in its absolute discretion. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Project Loan Documents to the Mortgagee or to which it may otherwise be entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Mortgagee. In no event shall the Mortgagee, in the exercise of the remedies provided in this Mortgage (including, without limitation, in connection with the assignment of Rents to Mortgagee, or the appointment of a receiver and the entry of such receiver on to all or any part of the Mortgaged Property), be deemed a "mortgagee in possession," and the Mortgagee shall not in any way be made liable for any act, either of commission or omission, in connection with the exercise of such remedies.

6. Performance by the Mortgagee of the Mortgagor's Obligations. If the Mortgagor fails to perform or comply with any of its agreements contained herein, the Mortgagee, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement. The expenses of the Mortgagee incurred in connection with actions undertaken as provided in this Section, together with interest thereon at a rate per annum equal to 12%, from the date of payment by the Mortgagee to the date reimbursed by the Mortgagor, shall be payable by the Mortgagor to the Mortgagee on demand.

7. Duty of the Mortgagee. The Mortgagee's sole duty with respect to the custody, safekeeping and physical preservation of any Mortgaged Property in its possession, under Section 9-207 of the Uniform Commercial Code or otherwise, shall be to deal with it in

the same manner as the Mortgagee deals with similar property for its own account. Neither the Mortgagee nor any of its respective directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon any of the Mortgaged Property or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Mortgaged Property upon the request of the Mortgagor or any other Person or to take any other action whatsoever with regard to the Mortgaged Property or any part thereof.

8. Powers Coupled with an Interest. All powers, authorizations and agencies contained in this Mortgage are coupled with an interest and are irrevocable until this Mortgage is terminated and the lien created hereby is released.

9. Execution of Financing Statements. Pursuant to Section 9-402 of the Uniform Commercial Code, the Mortgagor authorizes the Mortgagee to file financing statements with respect to the Mortgaged Property without the signature of the Mortgagor in such form and in such filing offices as the Mortgagee reasonably determines appropriate to perfect the security interests of the Mortgagee under this Mortgage. A carbon, photographic or other reproduction of this Mortgage shall be sufficient as a financing statement for filing in any jurisdiction.

10. Security Agreement under Uniform Commercial Code. (a) It is the intention of the parties hereto that this Mortgage shall constitute a Security Agreement within the meaning of the Uniform Commercial Code of the State in which the Mortgaged Property is located. If an Event of Default shall occur, then in addition to having any other right or remedy available at law or in equity, the Mortgagee shall have the option of either (i) proceeding under the Uniform Commercial Code and exercising such rights and remedies as may be provided to a secured party by the Code with respect to all or any portion of the Mortgaged Property which is personal property (including, without limitation, taking possession of and selling such property) or (ii) treating such property as real property and proceeding with respect to both the real and personal property constituting the Mortgaged Property in accordance with the Mortgagee's rights, powers and remedies with respect to the real property (in which event the default provisions of the Uniform Commercial Code shall not apply). If the Mortgagee shall elect to proceed under the Uniform Commercial Code, then five days' notice of sale of the personal property shall be deemed reasonable notice and the reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by the Mortgagee shall include, but not be limited to, attorneys' fees and legal expenses. At the Mortgagee's request, the Mortgagor shall assemble the personal property and make it available to the Mortgagee at a place designated by the Mortgagee which is reasonably convenient to both parties.

(b) The Mortgagor and the Mortgagee agree, to the extent permitted by law, that this Mortgage upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Sections 9-313 and 9-402 of the Uniform Commercial Code.

(c) The Mortgagor, upon request by the Mortgagee from time to time, shall execute, acknowledge and deliver to the Mortgagee one or more separate security agreements,

in form satisfactory to the Mortgagee, covering all or any part of the Mortgaged Property and will further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement or certificate or other document as the Mortgagee may request in order to perfect, preserve, maintain, continue or extend the security interest under and the priority of this Mortgage and such security instrument. The Mortgagor further agrees to pay to the Mortgagee on demand all costs and expenses incurred by the Mortgagee in connection with the preparation, execution, recording, filing and re-filing of any such document and all reasonable costs and expenses of any record searches for financing statements the Mortgagee shall reasonably require. If the Mortgagor shall fail to furnish any financing or continuation statement within ten days after request by the Mortgagee, then pursuant to the provisions of the Uniform Commercial Code, the Mortgagor hereby authorizes the Mortgagee, without the signature of the Mortgagor, to execute and file any such financing and continuation statements. The filing of any financing or continuation statements in the records relating to personal property or chattels shall not be construed as in any way impairing the right of the Mortgagee to proceed against any personal property encumbered by this Mortgage as real property, as set forth above.

11. Notices. All notices, requests and demands to or upon the Mortgagee or the Mortgagor to be effective shall be in writing (or by telecopy or similar electronic transfer confirmed in writing) and shall be deemed to have been duly given or made (i) when delivered by hand or (ii) if given by mail, when deposited in the mails by certified mail, return receipt requested, or (iii) if by telecopy or similar electronic transfer, when sent and receipt has been confirmed, addressed as follows:

If to the Mortgagee: WILMINGTON TRUST COMPANY  
Rodney Square North  
110 North Market Street  
Wilmington, Delaware 19800  
Attention: Corporate Trust Department  
Telecopy: (302) 651-1576

If to the Mortgagor: DB BEVERLY, L.L.C.  
615 North Wabash  
Chicago, Illinois 60611  
Telecopy: (312) 787-8125

The Mortgagor and the Mortgagee may change their addresses and transmission numbers for notices by notice in the manner provided in this Section.

12. Severability. Any provision of this Mortgage which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.



13. Amendments in Writing; No Waiver; Cumulative Remedies. (a) None of the terms or provisions of this Mortgage may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Mortgagor and the Mortgagee in accordance with the terms of the Project Loan Agreement.

(b) No failure to exercise, nor any delay in exercising, on the part of the Mortgagee, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Mortgagee of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Mortgagee would otherwise have on any future occasion.

(c) The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

14. Section Headings. The section headings used in this Mortgage are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

15. Successors and Assigns. This Mortgage shall run with the land and be binding upon the successors and assigns of the Mortgagor and shall inure to the benefit of the Mortgagee and its respective successors and assigns.

16. Mortgagor's Waiver of Rights. Except as otherwise set forth herein, to the fullest extent permitted by law, the Mortgagor waives the benefit of all laws now existing or that may subsequently be enacted providing for (i) any appraisal before sale of any portion of the Mortgaged Property, (ii) any extension of the time for the enforcement of the collection of the indebtedness or the creation or extension of a period of redemption from any sale made in collecting such debt and (iii) exemption of the Mortgaged Property from attachment, levy or sale under execution or exemption from civil process. Except as otherwise set forth herein, to the full extent the Mortgagor may do so, the Mortgagor agrees that the Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, exemption, extension or redemption, or requiring foreclosure of this Mortgage before exercising any other remedy granted hereunder and the Mortgagor, for the Mortgagor and its successors and assigns, and for any and all Persons ever claiming any interest in the Mortgaged Property, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshalling in the event of foreclosure of the liens hereby created.

17. Multiple Security. If (a) the Mortgaged Property shall consist of one or more parcels, whether or not contiguous and whether or not located in the same county, or (b) in addition to this Mortgage, the Mortgagee shall now or hereafter hold one or more additional mortgages, liens, deeds of trust or other security (directly or indirectly) for the Obligations upon

other property in the State in which the Mortgaged Property is located (whether or not such property is owned by the Mortgagor or by others) or (c) both the circumstances described in clauses (a) and (b) shall be true, then to the fullest extent permitted by law, the Mortgagee may, at its election, commence or consolidate in a single foreclosure action all foreclosure proceedings against all such collateral securing the Obligations (including the Mortgaged Property), which action may be brought or consolidated in the courts of any county in which any of such collateral is located. The Mortgagor acknowledges that the right to maintain a consolidated foreclosure action is a specific inducement to the Mortgagee to extend the Obligations and the Mortgagor expressly and irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of forum non conveniens which it may now or hereafter have. The Mortgagor further agrees that if the Mortgagee shall be prosecuting one or more foreclosure or other proceedings against a portion of the Mortgaged Property or against any collateral other than the Mortgaged Property, which collateral directly or indirectly secures the Obligations, or if the Mortgagee shall have obtained a judgment of foreclosure and sale or similar judgment against such collateral, then, whether or not such proceedings are being maintained or judgments were obtained in or outside the State in which the Mortgaged Property is located, the Mortgagee may commence or continue foreclosure proceedings and exercise its other remedies granted in this Mortgage against all or any part of the Mortgaged Property and the Mortgagor waives any objections to the commencement or continuation of a foreclosure of this Mortgage or exercise of any other remedies hereunder based on such other proceedings or judgments, and waives any right to seek to dismiss, stay, remove, transfer or consolidate either any action under this Mortgage or such other proceedings on such basis. Neither the commencement nor continuation of proceedings to foreclose this Mortgage nor the exercise of any other rights hereunder nor the recovery of any judgment by the Mortgagee in any such proceedings shall prejudice, limit or preclude the Mortgagee's right to commence or continue one or more foreclosure or other proceedings or obtain a judgment against any other collateral (either in or outside the State in which the Mortgaged Property is located) which directly or indirectly secures the Obligations, and the Mortgagor expressly waives any objections to the commencement of, continuation of, or entry of a judgment in such other proceedings or exercise of any remedies in such proceedings based upon any action or judgment connected to this Mortgage, and the Mortgagor also waives any right to seek to dismiss, stay, remove, transfer or consolidate either such other proceedings or any action under this Mortgage on such basis. It is expressly understood and agreed that to the fullest extent permitted by law, the Mortgagee may, at its election, cause the sale of all collateral which is the subject of a single foreclosure action at either a single sale or at multiple sales conducted simultaneously and take such other measures as are appropriate in order to effect the agreement of the parties to dispose of and administer all collateral securing the Obligations (directly or indirectly) in the most economical and least time-consuming manner.

**18. GOVERNING LAW. THIS MORTGAGE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK; PROVIDED THE LAWS OF THE STATE OF ILLINOIS SHALL GOVERN THE EXERCISE OF REMEDIES WITH RESPECT TO THE REAL PROPERTY SUBJECT TO THE LIEN OF THIS MORTGAGE.**

19. Obligations Are Without Recourse. Anything to the contrary contained in this Mortgage, the Project Loan Agreement, the Project Loan Note or in any other Project Loan Document notwithstanding, neither the Mortgagor, nor any officer, director, shareholder, member or partner of the Mortgagor, nor any officer, director, shareholder, member or partner thereof, nor any of their respective successors or assigns (all such Persons being hereinafter referred to collectively as the "Exculpated Persons"), shall be personally liable in any respect for any representation, warranty, liability or obligation hereunder or in any other Project Loan Document including the payment of the principal of, or interest on, the Project Loan Note, or for monetary damages for the breach of performance of any of the covenants contained in the Project Loan Agreement, the Project Loan Note, this Mortgage or any other Project Loan Document. The Mortgagee agrees that, in the event it pursues any remedies available to it under the Project Loan Agreement, the Project Loan Note, the Assignment of Lease, this Mortgage or under any other Project Loan Document, the Mortgagee shall have no recourse against the Mortgagor, nor any Exculpated Person, for any deficiency, loss or claim for monetary damages or otherwise resulting therefrom and recourse shall be had solely and exclusively only against the Mortgaged Property; but nothing contained herein shall be taken to prevent recourse against or the enforcement of remedies against the Mortgaged Property in respect of any and all liabilities, obligations and undertakings contained in this Mortgage, the Project Loan Agreement, the Project Loan Note, the Assignment of Lease or in any other Project Loan Document. Notwithstanding the provisions of this paragraph, nothing in this Mortgage, the Assignment of Lease, the Project Loan Agreement, the Project Loan Note or any other Project Loan Document shall: (i) constitute a waiver, release or discharge of any indebtedness or obligation evidenced by the Project Loan Note or arising under this Mortgage or the Project Loan Agreement or secured by this Mortgage, but the same shall continue until paid or discharged; (ii) relieve the Mortgagor from liability and responsibility for (but only to the extent of the damages arising by reason of): (a) active waste knowingly committed by the Mortgagor with respect to the Mortgaged Property or (b) any fraud on the part of the Mortgagor or any such Exculpated Person; (iii) relieve the Mortgagor from liability and responsibility for (but only to the extent of the moneys misappropriated, misapplied or not turned over): (a) except for Excepted Payments, misappropriation or misapplication by the Mortgagor (i.e., application in a manner contrary to any of the Project Loan Documents) of any insurance proceeds or condemnation award paid or delivered to the Mortgagor by any Person other than the Mortgagee; or (b) except for Excepted Payments, any rents or other income received by the Mortgagor from the Lessee that are not turned over to the Mortgagee in accordance with the Assignment of Lease; or (iv) affect or in any way limit the Mortgagee's rights and remedies hereunder with respect to the Rents and rights and powers assigned under the Assignment of Lease or to obtain a judgment against the Mortgagor (provided that no deficiency judgment or other money judgment shall be enforced against the Mortgagor or any Exculpated Person except to the extent of the Mortgagor's interest in the Mortgaged Property or to the extent the Mortgagor may be liable as otherwise contemplated in clauses (i) and (iii) of this Section).

20. Partial Release; Full Release. The Mortgagee may release, for such consideration or none, as it may require, any portion of the Mortgaged Property without, as to the remainder of the Mortgaged Property, in any way impairing or affecting the lien, security

interest and priority herein provided for the Mortgagee compared to any other lien holder or secured party.

21. **Priority.** On and prior to the Maturity Date, this Mortgage shall be subject and subordinate to the Lease which affect the Property and, following the Maturity Date, this Mortgage shall be senior to the Lease which affect the Property without any further act by any Person.

22. **Miscellaneous.** Except as provided in the Operative Agreements, the Mortgagee, with the express written consent of the Mortgagor, may at any time or from time to time renew or extend this Mortgage, or alter or modify the same in any way, or the Mortgagee may waive any of the terms, covenants or conditions hereof in whole or in part and may release any portion of the Mortgaged Property or any other security, and grant such extensions and indulgences in relation to the Obligations secured hereby as the Mortgagee may determine without the consent of any other person and without any obligation to give notice of any kind thereto and without in any manner affecting the priority of the lien hereof on any part of the Mortgaged Property.

PROPERTY of Cook County Clerk's Office

IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be duly executed and delivered as of the date first above written.

WITNESS:

DB BEVERLY, L.L.C.,  
an Illinois limited liability company

BY: DB Beverly, Inc.  
an Illinois corporation

ITS: Manager

[Signature]  
Rebecca A. Friedman (type/print)

[Signature]  
Alice D. Friedman (type/print)

[Signature]  
By: Patrick F. Daly  
Its: President

STATE OF ILLINOIS )  
COUNTY OF COOK )

I do hereby certify that on this 14 day of April, 1998, before me, JENNIFER R. COHEN, a Notary Public in and for the County and State aforesaid, and duly commissioned, personally appeared Patrick F. Daly known to me to be the President of DB Beverly, Inc., who, being by me duly sworn, did depose and say that DB Beverly, Inc. is the Manager of DB BEVERLY, L.L.C., the limited liability company described in and which executed the foregoing instrument; that, on behalf of said limited liability company he signed, sealed and delivered said instrument for the uses and purposes therein set forth, as its and his free and voluntary act; and that he signed his name thereto by like order.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]  
(type/print) Notary Public  
COOK County, State of ILLINOIS  
My Commission Expires: 4/9/2001  
My County of Residence is: COOK

Drafted by and when recorded return to:  
Phillip J. Bowen, Esq.  
Conlin, McKenney & Philbrick, P.C.  
350 South Main Street, Suite 400  
Ann Arbor, Michigan 48104  
402-769-0000

SCHEDULE A

Property of Cook County Clerk's Office

STREET ADDRESS: 2200-2222 WEST 95TH STREET, CHICAGO, ILLINOIS 60648  
CITY: CHICAGO COUNTY: COOK  
TAX NUMBER: 25-06-320-019-0000, 25-06-320-020, 25-06-320-021, 25-06-320-022, 25-06-320-023, 25-06-320-024, 25-06-320-025, 25-06-320-026, 25-06-320-027, 25-06-320-028, 25-06-320-029, 25-06-320-030, 25-06-320-031, 25-06-320-032, 25-06-320-033, 25-06-320-034, 25-06-320-035, 25-06-320-036, 25-06-320-037, 25-06-320-038, 25-06-320-039, 25-06-320-040, 25-06-320-041, 25-06-320-042, 25-06-320-043, 25-06-320-044, 25-06-320-045, 25-06-320-046, 25-06-320-047, 25-06-320-048, 25-06-320-049, 25-06-320-050, 25-06-320-051, 25-06-320-052, 25-06-320-053, 25-06-320-054, 25-06-320-055, 25-06-320-056, 25-06-320-057, 25-06-320-058, 25-06-320-059, 25-06-320-060, 25-06-320-061, 25-06-320-062, 25-06-320-063, 25-06-320-064, 25-06-320-065, 25-06-320-066, 25-06-320-067, 25-06-320-068, 25-06-320-069, 25-06-320-070, 25-06-320-071, 25-06-320-072, 25-06-320-073, 25-06-320-074, 25-06-320-075, 25-06-320-076, 25-06-320-077, 25-06-320-078, 25-06-320-079, 25-06-320-080, 25-06-320-081, 25-06-320-082, 25-06-320-083, 25-06-320-084, 25-06-320-085, 25-06-320-086, 25-06-320-087, 25-06-320-088, 25-06-320-089, 25-06-320-090, 25-06-320-091, 25-06-320-092, 25-06-320-093, 25-06-320-094, 25-06-320-095, 25-06-320-096, 25-06-320-097, 25-06-320-098, 25-06-320-099, 25-06-320-100

**LEGAL DESCRIPTION:**

**PARCEL 1:**

THE SOUTH 50 FEET OF THE NORTH 150 FEET OF LOT 79 IN CHAMBER'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THEREFROM THAT PORTION OF SAID LOT 79, FALLING IN THE SCHOOLHOUSE LOT, AND EXCEPT ALSO THE WEST 33 FEET OF SAID LOT 79 AND EXCEPT ALSO THAT PORTION OF LOT 79 LYING SOUTH OF A LINE 54 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 6; CONVEYED TO THE CITY OF CHICAGO BY QUIT CLAIM DEED DATED OCTOBER 15, 1930 AND RECORDED NOVEMBER 10, 1930 AS DOCUMENT NUMBER 10786683 IN BOOK 28900, PAGE 278) ALL IN COOK COUNTY, ILLINOIS

**PARCEL 2:**

LOT 79 (EXCEPT THE NORTH 150 FEET) IN CHAMBER'S SUBDIVISION OF WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, (EXCEPT THEREFROM THAT PORTION OF SAID LOT 79 FALLING IN SCHOOL HOUSE LOT AND EXCEPTING ALSO THE WEST 33 FEET OF SAID LOT 79 AND EXCEPTING ALSO THAT PORTION OF LOT 79 LYING SOUTH OF A LINE 54 FEET NORTH OF AND PARALLEL WITH SOUTH LINE OF SAID SECTION 6 AND CONVEYED TO CITY OF CHICAGO BY QUIT CLAIM DEED DATED OCTOBER 15, 1930 AND RECORDED NOVEMBER 10, 1980 AS DOCUMENT 10786683 IN BOOK 28900 PAGE 278 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

**PARCEL 3:**

THE NORTH 154 FEET OF THE SOUTH 208 FEET OF THE WEST 175 FEET OF THE EAST 208 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14 (OTHERWISE DESCRIBED AS LOT 81 OF GEO A. CHAMBER'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14) EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

**PARCEL 4:**

LOT 41 (EXCEPT THE EAST 93 FEET OF SAID LOT 41) AND EXCEPT THAT PART OF SAID LOT 41 LYING SOUTH OF A LINE 54 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SECTION 6 IN GEORGE A. CHAMBERS SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14 IN COOK COUNTY, ILLINOIS.

**PARCEL 5:**

EAST 93 FEET OF LOT 41 (EXCEPT EAST 33 FEET OF SAID LOT 41) AND EXCEPT THAT PART OF LOT 41 LYING SOUTH OF A LINE 54 FEET NORTH OF AND PARALLEL WITH SOUTH LINE OF SECTION 6 IN GEORGE A. CHAMBERS SUBDIVISION OF WEST 1/2 OF SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14 IN COOK COUNTY, ILLINOIS.

**PARCEL 6:**

THE WEST 1/2 OF THAT PART OF SOUTH BELL AVENUE VACATED BY CITY OF CHICAGO ORDINANCE ENACTED JANUARY 14, 1998, RECORDED ~ AS DOCUMENT NO. ~, BEING THE EAST 33 FEET OF THE PART OF LOT 41 LYING NORTH OF THE NORTH LINE OF WEST 95TH STREET AS WIDENED BY COOK COUNTY COURT JUDGEMENT ENTERED JULY 9, 1941 AS GENERAL NUMBER 49438 IN GEORGE A. CHAMBERS SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

**PARCEL 7:**

THE EAST 1/2 OF THAT PART OF SOUTH BELL AVENUE VACATED BY CITY OF CHICAGO ORDINANCE ENACTED JANUARY 14, 1998 RECORDED ~ AS DOCUMENT NO. ~, BEING THE WEST 33 FEET OF LOT 79 LYING SOUTH OF

# UNOFFICIAL COPY

THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 41 AND NORTH OF THE NORTH LINE OF WEST 95TH STREET AS WIDENED BY COOK COUNTY COURT JUDGEMENT ENTERED JULY 9, 1941 AS GENERAL NUMBER 49438, IN GEORGE A. CHAMBERS SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY ILLINOIS.

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