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1999-05-19 08:27:02  
Cook County Recorder 73.00

## LASALLE NATIONAL BANK

AFTER RECORDING RETURN  
THIS INSTRUMENT BY MAIL TO:

LaSalle National Bank  
135 S. LaSalle St., Suite 540  
Chicago, IL 60603  
Attn: Scott Wolfsen



### PROPERTY ADDRESSES:

1. 3040 N. Racine, Chicago, Illinois
2. 3032-34 N. Racine and  
1200-1210 W. Nelson, Chicago, Illinois

### PERMANENT INDEX NUMBERS:

1. 14-29-111-040
2. 14-29-111-041 and 14-29-111-042

### THIS INSTRUMENT PREPARED BY:

F. Kevin Murnighan  
Carey, Filter, White & Boland  
33 West Jackson Boulevard  
Chicago, Illinois 60604

## **REAL ESTATE MORTGAGE, ASSIGNMENT OF RENTS SECURITY AGREEMENT, FINANCING STATEMENT**

This Collateral Mortgage ("Mortgage") is made October 23, 1998, by **L & M PROPERTIES**, an Illinois general partnership, 1206 W. Nelson, Chicago, IL 60657, LaSalle National Bank, as Trustee under a Trust Agreement dated April 28, 1989 and known as Trust No. 114323 (as to parcel 1) and LaSalle National Bank, as Trustee under a Trust Agreement dated July 27, 1987 and known as Trust No. 112518 (as to parcel 2) (collectively the "Mortgagor") to LaSalle National Bank (the "Mortgagee"), having offices at 135 S. LaSalle St., Chicago, Illinois 60603

This Mortgage is made to secure all of the following (individually and collectively the "Indebtedness"):

- (i) Payment by Mortgagor of the principal sum of One Million, Three Hundred Sixty Thousand, and no/100 Dollars (\$1,360,000.00), evidenced by that certain Note of Mortgagor of even date herewith, made payable to the order of and delivered to Mortgagee, plus interest on said principal sum at the rate of 6.5% per annum until maturity, whether by acceleration or otherwise, or an Event of Default, and after that at a default rate equal to the rate of interest otherwise prevailing thereunder plus 3% per annum plus costs and all other sums thereunder to be paid, and any and all extensions, renewals, modifications, substitutions or replacements of said Note ("Note"); and

**BOX 333-CTI**

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- (ii) The performance of the covenants of this Mortgage and the repayment of all sums expended by the Mortgagee in connection with performance of those covenants.

As security for the purposes stated above and elsewhere in this Mortgage, the Mortgagor grants, mortgages, warrants and conveys to the Mortgagee, its successors and assigns, the lands, premises and property in the County of Cook, in the State of Illinois, described in Exhibit A attached hereto and incorporated by reference herein and commonly known as:

Parcel #1 1.3040 N. Racine, Chicago, Illinois, 60657, P.I.N. #14-29-111-040  
Parcel #2 2.3032-34 N. Racine and 1200-1210 W. Nelson, Chicago, Illinois, 60657,  
P.I.N. # 14-29-111-041 and 14-29-111-042

Together with:

- (a) all related easements, rights-of-way, licenses and privileges;
- (b) all buildings and improvements now or later situated under, upon or over the above described land or any part of it;
- (c) all the tenements, hereditaments, appurtenances, reversions and remainders belonging or pertaining to the above described land and also all other estate, right, title and interest of the Mortgagor in and to the above land;
- (d) all the rents, issues, profits, license fees, revenues, charges, accounts and general intangibles arising from the above described land, or relating to any business conducted by the Mortgagor on it, under present or future leases, licenses or otherwise, which are specifically assigned and transferred to the Mortgagee;
- (e) all right, title and interest of the Mortgagor in and to the land lying in the bed of any street, road, avenue, alley or walkway, opened or proposed or vacated, adjoining the above described land;
- (f) all machinery, apparatus, equipment, goods, fittings, fixtures, and articles of personal property of every kind and nature (other than Household Goods as defined by 12 CFR 227.12, as amended from time to time, unless such good(s) were purchased with the proceeds of any loan or other extension of credit secured by this Mortgage), now or later located in or upon the above described land and used or useable in connection with any present or future operation of the land or any building or buildings now or later on the land and now owned or later acquired by the Mortgagor (individually and collectively the "equipment") including, without limit, all lighting, heating, cooling, ventilating, air-conditioning, incinerating, refrigerating, plumbing, sprinkling, communicating and electrical systems, and the related machinery, appliances, fixtures and equipment, and all of the right, title and interest of the Mortgagor in and to any equipment which may be subjected to any title retention or security agreement superior in lien to the lien of

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this Mortgage. It is understood and agreed that all equipment is part and parcel of the mortgaged premises and appropriated to the use of the described land and, whether affixed or annexed or not, shall for the purpose of this Mortgage, unless the Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged under this Mortgage;

(g) any and all awards or payments, including without limit interest on them, and the right to receive them, which may be made with respect to the mortgaged premises as a result of (i) the exercise of eminent domain, (ii) the alteration of the grade of any street, (iii) any loss of or damage to any building or other improvement on the above described land, (iv) any other injury to or decrease in the value of the mortgaged premises, (v) any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the mortgaged premises, or (vi) any refund of utility deposits or right to any tenant deposit. The reasonable attorney's fees, costs and disbursements incurred by the Mortgagee in connection with the collection of these awards or payments shall be additional Indebtedness secured by this Mortgage. The Mortgagor agrees to execute and deliver, from time to time, further instruments as may be requested by the Mortgagee to confirm the assignment to the Mortgagee of these awards or payments; and

(h) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims.

Mortgagor also hereby grants to the Mortgagee, its successors and assigns, as rights and easements appurtenant to the mortgaged premises, the rights and easements for the benefit of the mortgaged premises set forth in the Declaration of Condominium, if any, as described on Exhibit B hereto. This Mortgage is subject to all rights, easements, covenants, conditions, restrictions and reservations contained in said Declaration the same as though the provisions of said Declaration were recited and stipulated at length herein.

Any reference in this Mortgage to the "mortgaged premises" shall, unless the context requires otherwise, be deemed to include and apply to the above described land, buildings, improvements, equipment, rents, issues, profits, leases, easements, tenements, hereditaments, and appurtenances, awards, payments and all other rights, privileges and interests described above. Without limiting in any way the Indebtedness secured by this Mortgage, it is agreed that this Mortgage secures future advances. The Mortgagor, on a continuing basis, warrants, covenants and agrees to and with the Mortgagee, which covenants, warranties and agreements, to the extent permitted by law, shall be deemed to run with the land, as follows:

1. The Mortgagor will pay to the Mortgagee all Indebtedness according to the terms of the relevant instruments or agreements evidencing it, and the Mortgagor agrees that this Mortgage is a continuing mortgage securing the payment of the Indebtedness.

2. The Mortgagor has good and indefeasible title to the entire mortgaged premises in fee simple and with good right and full power to sell, mortgage and convey it; the mortgaged

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premises are free and clear of all easements, restrictions, liens, leases and encumbrances whether now existing or later created, except those matters listed on attached Exhibit B (if any) to which this Mortgage is expressly subject, and the Mortgagor will warrant and defend the mortgaged premises against all other claims and demands whatsoever. The Mortgagee shall have the right at its option and at such time or times as it, in its sole discretion, deems necessary to take whatever action it may deem necessary to defend or uphold the lien of this Mortgage or other enforce any of the rights of the Mortgagee under this Mortgage or any obligation secured by this Mortgage, including, without limit, the right to institute appropriate legal proceedings for these purposes.

3. The Mortgagor shall pay when due, and before any interest, collection fees or penalties accrue or default occurs, all taxes, assessments, encumbrances, liens, mortgages, water or sewer charges and other charges and impositions levied, assessed or existing with respect to the mortgaged premises or any part of it, and will deliver to the Mortgagee without demand official receipts showing these payments. If the Mortgagor fails to pay these taxes, assessments, encumbrances, liens, mortgages, charges and impositions when due, or if the Mortgagor fails to pay all interest, collection fees and penalties accrued on them, the Mortgagee, at its sole option, may (but is not obligated to) pay them and the monies paid shall be a lien upon the mortgaged premises added to the amount secured by this Mortgage and payable immediately by the Mortgagor to the Mortgagee, with interest at the higher of (i) the interest rate, if any, charged by the particular entity levying or assessing the tax, assessment or imposition or holding the encumbrance or lien, or (ii) the highest rate charged by the Mortgagee on any of the Indebtedness (but in either case not to exceed the maximum interest rate permitted by applicable law).

At the sole option of the Mortgagee, the Mortgagor shall pay to the Mortgagee in advance on the first day of each month a pro rata portion (as determined by the Mortgagee) of all taxes, assessments, liens, encumbrances, mortgages, and other charges levied, assessed or existing on the mortgaged premises. In the event that sufficient funds have been deposited with the Mortgagee to cover the amount of these taxes, assessments, liens, encumbrances, mortgages, and other charges when they become due and payable, the Mortgagee shall pay them. In the event that sufficient funds have not been deposited to cover the amount of these taxes, assessments, liens, encumbrances, mortgages and other charges at least thirty (30) days prior to the time when they become due and payable, the Mortgagor shall immediately upon request by the Mortgagee pay the amount of the deficiency to the Mortgagee. The Mortgagee shall not be required to keep in a separate account or to pay the Mortgagor any interest or earnings whatsoever on the funds held by the Mortgagee for the payment of taxes, assessments, liens, encumbrances, mortgages, or other charges pursuant to this paragraph or for the payment of insurance premiums under paragraph (4) below, or on any other funds deposited with the Mortgagee in connection with this Mortgage. If an event of default occurs under this Mortgage, any funds then remaining on deposit with the Mortgagee may be applied against the Indebtedness immediately upon or at any time after the event of default occurs, and without notice to the Mortgagor. Further, the Mortgagee may make payments from any funds on deposit with the Mortgagee for taxes, assessments, liens, encumbrances, mortgages, or other charges on or with respect to the mortgaged premises notwithstanding that subsequent owners of the premises may benefit as a

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result. The Mortgagor shall not, and nothing in this Mortgage shall be construed to give the Mortgagor the right to, mortgage or pledge the mortgaged premises or any part of it as security for any other indebtedness or obligations. Nothing in this paragraph shall be considered a consent by the Mortgagee to any lien, mortgage or encumbrance on the mortgaged premises unless set forth on attached Exhibit B, if any.

4. The Mortgagor shall keep the buildings and all other improvements now or later existing on the mortgaged premises constantly insured for the benefit of the Mortgagee against fire and other hazards and risks, including without limit vandalism and malicious mischief, as the Mortgagee may require and shall further provide flood insurance (if the mortgaged premises are situated in an area which is considered a flood risk area by the United States Department of Housing and Urban Development, and in which flood insurance has been made available under the National Flood Insurance Act of 1968, as amended), loss of rents insurance, public liability and product liability insurance and any other insurance at the Mortgagee may require from time to time, all in amounts and in forms and with companies satisfactory to the Mortgagee. The Mortgagor shall deliver to the Mortgagee the policies evidencing the required insurance with premiums fully paid for one year in advance and with standard mortgagee clauses (making all loss payable to the Mortgagee) satisfactory to the Mortgagee. Renewals of the required insurance (together with evidence of premium prepayment for one year in advance) shall be delivered to the Mortgagee at least thirty (30) days before the expiration of any existing policies. All policies and renewals shall provide that they may not be canceled or amended without giving the Mortgagee thirty (30) days' prior written notice of cancellation or amendment. All policies and renewals shall be held by, and are pledged to, the Mortgagee, along with all insurance premium rebates, as additional security for the Indebtedness. Should the Mortgagor fail to insure or fail to pay the premiums on any required insurance or fail to deliver the policies or renewals of them as provided above, the Mortgagee may (but is not obligated to) have the insurance issued or renewed (and pay the premiums on it for the account of the Mortgagor) in amounts and with companies and at premiums as the Mortgagee reasonably deems appropriate. If the Mortgagee elects to have insurance issued or renewed to insure the Mortgagee's interest, the Mortgagee shall have no duty or obligation of any kind to also insure the Mortgagor's interest or to notify the Mortgagor of the Mortgagee's actions. Any premiums or other sums paid by the Mortgagee for insurance as provided above shall be a lien upon the mortgaged premises added to the amount secured by this Mortgage and payable immediately, with interest on these sums at the highest rate charged by the Mortgagee on any of the Indebtedness (but not to exceed the maximum interest rate permitted by applicable law). In the event of loss or damage, the proceeds of all required insurance shall be paid to the Mortgagee alone. No loss or damage shall itself reduce the Indebtedness. The Mortgagee and any of its employees are each irrevocably appointed attorney-in-fact for the Mortgagor and are authorized to adjust and compromise each loss without the consent of the Mortgagor, to collect, receive and receipt for the insurance proceeds in the name of the Mortgagee and the Mortgagor and to endorse the Mortgagor's name upon any check in payment of the loss. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgagee in collecting the proceeds (including, without limit, court costs and reasonable attorneys' fees), and then toward payment of the Indebtedness or any portion of it, whether or not



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then due or payable and in whatever order of maturity as the Mortgagee may elect, or the Mortgagee, at its option, may apply the insurance proceeds, or any part of them, to the repair or rebuilding of the mortgaged premises. Application of proceeds by the Mortgagee toward later maturing installments of the Indebtedness shall not excuse the Mortgagor from making the regularly scheduled installment payments nor shall such application extend or reduce the amount of any of these payments. Application of proceeds by the Mortgagee toward later maturing installments of the Indebtedness shall not excuse the Mortgagor from making the regularly scheduled installment payments nor shall such application extend or reduce the amount of any of these payments. Application of proceeds by the Mortgagee toward payment of the Indebtedness shall constitute an acceleration and prepayment and shall subject the Mortgagor to any applicable prepayment premium or formula. In the event of a foreclosure of this Mortgage, or the giving of a deed in lieu of foreclosure, the purchaser or grantee of the mortgaged premises shall succeed to all of the rights of the Mortgagor under said insurance policies including, without limit, any right to unearned premiums and to receive the proceeds. At the sole option of the Mortgagee, the Mortgagor shall pay to the Mortgagee in advance on the first day of each month the equivalent of one-twelfth (1/12th) of the annual premiums (as estimated by the Mortgagee) due on the required insurance, but with an initial payment which together with subsequent monthly payments will be sufficient to pay the estimated annual premiums as provided in this paragraph. In the event that insufficient funds have been deposited with the Mortgagee to cover the amount of the insurance premiums for required insurance when the premiums become due and payable, the Mortgagor shall immediately upon request pay the amount of this deficiency to the Mortgagee.

5. The Mortgagor shall promptly repair, restore, replace or rebuild each part of the mortgaged premises which may be damaged or destroyed by fire or other casualty or which may be affected by any eminent domain proceedings, notwithstanding application by the Mortgagee of the insurance proceeds or eminent domain award to payment of the Indebtedness.

6. The Mortgagor shall abstain from commission of waste upon the mortgaged premises, keep the buildings, improvements and equipment on the mortgaged premises in good repair, and promptly comply with all laws, regulations and requirements of all governmental bodies affecting the mortgaged premises. If the Mortgagee determines that the mortgaged premises, or any part of it, requires inspection, testing, appraisal, repair, care, alteration or attention of any kind or nature, not provided to the Mortgagee's satisfaction by the Mortgagor, the Mortgagee may (but is not obligated to) enter or cause entry to be made upon the mortgaged premises, and inspect, test, appraise, repair, alter or maintain the mortgaged premises as the Mortgagee may deem necessary, and the Mortgagor shall reimburse the Mortgagee upon demand for all resulting costs and expenses incurred by the Mortgagee. The Mortgagee may pay sums of money as the Mortgagee deems essential for the preservation of the mortgaged premises, and these sums shall be additional Indebtedness secured by this Mortgage, shall be payable by the Mortgagor to the Mortgagee upon demand, and shall bear interest at the highest rate charged by the Mortgagee to the Mortgagor on any of the Indebtedness (but not to exceed the maximum interest rate under applicable law). The failure of Mortgagor to pay any taxes or assessments assessed against the mortgaged premises, or any installment of them, or any premiums payable

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with respect to any insurance policy covering the mortgaged premises, shall constitute waste (although the meaning of "waste" shall not be limited to this nonpayment). The Mortgagor consents to the appointment of a receiver should the Mortgagee seek this relief. The Mortgagor shall not make or permit any other party to make any material alterations, additions or improvements of any type to the mortgaged premises (individually and collectively the "Improvements"), regardless of whether the improvements would increase the value of the mortgaged premises, without the Mortgagee's prior written consent. This consent may be withheld by the Mortgagee in its sole discretion. If the Mortgagee consents to the making of any Improvements on the mortgaged premises, and the Improvements are not completed with due diligence in accordance with the plans and specifications approved in writing by the Mortgagee, or if construction of the Improvements should cease before completion for a period of thirty (30) days, then and in either event it shall be an event of default under this Mortgage and the Mortgagee shall have all the rights and remedies provided in this Mortgage upon an event of default, and all the rights and remedies set forth in this paragraph 6, including without limitation, the right (but not the obligation) to enter or cause entry to be made upon the mortgaged premises and complete the Improvements, with full power and authority to enter into such contracts or agreements as the Mortgagee may deem necessary to complete the Improvements.

7. The Mortgagor shall pay (before the same become liens, encumbrances or charges against the mortgaged premises) any and all obligations, liabilities or debts for repairs or improvements to the mortgaged premises or for any other goods, services, or utilities furnished to the mortgaged premises. The Mortgagor shall not mortgage or pledge the mortgaged premises or any part of it as security for any other indebtedness or obligations.

8. In the event the mortgaged premises, or any part of it, is taken under power of eminent domain, or by condemnation, the entire proceeds of the award shall be paid directly to the Mortgagee and applied toward reimbursement of all the Mortgagee's costs and expenses incurred in connection with the collecting the award costs and expenses incurred in connection with collecting the award (including, without limit, court costs and reasonable attorneys' fees), and the balance applied upon the Indebtedness whether or not then due or payable in whatever manner the Mortgagee deems advisable. Application by the Mortgagee of any condemnation award or portion of it toward the last maturing installments of the Indebtedness shall not excuse the Mortgagor from making the regularly scheduled payments nor extend or reduce the amount of these payments. Application of any condemnation award by the Mortgagee toward payment of the Indebtedness shall constitute an acceleration and a prepayment and shall subject the Mortgagor to any applicable prepayment premium or formula. The Mortgagee or any of its employees are irrevocably appointed attorney-in-fact and are duly authorized and empowered to receive, receipt for, discharge and satisfy any condemnation award and judgment, whether joint or several, on behalf of the Mortgagor, his legal representatives and assigns. This receipt, discharge and satisfaction shall be as legally effective and binding as if given directly by the Mortgagor; provided, however, that the Mortgagee shall not be liable for failure to collect any condemnation award, regardless of the cause of such failure.

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9. The Indebtedness secured by this Mortgage shall become due and payable immediately, without notice, at the option of the Mortgagee, if the Mortgagor shall sell, convey, assign, pledge, hypothecate, mortgage, encumber or transfer the mortgaged premises or any part of it, or if title to the mortgaged premises or any part of it shall become vested in any other person or party in any manner whatsoever or if there is any disposition (through one or more transactions) of legal or beneficial title. Without limiting the foregoing, the Mortgagor shall not incur any additional debt, whether secured or unsecured, without the prior written consent of Mortgagee. In the event ownership of the mortgaged premises or any part of it becomes vested in a person or persons other than the Mortgagor (with or without the prior written approval of the Mortgagee), the Mortgagee may (but shall not be obligated to) deal with and may enter into any contract or agreement with the successor or successors in interest with reference to this Mortgage in the same manner as with the Mortgagor, without in any manner vitiating, discharging or otherwise affecting the lien of this Mortgage or the Mortgagor's liability under this Mortgage or upon the Indebtedness.

10. This Mortgage shall, as to any equipment, fixtures, accounts, general intangibles and other personal property covered by it, be deemed to grant a security interest in the equipment, fixtures accounts, general intangibles and other personal property pursuant to the Uniform Commercial Code. The Mortgagor agrees upon request of the Mortgagee from time to time, to promptly furnish a list of personal property owned by the Mortgagor and subject to this Mortgage and, upon request by the mortgagee, to immediately execute, deliver and/or file any mortgage and any amendments to this Mortgage and any amendments to this Mortgage, any separate security agreement and any financing statements to include specifically this list of personal property. Upon the occurrence of any event of default under this Mortgage, the Mortgagee shall have all of the rights and remedies of a secured party under the Uniform Commercial Code or otherwise provided by law or by this Mortgage including, without limit, the right to require the Mortgagor to assemble the personal property and make it available to the Mortgagee at a place to be designated by the Mortgagee which is reasonably convenient to both parties, the right to take possession of the personal property with or without demand and with or without process of law, and the right to sell and dispose of it and distribute the proceeds according to law. The Mortgagor agrees that any requirement of reasonable notice shall be met if the Mortgagee sends notice to the Mortgagor at least ten (10) days prior to the date of sale, disposition or other event giving rise to the required notice. The Mortgagor agrees that the proceeds of any disposition of the personal property may be applied by the Mortgagee first to the Mortgagee's reasonable expenses in connection with the disposition including, without limit, reasonable attorney's fees and legal expenses, and then to payment of the Indebtedness.

11. As additional security for the payment of the Indebtedness and performance of this Mortgage, the Mortgagor assigns to the Mortgagee all its right, title and interest in and to all written and oral leases and occupancy agreements, now or later existing, covering the mortgaged premises or any part of it (but without an assumption by the Mortgagee of liabilities of the Mortgagor under any of these leases or occupancy agreements by virtue of this assignment), and the Mortgagor assigns to the Mortgagee the rents, issues and profits of the mortgaged premises.



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If an event of default occurs under this Mortgage, the Mortgagee may receive and collect the rents, issues and profits personally or through a receiver so long as the event of default exists and during the pendency of any foreclosure proceedings and during any redemption period. The Mortgagor agrees to consent to the appointment of a receiver if this is believed necessary or desirable by the Mortgagee to enforce its rights under this mortgage. The Mortgagee shall at no time have any obligation whatsoever to attempt to collect rent or other amounts from any tenant or occupier of the mortgaged premises notwithstanding that such tenants and occupiers may not be paying rent or other amounts to either the Mortgagor or the Mortgagee. Further, the Mortgagee shall at no time have any obligation whatever to enforce any other obligations owed by tenants or occupiers of the mortgaged premises to the Mortgagor. No action taken by the Mortgagee under this Mortgage shall make the Mortgagee a "mortgagee in possession." The Mortgagor shall at no time collect advance rent under any lease or occupancy agreement pertaining to the mortgaged premises or any part of it in excess of one month (other than as a security deposit) and the Mortgagee shall not be bound in any respect by any rent prepayment made or received in violation of this prohibition. As additional security for the Indebtedness, the Mortgagor assigns to the Mortgagee all of the Mortgagor's rights and interest in all licenses and permits affecting the mortgaged premises. This assignment shall not be construed as a consent by the Mortgagee to any license or permit so assigned, or to impose upon Mortgagee any obligations with respect to any license or permit. The Mortgagor shall not cancel or amend any of the licenses and permits assigned (nor permit any of them to terminate if they are necessary or desirable for the operation of the mortgaged premises) without first obtaining the written approval of the Mortgagee. This paragraph shall not be applicable to any license or permit that terminates if it is assigned without the consent of another party (other than the Mortgagor) or its issuer, unless this consent has been obtained or this assignment is ratified by the other party of issuer; nor shall this paragraph be construed as a present assignment of any license or permit that the Mortgagor is required by law to hold in order to operate the mortgaged premises.

12. Mortgagor agrees that it shall maintain all of its operating accounts at Mortgagee. As additional security for the Indebtedness, the Mortgagor grants a security interest to the Mortgagee in all deposit or other accounts with the Mortgagee.

13. In the event any tax shall be due with respect to the execution and delivery or recordation of this Mortgage or any note or other instrument evidencing or securing repayment of the Indebtedness or the interest of the Mortgagee in the mortgaged premises, whether levied against the Mortgagee or otherwise, the Mortgagor shall pay this tax at the time and in the manner required by applicable law. The Mortgagor shall hold the Mortgagee harmless and shall indemnify the Mortgagee against all liability of any nature whatever as a result of the imposition of this tax. If in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment by the Mortgagor of this tax would result in the payment of interest in excess of the permitted rate, then the Mortgagor shall have no obligation to pay the portion of the tax resulting in this excess; provided, however, that in this event the Mortgagee may declare the entire principal balance of the Indebtedness, and accrued interest on it, immediately due and payable and this shall subject the Mortgagor to any

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applicable prepayment premium or formula.

14. (a) The Mortgagor represents, warrants and covenants that the Mortgagor has not used Hazardous Materials (as later defined) on or affecting the mortgaged premises in any manner which violates Environmental Laws (as later defined), that there is no condition concerning the mortgaged premises which could require remediation pursuant to applicable Environmental Laws, and that, to the best of the Mortgagor's knowledge, no prior owner of the mortgaged premises or any current or prior occupant has used Hazardous Materials on or affecting the mortgaged premises in any manner which violates Environmental Laws. The Mortgagor covenants and agrees that neither it nor any occupant shall use, introduce or maintain Hazardous Materials on the mortgaged premises in any manner unless done in strict compliance with all Environmental Laws.

(b) The Mortgagor shall conduct and complete all investigations, environmental audits, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on or affecting the mortgaged premises, whether caused by the Mortgagor or a third party, in accordance with all Environmental Laws to the satisfaction of the Mortgagee, and in accordance with the orders and directives of all federal, state and local governmental authorities. Any remedial, removal or other action by the Mortgagor shall not be deemed a cure or waiver of any breach of this paragraph 14 due to the presence or use of Hazardous Materials on or affecting the mortgaged premises. Additionally, the Mortgagor shall defend, indemnify and hold harmless the Mortgagee, its employees, agents, shareholders, officers and directors, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses (including, without limit, reasonable attorneys' fees) of whatever kind of nature arising out of or related to (i) the presence, disposal, release or threatened release of any Hazardous Materials on, from or affecting the mortgaged premises or the soil, water, air, vegetation, buildings, personal property, persons or animals on the mortgaged premises, (ii) any personal injury (including without limit wrongful death) or property damage (real or personal) arising out of or related to these Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached or government order related to these Hazardous materials, (iv) the cost of removal of all Hazardous Materials from all or any portion of the mortgaged premises, (v) taking necessary precautions to protect against the release of Hazardous Materials on or affecting the mortgaged premises, (vi) complying with all Environmental Laws and/or (vii) any violation of Environmental Laws or requirements of the Mortgagee, which are based upon or in any way related to Hazardous Materials including, without limit, attorneys' and consultants' fees (the attorneys and consultants to be selected by the Mortgagee), investigation and laboratory fees, environmental studies required by the Mortgagee (whether prior to foreclosure, or otherwise), court costs and litigation expenses. Upon the request of the Mortgagee, the Mortgagor and any guarantor shall execute a separate indemnity consistent with this paragraph.

(c) The Mortgagor has never received any notice ("Environmental Complaint") of any violation of Environmental Laws with respect to the Mortgagor or the mortgaged premises (and, within five (5) days of receipt of any Environmental Complaint, the Mortgagor shall give the

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Mortgagee a copy of it), and to the best of the Mortgagor's knowledge, there have been no actions commenced or threatened by any party with respect to the Mortgagor or the mortgaged premises for noncompliance with any Environmental Laws.

(d) In the event this Mortgage is foreclosed or the Mortgagor tenders a deed in lieu of foreclosure, the Mortgagor shall deliver the mortgaged premises to the Mortgagee, purchaser or grantee, as the case may be, free of any and all Hazardous Materials so that the condition of the mortgaged premises shall not be a violation of any Environmental Laws.

(e) Upon ten (10) days notice to the Mortgagor (except in an emergency or where not practical under applicable law, in which case notice is waived), and without limitation of the Mortgagee's other rights under this Mortgage or elsewhere, the Mortgagee has the right, but not the obligation, to enter on the mortgaged premises and to take other actions as it deems appropriate to investigate or test for, clean up, remove, resolve, minimize the impact of or advise governmental agencies of the possible existence of any Hazardous Materials or Environmental Complaint upon the Mortgagee's receipt of any notice from any source asserting the existence of any Hazardous Materials or an Environmental Complaint pertaining to the Mortgaged premises which, if true, could result in an order, suit or other action against the Mortgagor and/or any part of the mortgaged premises which, in the sole opinion of the Mortgagee, could jeopardize its security under this Mortgage. All reasonable costs and expenses incurred by the Mortgagee in the exercise of any of these rights shall be secured by this Mortgage and shall be payable by the Mortgagor upon demand. Any such actions conducted by the Mortgagee shall be solely for the benefit of and to protect the interests of the Mortgagee and shall not be relied upon the Mortgagor or any third party for any purpose whatsoever. By conducting any such actions, the Mortgagee does not assume control over the environmental affairs or operations of the Mortgagor nor assume any liability of the Mortgagor or any third party.

(f) The provision of this paragraph 14 shall be in addition to any and all obligations and liabilities the Mortgagor may have to the Mortgagee at common law or pursuant to any other agreement between the parties, and shall survive (i) the repayment of all sums due under any note or other loan documents executed in connection with this Mortgage ("Loan Documents" the terms of which are by this reference incorporated herein) and the repayment of all Indebtedness, (ii) the satisfaction of all other obligations of the Mortgagor under this Mortgage and under the other Loan Documents and evidences of Indebtedness, (iii) the discharge of this Mortgage, and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure.

(g) For purposes of this Mortgage, (i) "Hazardous Materials" means each and all of the following: hazardous waste, materials and/or substances as defined in any Environmental Law, petroleum, petroleum by-products, natural gas, flammable explosives, radioactive materials, and toxic materials, and (ii) "Environmental Laws" mean any and all federal, state, local or other laws (whether under common law, by legislative action or otherwise), rules, policies, ordinances, directives, orders, statutes, or regulations an object of which is to regulate or improve health, safety, or the environment including, without limit, the Comprehensive Environmental Response,

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Compensation and Liability Act of 1980, as amended (42 USC 9601 et seq.), the Superfund Amendments and Reauthorization Act of 1986 as now or hereafter amended, the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, as amended (42 USC 6901 et seq.), and the Illinois Environmental Protection Act, as amended (415 ILCS 5/1 et seq.) and Illinois Responsible Property Act. (765 ILCS 90/1 et seq.).

15. If this Mortgage encumbers a unit in a condominium or planned unit development, the Mortgagor shall perform in the time and manner required all of the Mortgagor's obligations under the declaration or covenants creating or governing the condominium or planned unit development and the bylaws, regulations and constituent documents of the condominium or planned unit development. The Mortgagor shall comply with and perform in the time required all obligations and restrictions imposed upon the Mortgagor or the mortgaged premises under applicable deed restrictions, restrictive covenants, easements or other agreements affecting the mortgaged premises, but this is not a consent by the Mortgagee to take subject to any of these agreements unless specifically set forth on attached Exhibit B, if any, and the Mortgagee does not assume any obligations under these agreements.

16. If the Mortgagor fails to perform in the time and manner required, the covenants and agreements contained in this Mortgage, or if any action or proceeding is threatened or commenced which affects the Mortgagee's interest, eminent domain, environmental, bankruptcy, insolvency, building, or zoning proceedings, then the Mortgagee at its option may make such appearances, disburse such sums and take such action as is deemed necessary by the Mortgagee to protect the Mortgagee's interest and the Mortgagor will reimburse the Mortgagee upon demand for all sums disbursed and costs incurred including, without limit, reasonable attorneys' fees and costs of entry upon the mortgaged premises to affect repairs. The Mortgagee shall not be liable in any case for failure to exercise its right or for failure to continue exercising its right once having exercised them.

17. No waiver or forbearance by the Mortgagee of any right or remedy under this Mortgage shall affect or extend to or be deemed a waiver of any other right or remedy of the Mortgagee under this Mortgage nor affect or impair the subsequent exercise of the same right or remedy by the Mortgagee for any future subsequent default by the Mortgagor under this Mortgage.

18. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage, any other agreement or afforded by law, and may be exercised concurrently, independently or successively.

19. The occurrence of any of the following events shall be deemed an event of default under this Mortgage and shall entitle the Mortgagee to exercise its remedies under this Mortgage or as otherwise provided by law:

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- (a) Default by the Mortgagor in making payment when due, by acceleration or otherwise, of any principal portion of or interest on the Indebtedness or any part of it;
- (b) Any failure by the Mortgagor or any guarantor of all or any part of the Indebtedness ( "guarantor" ) to comply with, or breach by the Mortgagor or any guarantor of, any of the terms, provisions, warranties or covenants of this Mortgage or any other agreement or commitment between the Mortgagor or any guarantor and the Mortgagee;
- (c) Any warranty, representation, financial statement or other information made, given or furnished to the Mortgagee by or on behalf of the Mortgagor or any guarantor shall be, or shall prove to be or have been false or materially misleading when made, given or furnished;
- (d) Default under or institution of foreclosure proceedings of any mortgage or lien of any kind against the mortgaged premises or any portion of it;
- (e) Any proceeding is instituted against the Mortgagor or any guarantor to enforce payment or liquidation of the outstanding obligations of the Mortgagor or any guarantor to the third parties;
- (f) Any loss, theft, substantial damage or destruction to the mortgaged premises, or the issuance or filing of any attachment, levy, garnishment or the commencement of any related proceeding or the commencement of any other judicial process upon or in respect to the Mortgagor or any guarantor or the mortgaged premises;
- (g) Sale or other disposition by the Mortgagor or any guarantor of any substantial portion of its assets or property, or death, dissolution, merger, consolidation, termination of existence, insolvency, business failure or assignment for the benefit of creditors of or by the Mortgagor or any guarantor, or commencement of any proceedings under any state or federal bankruptcy or insolvency laws or laws for the relief of debtors by or against the Mortgagor or any guarantor; or the appointment of a receiver, trustee, court appointee, sequestrator or otherwise, for all or any part of the property of the Mortgagor or any guarantor; or if there is any termination, notice of termination or breach of any collateral assignment, guaranty, pledge or subordination agreement relating to all or any part of the Indebtedness; or if there is any failure by the Mortgagor or any guarantor to pay when due any of its indebtedness (other than to the Mortgagee) or in the observance or performance of any term, covenant or condition in any document evidencing, securing or relating to its indebtedness;
- (h) Any action, suit or proceeding is initiated against the Mortgagor or any guarantor (or any subsidiary if any is a corporation or any general partner if any is a partnership) under any federal or state controlled substance, gambling, or racketeering statute (including, without limit, the Racketeer Influenced and Corrupt Organization Act of 1970), which action, suit or proceeding could result in the confiscation or forfeiture of any portion of the assets of the Mortgagor or any guarantor (or any subsidiary or general partner);

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(i) The Mortgagee deems the margin of the collateral for the Indebtedness insufficient or itself insecure, in good faith believing that the prospect of payment of the Indebtedness or performance of this Mortgage is impaired or shall fear deterioration, removal or waste of any of the mortgaged premises; or

(j) Any property management agreement for the mortgaged premises, whether now in effect or entered into hereafter by Mortgagor with a property manager, shall contain a "no lien" provision whereby the property manager waives and releases, to the extent permitted by law, any and all mechanics' lien rights, if any, that it or anyone claiming through or under it may have pursuant to applicable law. Such property management agreement or a short form thereof shall, at Mortgagee's request, be recorded with the Office of the Recorder of Deeds for the county in which the mortgaged premises are located. In addition, Mortgagor shall cause the property manager to enter into a subordination agreement with Mortgagee, in recordable form, whereby the property manager subordinates, to the extent permitted by law, its present and future lien rights and those of any party claiming by, through or under it, to the lien of this Mortgage. Mortgagor's failure to require the "no lien" provision or the subordination agreement described herein shall constitute an event of default hereunder.

20. If the Mortgagee at any time(s) for any reason shall incur or expend any sums including, without limit, court costs and reasonable attorneys' fees, whether or not in connection with any suit, action or proceeding, to sustain the lien of this Mortgage or its priority, or to protect the value of the mortgaged premises, or to protect or enforce or otherwise administer any of its rights under this Mortgage, or to recover any of the Indebtedness, or for any appraisal, environmental audit, title examination or title insurance policy relating to the mortgaged premises, or otherwise in any way relating to this Mortgage or the Indebtedness including, without limit, sums expended in connection with any suit involving the conduct of the Mortgagor or the Mortgagee with respect to this Mortgage or the Indebtedness, all of these sums on demand be paid by the Mortgagor to the Mortgagee, together with the interest on these sums at the highest rate charged by the Mortgagee to the Mortgagor on any of the Indebtedness (but not to exceed the maximum interest rate permitted by applicable law), and shall be a lien on the mortgaged premises and secured by this Mortgage.

21. Mortgagor agrees to indemnify and hold harmless Mortgagee from and against any and all losses, liabilities, suits, obligations, fines, damages, judgments, penalties, claims, charges, costs and expenses (including reasonable attorneys' fees and disbursements) which may be imposed on, incurred or paid by or asserted against Mortgagee by reason or on account of, or in connection with, (i) any willful misconduct of Mortgagor or any event of default hereunder or under the other Loan Documents given at any time to secure the payment of the Note secured hereby, (ii) Mortgagee's good faith and commercially reasonable exercise of any of its rights and remedies, or the performance of any of its duties, hereunder or under the other Loan Documents and evidences of Indebtedness to which Mortgagor is a party, (iii) the construction, reconstruction or alteration of the mortgaged premises, (iv) any negligence of Mortgagor, or any negligence or willful misconduct of any lessee of the mortgaged premises, or any of their

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respective agents, contractors, subcontractors, servants, employees, licensees or invitees or (v) any accident, injury, death or damage to any person or property occurring in, on or about the mortgaged premises or any street, drive, sidewalk, curb or passageway adjacent thereto. All of these sums shall on demand be paid by the Mortgagor to the Mortgagee, together with the interest on these sums at the highest rate charged by the Mortgagee to the Mortgagor on any of the Indebtedness (but not to exceed the maximum interest rate permitted by applicable law), and shall be a lien on the mortgaged premises and secured by this Mortgage. The provisions of this paragraph 21 shall be in addition to any and all obligations and liabilities the Mortgagor may have to the Mortgagee at common law or pursuant to any other agreement between the parties, and shall survive (i) the repayment of all sums due under any note or other Loan Documents executed in connection with this Mortgage and the repayment of all Indebtedness, (ii) the satisfaction of all other obligations of the Mortgagor under this Mortgage and under the other Loan Documents and evidences of Indebtedness, (iii) the discharge of this Mortgage, and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure.

22. Acceleration of the Indebtedness as provided in this Mortgage shall trigger any applicable prepayment premium or formula. Without limiting when a prepayment premium may be due, it is agreed that at any time after acceleration a tender of payment of the amount necessary to satisfy the entire Indebtedness by the Mortgagor, or by anyone on behalf of the Mortgagor or otherwise, must include any applicable prepayment premium or formula.

23. Immediately upon the occurrence of any event of default, the Mortgagee shall have the option, in addition to and not in substitution for all other rights and remedies provided in this Mortgage or other agreement by law, and is authorized by the Mortgagor, to do any or all of the following:

(a) Declare the entire unpaid amount of the Indebtedness, together with accrued and unpaid interest on it and any applicable prepayment premium or formula, and any and all other charges payable by the Mortgagor to the Mortgagee to be immediately due and payable and, at the Mortgagee's opinion, (i) to bring suit for the same, (ii) to bring suit for any delinquent payment of or upon the Indebtedness, (iii) to take any and all steps and institute any and all other proceedings that the Mortgagee deems necessary to enforce payment of the Indebtedness and performance of other obligations secured under this Mortgage and to protect the lien of this Mortgage.

(b) Commence foreclosure proceedings against the mortgaged premises through judicial proceedings, pursuant to applicable law. The commencement by the Mortgagee of foreclosure proceedings shall be deemed an exercise by the Mortgagee of its option to accelerate the Indebtedness, unless such proceedings on their face specifically indicate otherwise. The Mortgagor grants power to the Mortgagee to sell the mortgaged premises or to cause the same to be sold at public sale, and to convey the same to the purchaser, in accordance with applicable statutes in a single parcel or in several parcels at the option of the Mortgagee.

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(c) Cause to be updated an abstract or abstracts and tax histories of the mortgaged premises, procure title insurance or title reports and procure new abstracts and tax histories.

(d) Obtain a receiver to manage the mortgaged premises and collect the rents, profits and income from it.

(e) Enter upon the mortgaged premises and take other actions as the Mortgagee deems appropriate to investigate or test for the presence of any Hazardous Materials and/or to appraise the mortgaged premises. Without limiting what other rights and remedies of the Mortgagee are specifically enforceable, the Mortgagor agrees that the Mortgagee's rights under this paragraph 23(e) are specifically enforceable since there is no adequate monetary remedy available to the Mortgagee.

(f) Contest the amount or validity of any taxes applicable to the mortgaged premises by appropriate proceedings either in the Mortgagee's name, the Mortgagor's name or jointly with the Mortgagor. The Mortgagor shall execute and deliver to the Mortgagee, upon demand, whatever documents and information the Mortgagee determines may be necessary or proper to so contest the taxes or to secure payment of any resulting refund. The Mortgagor shall reimburse the Mortgagee for all costs and expenses, including without limit reasonable attorneys' fees, incurred in connection with each tax contest proceeding. All refunds resulting from each tax contest proceeding shall belong to the Mortgagee to be applied against the Indebtedness with the surplus, if any, to be paid to the Mortgagor. The Mortgagee and any of its employees are each irrevocably appointed attorney-in-fact for the Mortgagor and are authorized to execute and deliver in the name of the Mortgagor those documents deemed necessary or proper by the Mortgagee to carry out any tax contest proceeding or receive the resulting refunds, if any.

(g) In the event of any sale of the mortgaged premises by foreclosure, apply the proceeds of any such sale in the following order or such other order as the Mortgagee may elect: to (i) all expenses incurred for the collection of the Indebtedness and the foreclosure of this Mortgage including, without limit, reasonable attorneys' fees; (ii) all sums expended or incurred by the Mortgagee directly or indirectly in carrying out terms, covenants and agreements of or under this Mortgage or any related document together with interest as provided in this Mortgage; (iii) all accrued and unpaid interest and late payment charges upon the Indebtedness; (iv) any applicable prepayment premium or formula; (v) the unpaid principal amount of the Indebtedness; and (vi) the surplus, if any, paid to the Mortgagor unless a court of competent jurisdiction decrees otherwise.

24. If any provision of this Mortgage is in conflict with any statute or rule of law or is otherwise unenforceable for any reason, then that provision shall be deemed null and void to the extent of the conflict or unenforceability and shall be deemed severable, but shall not invalidate any other provision of this Mortgage.

25. Mortgagor shall not apply for or avail itself of any appraisal, valuation, stay,

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extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. In the event of foreclosure of this Mortgage or the enforcement by the Mortgagee of any other rights and remedies under this Mortgage, the Mortgagor waives any right otherwise available in respect to marshaling of assets which secure the Indebtedness or to require the Mortgagee to pursue its remedies against any other assets or any other party which may be liable for any of the Indebtedness. In the event of any foreclosure or other sale under this Mortgage by virtue of judicial proceedings, advertisement, or otherwise, the mortgaged premises may be sold in one parcel and as an entirety, or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. Mortgagor does hereby expressly waive any and all rights of redemption from any sale or from any order, judgment or decree of foreclosure of this Mortgage on behalf of Mortgagor, and each and every person acquiring any interest in or title to the mortgaged premises subsequent to the date of this Mortgage. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note hereby secured. Mortgagor does hereby further expressly waive, to the extent now or hereafter permitted by law, all rights of reinstatement of this Mortgage pursuant to Section 15-1602 of the Illinois Mortgage Foreclosure Law.

26. Promptly upon the request of the Mortgagee, the Mortgagor shall execute, acknowledge and deliver any and all further conveyances, documents, mortgages and assurances, and do or cause to be done all further acts as the Mortgage may require in its sole discretion to confirm and protect the lien of this Mortgage or otherwise to accomplish the purposes of this Mortgage.

27. If more than one person or party has executed this Mortgage as the mortgagor, the term "Mortgagor" shall include each of the Mortgagors individually and collectively, and all warranties, covenants, rights and powers given to or conferred upon the Mortgagee are made or given jointly and severally.

28. Nothing contained in this Mortgage is intended, nor should it be construed, to preclude the Mortgagee from pursuing any other remedy provided by law for the collection of the Indebtedness or any portion of it, or for the recovery of any other sum to which the Mortgagee may be or become entitled for breach of this Mortgage by the Mortgagor, nor shall anything contained in this Mortgage reduce or release in any manner any rights, security interests or liens in favor of the Mortgagee contained in any existing or future agreement between the Mortgagor and the Mortgagee.

29. Any reference in this Mortgage to attorneys' fees shall be deemed a reference to fees, charges, costs and expenses of both in-house and outside counsel and paralegals, whether or not a suit or proceeding is instituted, and whether incurred at the trial court level, on appeal, in a bankruptcy, administrative or probate proceeding, in a workout, in consultation with counsel, or otherwise. All costs, expenses and fees of any nature for which the Mortgagor is obligated to

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reimburse or indemnify the Mortgagee are part of the Indebtedness secured by this Mortgage and are payable upon demand, unless expressly provided otherwise, with interest until repaid at the highest rate charged by the Mortgagee on any of the Indebtedness (but not to exceed the maximum rate permitted by applicable law).

30. With respect to the right, title, interest or lien of any person or entity which is superior to the lien of this Mortgage, the Mortgagee has the right, but not the obligation, to acquire and/or pay off the holder of such right, title, interest or lien and add the amount so paid to the Indebtedness and charge interest on that amount at the highest rate charged by the Mortgagee to the Mortgagor on any of the Indebtedness (but not to exceed the maximum interest rate permitted under the applicable law).

31. This Mortgage constitutes the entire agreement of the Mortgagor and the Mortgagee with respect to the subject matter of this Mortgage. No waiver, consent, modification or change of the terms of this Mortgage shall bind the Mortgagor or the Mortgagee unless in writing and signed by the party, or an authorized officer of the party, against whom enforcement is sought. Each waiver, consent, modification or change shall be effective only for the specific purpose given.

32. This Mortgage shall be binding on the Mortgagor and the Mortgagee and on the Mortgagor's and the Mortgagee's heirs, legal representatives, successors and assigns including, without limit, any debtor in possession or trustee in bankruptcy for the Mortgagor. This shall not be deemed a consent by the Mortgagee to a conveyance by the Mortgagor of all or part of the mortgaged premises or of any ownership interest in the Mortgagor.

33. The Mortgagor has entered into this Mortgage in good faith for the purposes of inducing the Mortgagee to extend credit or make other financial accommodations to or at the request of the Mortgagor, and the Mortgagor acknowledges that the terms of this Mortgage are reasonable.

34. Upon request by the Mortgagee, the Mortgagor shall promptly provide the Mortgagee with the certificates of occupancy, licenses, rent rolls, income and expense statements and other documents and information pertaining to the mortgaged premises and its operations as the Mortgagee, from time to time, may request. In addition thereto, Mortgagor shall provide within 45 days after the end of each of its fiscal years, a copy of its annual financial statements in a form acceptable to the Bank.

35. At the sole option of the Mortgagee, this Mortgage shall become subordinate, in whole or in part (but not with respect to priority as to insurance proceeds or any eminent domain award) to any or all leases and/or occupancy agreements of all or part of the mortgaged premises upon the execution by the Mortgagee, and recording in the appropriate official county records where the premises are located, of a unilateral declaration to that effect.



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36. Any notices or consents required or permitted by this Agreement shall be in writing and addressed to the address set forth as follows, unless such address is changed by written notice hereunder:

(a) If to Mortgagor:

L & M Properties  
1206 W. Nelson  
Chicago, Illinois 60657

(b) If to Bank:

LaSalle National Bank  
125 South LaSalle Street Suite 540  
Chicago, Illinois 60603  
Attn: Scott Wolfsen

Any notice required or permitted to be given under this Agreement may be given by mail by depositing such notice in the United States mail, certified or registered mail, postage prepaid, or by telecopier or telex, or by person. Notices shall be deemed delivered if delivered in person or, if sent by certified or registered mail, shall be deemed delivered three days after it is deposited in the mails, and if sent by telecopier or telex, shall be deemed delivered one day after it is sent by confirmed transmission.

37. To the extent that any of the Indebtedness is payable upon demand, nothing contained in this Mortgage shall be construed to prevent the Mortgagee from making demand, without notice and with or without reason, for immediate payment of all or any part of that Indebtedness at any time or times, whether or not an event of default has occurred.

38. Mortgagee shall have a right to inspect, audit, appraise and examine the mortgaged premises at all reasonable times and access shall be permitted for that purpose. Any inspection, audit, appraisal or examination by the Mortgagee or its agents of the mortgaged premises is for the sole purpose of protecting the Mortgagee's interests under this Mortgage and is not for the benefit or protection of the Mortgagor or any third party. The Mortgagee has no obligation to provide the Mortgagor or any third party designated by the Mortgagor with information concerning or results of any inspection, audit, appraisal or examination by the Mortgagee or its agents. If the Mortgagee, in its sole discretion, discloses information to the Mortgagor this disclosure is for the sole protection of the Mortgagee, does not constitute an agreement to further disclosure and does not create a warranty by the Mortgagee as to the accuracy, sufficiency or any other aspect of the disclosure.

39. Upon full and final payment of the Indebtedness and performance by the Mortgagor of all its other obligations under this Mortgage, except as otherwise provided in

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paragraphs 14(f), 21 and 40 of this Mortgage, the parties shall automatically each fully, finally and forever release and discharge the other from any claim, liability or obligation in connection with this Mortgage and the Indebtedness. Mortgagee agrees to release the lien of this Mortgage on an individual parcel upon the receipt of payment in a sum equal to the greater of 80% of the net sale proceeds of that individual parcel or 80% of the appraised value of that individual parcel as determined by the appraisal for that individual parcel received by the Mortgagee of even date herewith.

40. Notwithstanding any prior revocation, termination, surrender or discharge of this Mortgage, the effectiveness of this Mortgage shall automatically continue or be reinstated, as the case may be, in the event that (a) any payment received or credit given by the Mortgagee in respect of the Indebtedness is returned, disgorged or rescinded as a preference, impermissible setoff, fraudulent conveyance, diversion of trust funds, or otherwise under any applicable state or federal law, including, without limitation, laws pertaining to bankruptcy or insolvency, in which case this Mortgage shall be enforceable as if the returned, disgorged or rescinded payment or credit had not been received or given, whether or not the Mortgagee relied upon this payment or credit or changed its position as a consequence of it; or (b) any liability is imposed or sought to be imposed, against the Mortgagee relating to the environmental condition of, or the presence of hazardous or toxic substances, on, in or about, any property given as collateral to the Mortgagee for the Indebtedness, whether this condition is known or unknown, now exists or subsequently arises (excluding only conditions which arise after any acquisition by the Mortgagee of any such property, by foreclosure, in lieu of foreclosure or otherwise, to the extent due to the wrongful act or omission of the Mortgagee), in which case this Mortgage shall be enforceable to the extent of all liability, costs and expenses (including without limit reasonable attorneys fees) incurred by the Mortgagee as the direct or indirect result of any environmental condition of hazardous toxic substances. In the event of continuation or reinstatement of this Mortgage, Mortgagor agree(s) upon demand by the Mortgagee to execute and deliver to the Mortgagee those documents which the Mortgagee determines are appropriate to further evidence (in the public records or otherwise) this continuation or reinstatement, although the failure of the Mortgagor to do so shall not affect in any way the reinstatement or continuation. If Mortgagor does not execute and deliver to the Mortgagee upon demand such documents, the Mortgagee and each Mortgagee officer are irrevocably appointed (which appointment is coupled with an interest) the true and lawful attorney of the Mortgagor (with full power of substitution) to execute and deliver such documents in the name and on behalf of the Mortgagor.

41. THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS.

42. MORTGAGOR AND MORTGAGEE EACH WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND IN ANY COURT TO WHICH MORTGAGOR AND MORTGAGEE MAY BOTH BE PARTIES, WHETHER ARISING OUT OF, UNDER, OR BY REASON OF THIS AGREEMENT OR BY REASON OF ANY CAUSE OR DISPUTE WHATSOEVER BETWEEN MORTGAGOR AND MORTGAGEE, AND

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MORTGAGOR CONSENTS TO THE JURISDICTION AND VENUE OF THE CIRCUIT COURT FOR COOK COUNTY ILLINOIS AND THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION AND TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT.

43. In case of an Event of Default and in any case in which under the provisions of this instrument Mortgagee has a right to institute foreclosure proceedings, before or after the whole principal sum secured hereby is declared to be immediately due, or before or after the institution of legal proceedings to foreclose the lien hereof, or before or after sale thereunder, Mortgagee may be appointed Mortgagee in possession and Mortgagor waives any right it may have to object to such appointment. In such event, Mortgagor shall surrender to the Mortgagee and the Mortgagee shall be entitled to take actual possession of the Premises or any part thereof, personally or by its agents or attorneys, together with all documents, books, records, papers and accounts of the Mortgagor, and may exclude the Mortgagor, its agents or servants wholly therefrom and may act as attorney-in-fact or agent of the Mortgagor, or in its own name as the Mortgagee and under the powers herein granted, hold, operate, manage and control the mortgaged premises and conduct the business thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as it may deem proper or necessary to enforce the payment or security of the avails, rents, issues and profits of the mortgaged premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power:

(i) to cancel or terminate any lease or sublease for any cause or on any grounds that would entitle the Mortgagor to cancel the same;

(ii) to elect or disaffirm any lease or sublease which is then subordinate to the lien hereof except to the extent proscribed by any non-disturbance agreement to which the Mortgagee is a party;

(iii) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire or for options to lessees to extend or renew terms to expire beyond the maturity date of the Indebtedness secured hereby and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein shall be binding upon the Mortgagor and all persons whose interests in the mortgaged premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser;

(iv) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the mortgaged premises as to it may seem

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judicious;

(v) to insure and reinsure the same and all risks incidental of the Mortgagee's possession, operation and management thereof; and

(vi) to receive all of such avails, rents, issues and profits hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times, hereafter, without notice to the Mortgagor. The Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. The Mortgagor shall and does hereby agree to indemnify and hold the Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should the Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby and the Mortgagor shall reimburse the Mortgagee therefor immediately upon demand.

44. The Mortgagee, in the exercise of the rights and powers herein conferred upon it shall have full power to use and apply the avails, rents, issues, profits and proceeds of the mortgaged premises in payment of or on account of the following, in such order as the Mortgagee may determine:

(i) to the payment of any Indebtedness hereby secured or any deficiency which may result from any foreclosure sale;

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

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

(iv) to the payment of all repairs decorating, renewals, replacements, alterations, additions, betterments and improvements of the mortgaged premises, and of placing the mortgaged premises in such condition as will, in the judgment of the Mortgagee, make it readily rentable.

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45. Nothing shall be construed as constituting the Mortgagee a mortgagee in possession in the absence of actual taking of possession of the mortgaged premises by the Mortgagee.

46. This instrument is a UCC-2 Financing Statement.

47. The Mortgagor does hereby release and waive all rights under and by virtue of the homestead exemption laws of Illinois and under the provisions of Section 522(d) of the Federal Bankruptcy Code.

48. The Mortgagor has reviewed the areas within its business and operations which could be adversely affected by, and has developed or is developing a program to address on a timely basis, the "Year 2000 Problem" (that is, the risk that computer applications used by the Mortgagor may be unable to recognize and perform properly date-sensitive functions involving certain dates prior to and any date on or after December 31, 1999), and has made related appropriate inquiry of material suppliers and vendors. Based on such review and program, the Mortgagor believes that the "Year 2000 Problem" will not have a Material Adverse Effect on the Mortgagor. From time to time, at the request of the Mortgagee, the Mortgagor shall provide to the Mortgagee such updated information or documentation as is requested regarding the status of its efforts to address the "Year 2000 Problem."

## LAND TRUST MORTGAGOR

This Real Estate Mortgage, Assignment of Rents, Security Agreement, Financing Statement is executed by said Trustees not personally but solely as Trustees as aforesaid in the exercise of the power and authority conferred upon and vested in them as such Trustees (and said Trustees warrant that they possess full power and authority to execute this instrument) and it is expressly understood and agreed that nothing herein or in said Note or Notes shall be construed as creating any liability on the said association, either individually or as Trustee as aforesaid, personally to pay the said Note or Notes or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, either express or implied, herein contained, all such liability, if any, being expressly waived by the Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as said association, either personally or as Trustee aforesaid, or its successors, personally are concerned, the legal holder or holders of said Note or Notes and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby conveyed for the payment thereof, or to the enforcement of the lien hereby created or by action to enforce the personal liability of any Co-maker, Surety or Guarantor of said Note or Notes or to the enforcement of any covenant expressed herein which is joined in by any party in its individual capacity or to the enforcement of the provisions of any other collateral from time to time which secures payment.

**99482853**



# UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned association, not personally but as Trustee as aforesaid, has caused these presents to be signed by its SR. VICE PRESIDENT, and its corporate seal to be affixed by its ~~ASSISTANT SECRETARY~~, this \_\_\_ day of October, 1998.

(SEAL)

LASALLE NATIONAL BANK, AS TRUSTEE  
UNDER TRUST NO. 114323 (AS TO PARCEL 1)  
AND NOT INDIVIDUALLY

ATTEST:

(SEAL)

By: [Signature]  
Its: SR. VICE PRESIDENT

By: Nancy A. Carlin  
Its: ~~ASSISTANT SECRETARY~~

STATE OF ILLINOIS     )  
                                      )  
COUNTY OF COOK     )

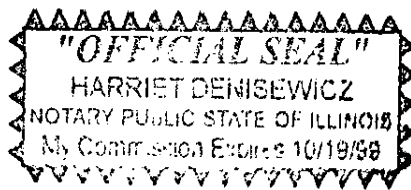
SS.

I, HARRIET DENISE WICZ, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT ~~JOSEPH W. LANG~~ Nancy A. Carlin, personally known to me to be the SR. VICE PRESIDENT of LASALLE NATIONAL BANK, a national banking association, and personally known to me to be the ~~ASSISTANT SECRETARY~~ of said association, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as such officers of the association pursuant to authority given by the association, as their free and voluntary act and as the free and voluntary act of the association, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 23<sup>rd</sup> day of MARCH, 1998.

My commission expires:

[Signature]  
Notary Public



# UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned association, not personally but as Trustee as aforesaid, has caused these presents to be signed by its SR. VICE PRESIDENT, and its corporate seal to be affixed by its ~~ASSISTANT SECRETARY~~, this 23 day of October, 1998.

(SEAL)

LASALLE NATIONAL BANK, AS TRUSTEE  
UNDER TRUST NO. 112518 (AS TO PARCEL 2)  
AND NOT INDIVIDUALLY

ATTEST:

(SEAL)

By: *Joseph W. Lang*  
Its: SR. VICE PRESIDENT

By: *Nancy A. Carlin*  
Its: ASSISTANT SECRETARY

STATE OF ILLINOIS         )  
   )         SS  
COUNTY OF COOK            )

I, Harriet Denisewicz, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Joseph W. Lang, personally known to me to be the Sr Vice President of LASALLE NATIONAL BANK, a national banking association, and personally known to me to be the Nancy A. Carlin, Asst Secretary of said association, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as such officers of the association pursuant to authority given by the association, as their free and voluntary act and as the free and voluntary act of the association, for the uses and purposes therein set forth.

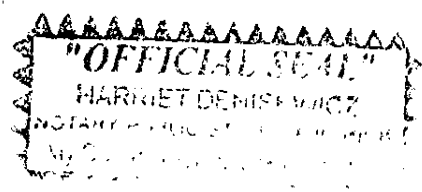
GIVEN under my hand and official seal this 19 day of March, ~~1998~~ 1999

My commission expires:

\_\_\_\_\_

*Harriet Denisewicz*  
Notary Public

**99482853**



# UNOFFICIAL COPY

MORTGAGOR

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed this 23<sup>rd</sup> day of October, 1998.

L & M Properties

Jonathan G. Bunge, Partner

WITNESS:

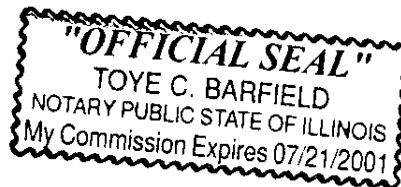
STATE OF ILLINOIS )  
                                      ) SS  
COUNTY OF COOK )

I, Toye C. Barfield, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Jonathan G. Bunge, personally known to me to be one of the Partners of L & M Properties, an Illinois general partnership, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as Partner of said partnership pursuant to authority given by said partnership, as his free and voluntary act and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 23<sup>rd</sup> day of October, 1998.

My commission expires:

7-21-2001

  
Notary Public

99482853

# UNOFFICIAL COPY

## EXHIBIT A

### PARCEL 1:

LOTS 402 IN JOHN P. ALTGELD'S SUBDIVISION OF BLOCKS 1 TO 4, AND 7 IN THE NORTH 1/2 OF BLOCK 6 IN THE SUBDIVISION OF THAT PART LYING IN THE NORTHEASTERLY OF THE CENTER LINE OF LINCOLN AVENUE OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 2:

LOTS 403, 404 AND 405 IN JOHN P. ALTGELD'S SUBDIVISION OF BLOCKS 1 TO 4, AND 7 IN THE NORTH 1/2 OF BLOCK 6 IN THE SUBDIVISION OF THAT PART LYING IN THE NORTHEASTERLY OF THE CENTER LINE OF LINCOLN AVENUE OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

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