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Burke, Warren, Mackay & Serritella, P.C.
22nd Floor, IBM Plaza
330 North Wabash
Chicago, Illinois 60611-3607
Attention: Terry D. Jeffrey



99350364

CONSTRUCTION MORTGAGE, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT

THIS CONSTRUCTION MORTGAGE, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT ("Mortgage") is made April 7, 1999 by AMERICAN NATIONAL BANK & TRUST COMPANY OF CHICAGO, not personally, but as Trustee under a certain Trust Agreement dated June 17, 1998 and known as Trust Number 124218-06 ("Mortgagor"), and granted to PINNACLE BANK a state banking corporation, having its address at 1209 North Milwaukee Avenue, Chicago, Illinois 60622 ("Mortgagee").

RECITALS

WHEREAS, Mortgagor is indebted to Mortgagee in the principal amount of SIX MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS, (\$6,500,000.00) together with interest thereon from and after the date hereof as evidenced by, at the rate and upon the additional terms provided in that certain Note of even date herewith ("Note"), executed by Mortgagor and made payable to the order of and delivered to Mortgagee, and by this reference incorporated herein and as further described in the Construction Loan Agreement also dated of even date herewith ("Loan Agreement") executed in connection with the Note and incorporated herein by reference;

WHEREAS, this Mortgage secures obligations incurred to finance the construction of buildings and other improvements by Mortgagor and constitutes a "construction mortgage" within the meaning of §9-313 of the Uniform Commercial Code of the State of Illinois, the indebtedness evidenced by the Note is to be disbursed from time to time by the Mortgagee to or for the benefit of Mortgagor to the extent provided in and according to the provisions of the Note and the Loan Agreement;

WHEREAS, the parties hereto intend and agree that all advances and Indebtedness (the "Indebtedness") arising from time to time under the Note, the Loan Agreement, this Mortgage and any other documents or instruments given to evidence or secure, or in connection with the extension of such Indebtedness (collectively, the "Loan Documents"), whether or not the total amount of the

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Indebtedness may exceed or be less than the face amount of the Note, shall be Indebtedness of Mortgagor and secured hereby to the same extent as though the Loan Documents were fully incorporated in this Mortgage at this point; and the occurrence of any event of default under any of the Loan Documents shall constitute an event of default under this Mortgage, entitling Mortgagee to all of the rights, powers, elections, options and remedies conferred upon the Mortgagee by the terms of the Loan Documents, this Mortgage, all other security now held by Mortgagee and by law, as in the case of any other default hereunder; and

WHEREAS, as a condition of making the Loan evidenced by the Note, Mortgagee has required that Mortgagor mortgage the "Premises" (as hereinafter defined) to the Mortgagee, and Mortgagor has executed, acknowledged, and delivered this Mortgage to secure the Note, including any extensions, renewals, modifications or replacements thereof, without limit as to number or frequency.

NOW, THEREFORE, in consideration for the sums advanced by Mortgagee to Mortgagor under the Note and to secure the payment of the Indebtedness, the payment and performance of the covenants and agreements contained in this Mortgage, the Note and all other Loan Documents executed pursuant thereto or hereto, and all of which are incorporated herein by reference as if fully written herein, the Mortgagor does, by these presents, grant, transfer, bargain, set over, pledge, convey, and mortgage unto Mortgagee, its successors and assigns forever, the Premises and all of Mortgagor's estate, right, title and interest therein as legally and commonly described on Exhibit "A", attached hereto and by this reference incorporated herein and as further defined and described in the Loan Agreement ("the Land");

Together with: (i) All right, title and interest of Mortgagor, including any after-acquired title or reversion, in and to the beds of the ways, streets, avenues, and alleys adjoining the Land; (ii) All and singular the tenements, hereditaments, easements, appurtenances, passages, liberties, and privileges thereof or in any way now or hereafter appertaining, including homestead and any other claim at law or in equity as well as any after-acquired title, franchise, or license, and the reversion and reversions and remainder and remainders thereof; (iii) All rents, income issues, proceeds, and profits accruing and to accrue from the Premises herein defined; and (iv) All buildings and improvements of every kind and description now or hereafter erected or placed on the Land and all materials intended for construction, reconstruction, alteration, and repairs of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Premises immediately upon the delivery thereof to the Premises, and all fixtures, equipment, materials and other types of personal property (other than that belonging to tenants) used in the ownership and operation of the improvements situated thereon, including but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furniture, furnishings, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Land in any manner with parking

and other related facilities, in possession of Mortgagor and now or hereafter located in, on, or upon, or installed in or affixed to the Real Estate legally described herein, or any improvements or structures used in connection with all accessories and parts now attached to or hereafter, at any time, be placed in or added thereto, and also any and all replacements and proceeds of any such equipment, materials and personal property, together with the proceeds of any of the foregoing; it being mutually agreed, intended, and declared, that all the aforesaid property shall, so far as permitted by law, be deemed to form a part and parcel of the Real Estate and for the purpose of this Mortgage to be Real Estate, and covered by this Mortgage; notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the Real Estate, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Illinois Uniform Commercial Code), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Mortgagee as a secured party and Mortgagor as debtor, all in accordance with said Uniform Commercial Code as more particularly set forth in Paragraph 12 hereof (all of the foregoing including the Real Estate, referred to collectively as the "Premises").

TO HAVE AND TO HOLD, the same unto the Mortgagee and its successors and assigns forever, for the purposes and uses herein set forth.

PROVIDED, HOWEVER, that if the Mortgagor shall pay the principal and all interest as provided by the Note, and shall pay all other Indebtedness provided for, or secured hereby, and shall well and truly keep and perform all of the covenants herein or in the Loan Documents contained, whether or not the amount of Indebtedness, principal, interest, costs, fees and/or expenses exceeds or is less than the face amount of the Note, then this Mortgage shall be released.

To induce the Mortgagee to make the Loan, Mortgagor further agrees, represents and covenants to the Mortgagee as follows:

ARTICLE I

PAYMENT OF PRINCIPAL AND INTEREST

1.01 Promise to Pay. Mortgagor shall pay promptly when due the Indebtedness evidenced by, and at the times and in the manner provided herein and in the Note, the Loan Agreement and the other Loan Documents.

1.02 Specific Obligations With Regard to Construction and Release of Mortgage for Individual Condominium Units. With regard to construction of the single-family condominium units upon the Land and the sale of the individual single family condominium units to third parties, the following conditions shall apply:

a. When construction of an individual condominium unit is completed and Borrower is prepared to close on the sale of said condominium unit to a *bona fide* third party purchaser, Mortgagee shall release said condominium unit from the lien of the Construction Mortgage upon payment from the closing escrow of eighty five percent (85%) of the sales price of

said condominium unit, including all options and upgrades, plus (i) a release fee of One Hundred and 00/100 Dollars (\$100.00) per condominium unit; plus (ii) any fees or expenses unpaid and due to Lender (collectively the "Minimum Payment Amount"), to Mortgagee. In the event the net proceeds of any sale due to Mortgagor pursuant to any closing are less than the Minimum Payment Amount, then Mortgagor shall make up the difference between the Minimum Payment Amount and the net proceeds so that Lender will receive the Minimum Payment Amount for each condominium unit sold until the amount due under the Note is repaid in full.

ARTICLE II

TAXES AND OTHER CHARGES

2.01 Monthly Deposit. Upon an Event of Default and at the request of Mortgagee, Mortgagor shall deposit or cause to be deposited with the Mortgagee each month, on the date when the principal and interest payment under the Note is due, an amount equal to 1/12th of the annual general real estate taxes for the Premises, as reasonably estimated by Mortgagee, so that there shall be on deposit with the Mortgagee, the estimated amount of unpaid general taxes for the Premises for year(s) previous to the year of the month in which the deposit is being made (even though such previous year(s) real estate taxes may not then be in collection); and an amount for the year in which the deposit is being made equal to the monthly deposit amount multiplied by the calendar number (January being number 1) of the month in which the deposit is required to be made. Mortgagor hereby pledges the account required and specified herein to Mortgagee as collateral security for the loan evidenced by the Note and for the payment of real estate taxes on the Premises. Said escrow account shall be maintained on a tax lien (calendar year) basis, regardless of the date on which the taxes are actually due. Mortgagee shall not be obligated to pay interest or earnings of any kind on funds deposited in escrow with it pursuant to the provisions of this paragraph. Mortgagor shall promptly deliver to Mortgagee the real estate tax bill for the Premises upon receipt of same from the applicable governmental agency whereupon Mortgagee will pay the real estate tax bill directly to the county treasurer's office.

2.02 Contest of Validity. Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes or assessments, provided that the following conditions have been satisfied:

- a. that such contest shall have the same effect of preventing the collection of the tax or assessment so contested and the sale or forfeiture of said Premises or any part thereof, or any interest therein, to satisfy the same;
- b. that Mortgagor has notified Mortgagee in writing of the intention of Mortgagor to contest the same, before any tax or assessment has been increased by any interest, penalties, or costs; and
- c. that Mortgagor shall have deposited with Mortgagee at such place as Mortgagee may from time to time in writing appoint, a sum of money, or other security reasonably acceptable to Mortgagee which shall be sufficient in the reasonable judgment of

the Mortgagee to pay in full such contested tax and assessment and all penalties and interest that might become due thereon, and shall at all times upon notice from Bank increase such amount to cover additional penalties and interest whenever, in the reasonable judgment of the Mortgagee, such increase is advisable.

2.03 Payment by Mortgagee. In case the Mortgagor, after demand is made upon it by Mortgagee, shall fail to prosecute such contest with reasonable diligence or shall fail to maintain sufficient funds on deposit as hereinabove provided, the Mortgagee may, in its sole and exclusive discretion and at its sole option, upon notice to Mortgagor, apply the monies and/or liquidate the securities deposited with Mortgagor, in payment of, or on account of, such taxes and assessments, or any portion thereof then unpaid, including the payment of all penalties and interest thereon. The notice required herein to be given is and shall only be a requirement of notice of the occurrence of the application and/or liquidation; and, such application may be simultaneous with the giving of said notice.

2.04 Deficiency. If the amount of money and/or security so deposited shall be insufficient as aforesaid for the payment in full of such taxes and assessments, together with all penalties and interest thereon, the Mortgagor shall forthwith upon demand, either:

- a. deposit with the Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full, or,
- b. in case the Mortgagor shall have applied funds on deposit on account of such taxes, restore said deposit to an amount reasonably satisfactory to Mortgagee.

2.05 Return of Excess. Provided Mortgagor is not then in default hereunder, the Mortgagee shall, upon the final disposition of such contest and upon Mortgagor's delivery to Mortgagee of an official bill for such taxes, apply the money so deposited in full payment of such taxes and assessments or that part thereof then unpaid, together with all penalties and interest due thereon and return on demand the balance of said deposit, if any, to Mortgagor.

ARTICLE III

INSURANCE

3.01 Insurance Coverage. Mortgagor will insure the Premises against such perils and hazards, and in such amounts with such insurance companies acceptable to Mortgagee and with such limits, as Mortgagee may from time to time require, and in any event will continuously maintain the following described policies of insurance (the "Insurance Policies"):

- a. Casualty insurance against loss and damage by all risks of physical loss or damage, including fire, windstorm and other risks covered by the so-called extended coverage endorsement in amounts no less than \$6,500,000.00;
- b. Comprehensive general liability against death, bodily injury and property

damage in an amount not less than \$1,000,000.00, and worker's compensation insurance insuring Mortgagor; and

c. Builder's risk and the types and amounts of coverage as are customarily maintained by owners or operators of like properties.

d. Such Insurance Policies shall name Mortgagee, its successors and assignees as additional insureds and the casualty policy shall name Mortgagee under a standard mortgagee clause.

3.02 Insurance Policies. Mortgagor shall pay promptly, when due, any and all premiums on the Insurance Policies; provided, however, Mortgagee may, but is not required to, make such payments on behalf of Mortgagor in the event Mortgagor fails to pay promptly when due, or in the event Mortgagee determines that Mortgagor may or will not be able to pay promptly, when due, such premiums. All monies paid for such insurance hereunder by Mortgagee shall be deemed, construed and become additional Indebtedness secured hereby, and shall become immediately due and payable by Mortgagor to Mortgagee upon payment or disbursement by Mortgagee without notice and with interest thereon at the Default Interest Rate as that phrase is defined in the Mortgage Note and Loan Agreement. All Insurance Policies shall be in form, and with companies and amounts reasonably satisfactory to Mortgagee and shall: (i) include, when available, non-contributing Mortgagee endorsements in favor of and with loss payable to Mortgagee; (ii) include standard waiver of subrogation endorsements; (iii) provide that the coverage shall not be terminated or materially modified without thirty (30) days' advance written notice to Mortgagee; and, (iv) provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Mortgagee. Mortgagor will deliver all Insurance Policies premium prepaid, to Mortgagee and, will deliver renewal or replacement policies at least thirty (30) days prior to the date of expiration of any policy. The requirements of the preceding sentence shall apply to any separate policies of insurance taken out by Mortgagor concurrent in form or contributing in the event of loss with the Insurance Policies. Insurance Policies maintained by tenants under the Leases may, if in conformity with the requirements of this Mortgage and if approved by Mortgagee, be presented to Mortgagee in satisfaction of Mortgagor's obligation to provide the insurance coverages provided by those Insurance Policies.

3.03 Proceeds of Insurance. Mortgagor will give Mortgagee prompt notice of any loss or damage to the Premises, and:

a. In case of loss or damage of \$100,000.00 or more covered by any of the Insurance Policies, Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) may at its option either (i) jointly settle and adjust any claim under such Insurance Policies with Mortgagor, or (ii) allow Mortgagor to settle and adjust such claim without the consent of Mortgagee; provided that in either case Mortgagee shall, and is hereby authorized to, collect and receipt for such insurance proceeds. The reasonable expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness, and shall be reimbursed to Mortgagee upon demand or may be deducted by Mortgagee from said

insurance proceeds prior to any other application thereof. If, during the joint settlement and adjustment of any claim under the Insurance Policies, Mortgagor and Mortgagee are unable to agree on the amount of the settlement to be paid in connection with the loss or damage covered by the Insurance Policies, the decision of Mortgagee shall control. In case of loss or damage of less than \$100,000.00, Mortgagor is hereby authorized to settle and adjust any claim under such Insurance Policies without the consent of Mortgagee. Each insurance company which has issued an Insurance Policy is hereby authorized and directed to make payment for all losses covered by any Insurance Policy to Mortgagor and Mortgagee jointly.

b. Subject to the terms hereof, Mortgagee shall apply the proceeds of the Insurance Policies to reimburse Mortgagor for, or pay, the costs of restoring or repairing the Improvements after the casualty. At the election of Mortgagor, Mortgagee shall apply the proceeds of the Insurance Policies to reduce the Indebtedness. Any use of proceeds of Insurance Policies applied to the reimbursement of Mortgagor's costs for restoring and repairing the Premises shall be disbursed by Mortgagee subject to the conditions and in accordance with the provisions of Section 3.04 hereof.

c. Any repair or restoration of the Improvements shall be of at least equal value, and of substantially the same character as prior to such casualty, all to be effected in accordance with plans, specifications and procedures approved in advance by Mortgagee.

3.04 Disbursement of Insurance Proceeds. Insurance proceeds held by Mortgagee for restoration or repairing of the Premises shall be disbursed monthly upon Mortgagee being furnished with (i) evidence satisfactory to it of the estimated cost of the restoration or repair, (ii) funds sufficient in addition to the proceeds of insurance, to fully pay for the restoration or repair, and (iii) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and such other evidences of cost payment and performance as Mortgagee may require and approve. No payment made prior to the final completion of the restoration or repair shall exceed ninety percent (90%) of the value of the work performed from time to time, as such value shall be determined by Mortgagee in its sole reasonable judgment; funds other than insurance proceeds shall be disbursed prior to disbursement of such proceeds, except as may otherwise be provided in the Loan Agreement; and at all times the undisbursed balance of such proceeds remaining in the hands of Mortgagee, together with funds deposited or irrevocably committed, to the reasonable satisfaction of Mortgagee, by or on behalf of Mortgagor to pay the cost of such repair or restoration, shall be sufficient in the reasonable judgment of Mortgagee to pay the entire unpaid cost of the restoration or repair, free of all liens or claims for lien. Any surplus remaining out of insurance proceeds held by Mortgagee after payment of such costs of restoration or repair shall be paid to Mortgagor, provided Mortgagor is not in default hereunder. Any proceeds of insurance or other funds of Mortgagor held by Mortgagee pursuant to the terms of this Paragraph 3.04 shall be held in an interest bearing account for the benefit of Mortgagor.

ARTICLE IV

CREATION OF LIENS

4.01 No Additional Liens. Mortgagor shall not create, suffer, or permit to be created or filed against the Premises, any mortgage lien or other lien whether superior or inferior to the lien of this Mortgage without prior written consent of Mortgagee, excepting only the lien of real estate taxes and assessments not yet due.

4.02 Contest of Validity. Notwithstanding the foregoing prohibition against encumbrances, Mortgagor may in good faith and with reasonable diligence contest the validity or amount of any Mechanics' Lien and defer payment and discharge thereof during the pendency of such contest, provided that: (i) such contest shall prevent the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such Mechanics' Lien; (ii) within ten (10) days after Mortgagor has been notified of the filing of such Mechanics' Lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such Mechanics' Lien; and (iii) Mortgagor shall have either obtained a title insurance endorsement over such Mechanic's Lien insuring Mortgagee against loss by reason of the Mechanics' Lien or Mortgagor shall have deposited with Mortgagee at such place as Mortgagee from time to time in writing appoint, and in the absence of such appointment, then at the place of payment designated in the Mortgage Note, a sum of money (the "Deposits") which shall be sufficient in the judgment of Mortgagee to pay in full such Mechanics' Lien and all interest which might become due thereon. Mortgagor shall increase the Deposits whenever, in the judgment of Mortgagee, such increase is advisable. The Deposits are to be held without any allowance of interest. Mortgagee may, at its option, pay the Deposits, or any part thereof, to the Mechanics' Lien claimant if Mortgagor (i) fails to maintain sufficient Deposits; or (ii) fails to act in good faith or with reasonable diligence in contesting the Mechanics' Lien claims. If the Mechanics' Lien contest is resolved in favor of the claimant and Mortgagor is not in default hereunder, Mortgagee shall pay the Deposits, or any part thereof, to the claimant upon Mortgagee's receipt of evidence satisfactory to Mortgagee of the amount to be paid. Mortgagee shall pay any remaining Deposits to Mortgagor, provided Mortgagor is not in default hereunder.

4.03 No Waiver of Rights. Any waiver by Mortgagee of the provisions of this Paragraph shall not be deemed to be a waiver of the right of Mortgagee to insist upon strict compliance with the provisions of this Paragraph in the future.

ARTICLE V

**PRESERVATION AND RESTORATION OF PREMISES
AND COMPLIANCE WITH GOVERNMENTAL REGULATIONS**

5.01 Preservation. Mortgagor shall not permit any building or other improvement on the Premises to be materially altered, removed, or demolished, nor shall any fixture or appliances on, in, or about said buildings or improvements be severed, removed, sold or mortgaged, without the prior written consent of Mortgagee, and in the event of demolition or destruction in whole or in part of any of the fixtures, chattels, or articles of personal property covered hereby or by any separate

security agreement given in conjunction herewith, the same shall be replaced promptly by similar fixtures, and in the same condition to those replaced, free from any security interest in or encumbrances thereon or reservation of title thereto except in favor of Mortgagee, or Permitted Exceptions, subject to conditions hereinafter set forth.

5.02 Maintenance. Mortgagor further agrees to permit, commit, or suffer no waste, impairment, or deterioration of the Premises or any part or improvement thereof; to keep and maintain the Premises and every part thereof in good repair and condition, subject to ordinary wear and tear, to effect such repairs as the Mortgagee may reasonably require, and, from time to time, to make all needful and proper replacements and additions thereto so that said buildings, fixtures, machinery, and appurtenances will, at all times, be in good condition, fit and proper for the respective purpose for which they were originally erected or installed; to comply with all statutes, orders, requirements or decrees relating to said Premises and as provided in any notice given by any federal, state or municipal authority; and to observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning variances, special exceptions, and nonconforming uses), privileges, franchises, and concessions which are applicable to the Premises or which have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the said Premises.

ARTICLE VI

HAZARDOUS MATERIAL REGULATIONS COMPLIANCE

6.01 Mortgagor hereby remakes as a covenant hereunder, the covenants, representations and indemnifications as stated in the Environmental Indemnification Agreement relating to the Premises dated of even date herewith between beneficiary of Mortgagor and Mortgagee.

6.02 The Mortgagor agrees that in the event this Mortgage is foreclosed or the Mortgagor tenders a deed in lieu of foreclosure, the Mortgagor shall deliver the Premises to the Mortgagee free of any and all Hazardous Materials which are then required to be removed (whether over time or immediately) pursuant to applicable federal, state and local laws, ordinances, rules or regulations affecting the Premises.

6.03 Additional Obligation. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Mortgagor may have to the Mortgagee under the Loan Agreement and Loan Documents, or by law, and shall survive: (i) the repayment of all Indebtedness; (ii) the satisfaction of all of the other obligations of the Mortgagor in this Mortgage and under any Loan Document; (iii) the discharge of this Mortgage; and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure. Notwithstanding anything to the contrary contained in this Mortgage, it is the intention of the Mortgagor and the Mortgagee that the indemnity provisions of this paragraph shall only apply to an action commenced against any owner or operator of the Premises in which any interest of the Mortgagee is threatened or any claim is made against the Mortgagee for the payment of money.

ARTICLE VII

EMINENT DOMAIN

7.01 Assignment. So long as any portion of the Indebtedness remains unpaid, any and all awards heretofore or hereafter made or to be made to the present and all subsequent owners of the Premises in excess of \$50,000.00, by any governmental or other lawful authority for taking, by condemnation or eminent domain, of the whole or any part of the Premises or any improvement located thereon, or any easement therein or appurtenant thereto (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof), are hereby assigned by Mortgagor to Mortgagee, to the extent of the unpaid Indebtedness evidenced by the Mortgage Note, which award Mortgagee is hereby authorized to give appropriate receipts and acquittance therefor, and, subject to terms hereinafter set forth, Mortgagor shall apply the proceeds of such award as a credit upon any portion of the Indebtedness secured hereby or, at its option, permit the same to be used to repair and restore the improvements in the same manner as hereinafter set forth with regard to insurance proceeds received subsequent to a fire or other casualty to the Premises.

7.02 Notice. Mortgagor shall give Mortgagee immediate notice of the actual or threatened commencement of any such proceedings under condemnation or eminent domain, affecting all or any part of the said Premises or any easement therein or appurtenance thereof, and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings.

7.03 Further Assignments. Mortgagor shall make, execute, and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards in accordance with and subject to the provisions hereof, and other compensation heretofore and hereafter to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

7.04 Defense. Notwithstanding anything aforesaid to the contrary, Mortgagor shall have the sole authority to conduct the defense of any condemnation or eminent domain proceeding and (so long as the amount of any condemnation or eminent domain award exceeds the unpaid principal balance evidenced by the Mortgage Note) the sole authority to agree to and/or accept the amounts, terms, and conditions of any and all condemnation or eminent domain settlements or awards.

7.05 Absence of Complete Economic Unit. If any portion of or interest in the Premises is taken by condemnation or eminent domain, and the remaining portion of the Premises is not, in the sole judgment of Mortgagee, a complete economic unit having equivalent value to the Premises as it existed prior to the taking, then at the option of Mortgagee, the entire Indebtedness secured hereby and evidenced by the Mortgage Note shall immediately become due and payable.

7.06 Conditions Precedent to Disbursement. In the event that Mortgagee elects to make available to the Mortgagor the proceeds of any award for eminent domain to restore any improvements on the Premises, no disbursement thereof shall occur unless Mortgagor is in

compliance with each of the following conditions: (i) no Event of Default shall then exist under any of the terms, covenants, and conditions of the Mortgage Note, this Mortgage, or any other documents or instruments evidencing or securing the Mortgage Note; (ii) Mortgagee shall first be given satisfactory proof that such improvements have been fully restored or that by the expenditure of such award and any sums deposited with Mortgagee pursuant to the terms hereof, will be fully restored, free and clear of all mechanic's and materialmen's liens, except for liens for which adequate provision is made as required above within six (6) months from the date of such taking; and (iii) in the event such award shall be insufficient to restore the improvements, Mortgagor shall deposit promptly with Mortgagee funds which, together with the award proceeds, would be sufficient to restore the improvements.

7.07 Excess Proceeds. The excess of the proceeds of the award, above the amount necessary to complete such restoration, shall be applied as a credit upon any portion, as selected by Mortgagee, of the indebtedness secured hereby, but the proceeds of the award released by Mortgagee for restoration shall, in no event, be deemed a payment of the Indebtedness secured hereby.

ARTICLE VIII

ACKNOWLEDGMENT OF DEBT AND ESTOPPEL CERTIFICATE

8.01 Acknowledgment of Amount Due. Mortgagor shall furnish to Mortgagee, or any of its successors and/or assigns, from time to time, in a form reasonably required by Mortgagee within thirty (30) days after Mortgagee's request, a written statement and acknowledgment of the amount then due upon the Mortgage Note as of a specified date certain, whether any alleged offsets or defenses then exist against the Indebtedness secured by this Mortgage, and any other matter reasonably requested by Mortgagee.

8.02 Reliance. It is specifically acknowledged and understood by Mortgagor that Mortgagee shall rely on the truth of such statements and acknowledgments.

ARTICLE IX

FINANCIAL BOOKS AND RECORDS

9.01 Maintenance of Records. Mortgagor shall keep and maintain or cause to be kept and maintained full and correct books and records showing in detail all aspects of the Premises and within ten (10) days after demand therefor to permit Mortgagee, during normal business hours, to examine and photocopy such books and records and all supporting vouchers and data, at any time and from time to time, on request at Mortgagor's offices, hereinbefore identified or at such other location as may be mutually agreed upon.

9.02 Financial Statements. Mortgagor shall within one hundred twenty (120) days after and as of the end of each fiscal year, furnish to the Mortgagee a financial statement for such fiscal year, prepared by a certified public accountant, approved by Mortgagee. Mortgagor shall

additionally within thirty (30) days after and as of the end of each quarter of each fiscal year furnish to the Mortgagee an internally prepared financial statement for such quarter.

9.03 [Intentionally Deleted]

9.04 Other Requested Information. Mortgagor shall promptly furnish all other information or books and records Mortgagee reasonably requires.

9.05 Reimbursement of Expenses. In the event Mortgagor fails to comply with any of the above requirements and Mortgagee shall pay expenses in connection with obtaining, from Mortgagor or otherwise, any of said required documents, including payment of reasonable attorney's fees, all such monies paid shall be deemed and construed as additional Indebtedness secured hereby, and shall be due and payable by Mortgagor to Mortgagee upon payment or disbursement by Mortgagee without notice and with interest thereon at the Default Interest Rate as that phrase is defined in the Note.

ARTICLE X

SECURITY AGREEMENT

10.01 Mortgage Deemed Security Agreement. Mortgagor and Mortgagee agree that this Mortgage shall constitute a Security Agreement within the meaning of the Illinois Uniform Commercial Code (hereinafter referred to as the "Code") with respect to (i) all sums at any time on deposit for the benefit of Mortgagee or held by the Mortgagee (whether deposited by or on behalf of the Mortgagor or anyone else) pursuant to any of the provisions of the Mortgage or the Loan Agreement and (ii) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Premises or may not constitute a "fixture" (within the meaning of the Code), (which property is hereafter referred to as "Personal Property") and all replacements of, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as the "Collateral", and that a security interest in and to the Collateral is hereby granted to the Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to the Mortgagee, all to secure payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions, covenants and warranties shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto: (i) Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefiting Mortgagee and no other party, and liens and encumbrances, if any, expressly permitted by the Loan Agreement; (ii) the collateral is to be used by Mortgagor solely for business purposes; (iii) the Collateral will be kept at the Premises, and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code) (The Collateral may be affixed to the Land but will not be affixed to any other real estate); (iv) the only persons having any interest in the Premises are Mortgagor, Mortgagee and holders of interest, if any, expressly permitted by the Loan Agreement; and, no Financing Statement (other than

Financing Statement showing Mortgagee as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted by the Loan Agreement) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and (v) Mortgagor will at its own cost and expense, upon demand, furnish to Mortgagee such further information and will execute and deliver to Mortgagee such financing statements and other documents in form satisfactory to Mortgagee and will do all such acts as Mortgagee may at any time or from time to time request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefiting Mortgagee and no other party and liens and encumbrances (if any) expressly permitted by the Loan Agreement; and Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Mortgagee to be desirable.

10.02 Remedies Upon Default. Upon Default hereunder, Mortgagee shall have the remedies of a secured party under the Code, including without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace), upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. Mortgagee will give Mortgagor at least twenty (20) days notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor hereinafter set forth at least twenty (20) days before the time of the sale or disposition. Mortgagee may buy at any public sale. Mortgagee may buy at any private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Premises. If Mortgagee so elects, the Premises and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorney's fees and legal expenses incurred by Mortgagee, shall be applied against the Indebtedness in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

10.03 Code Applies. The terms and provisions contained in this Article shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

10.04 Intended as Financing Statements. This Mortgage is intended to be a financing statement within the purview of the Code with respect to the Collateral and the goods described

herein, which goods are or may become fixtures relating to the Premises. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are herein. This Mortgage is to be filed for record with the Recorder of Deeds of the County or Counties where the Premises are located.

10.05 Leases. To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between Mortgagor or its agents as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of Mortgagor, as lessor thereunder.

ARTICLE XI

RESTRICTIONS ON TRANSFER

11.01 Restrictions. Until the provisions of this Mortgage, the Loan Agreement and the Loan Documents have been fully satisfied as solely determined by Mortgagee, Mortgagor shall not, without the prior written consent of Mortgagee, effect, suffer or permit any "Prohibited Transfer" as defined in Paragraph 10.01 of the Loan Agreement.

11.02 Non-Application. Provided, however, that the foregoing provisions of this Article shall not apply: (i) to liens of Mortgagee securing the Indebtedness; (ii) to the lien of current taxes and assessments not in default; or (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficiary interests, or shares of stock or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives.

ARTICLE XII

**EXECUTION OF ADDITIONAL SECURITY AGREEMENTS
AND FINANCING STATEMENTS**

12.01 Agreement to Execute. Mortgagor acknowledges and agrees that, within five (5) days after request by mail, shall execute, acknowledge, and deliver to Mortgagee any additional or amended Security Agreements, Financing Statements, or other similar security instruments, in form satisfactory to the Mortgagee, and conforming to the terms hereof covering all property of any kind whatsoever owned by the Mortgagor, which, in the sole opinion of Mortgagee, is essential to the operation of the Premises and concerning which there may be any doubt as to whether the title to same has been conveyed by or a security interest therein perfected by this Mortgage under the laws of the State of Illinois and will further execute, acknowledge, and deliver any financing statement, affidavit, continuation statement or certificate, or other documents as Mortgagee may reasonably request in order to perfect, preserve, maintain, continue and extend the security instrument.

12.02 Reimbursement of Expense. Mortgagor further agrees to pay Mortgagee, on demand, all costs and expenses incurred by Mortgagee in connection with the recording, filing, and refiling of any such document.

ARTICLE XIII

DEFAULT AND FORECLOSURE

13.01 Events of Default and Remedies. The Events of Default stated in Article XI of the Loan Agreement are incorporated herein by reference.

13.02 Acceleration of Maturity Date upon Default and other Bank Remedies. Upon the occurrence of an Event of Default, the entire Indebtedness secured hereby, including, but not limited to, principal and accrued interest shall, at the option of the Mortgagee and with reasonable notice to Mortgagor, become immediately due and payable with interest accruing thereafter on the unpaid principal balance of the Note at the Default Interest Rate, as that phrase is defined in the Note and the Loan Agreement and, thereupon, or at any time after the occurrence of any such Event of Default, the Mortgagee may:

a. proceed to foreclose this Mortgage by judicial proceedings according to the statutes in such case provided, and any failure to exercise said option shall not constitute a waiver of the right to exercise the same at any other time;

b. advance cash, insofar as the Mortgagee deems practicable, to protect its security for payment to such persons or entities and for such purposes as Mortgagee deems necessary or desirable under the circumstances, either out of the proceeds of the Loan, or, if the proceeds of the Loan are wholly disbursed or the remaining undisbursed proceeds are insufficient for such purposes, out of additional funds, and without limitation on the foregoing: (i) to pay any lien; (ii) contest the validity thereof; (iii) pay attorneys', expert's and any other person's reasonable fees, and their expenses in connection with the cure of any Event of Default; (iv) to make or advance, in the place and stead of the Mortgagor, any payment relating to taxes, assessments, water rates, sewer rentals, and other governmental or municipal charges, fines, impositions or liens asserted against the Premises and may do so according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of the bill, statement, or into the validity of any tax, assessment, sale, forfeiture, tax lien, or title or claim thereof, and the Mortgagee if further authorized to make or advance in the place and stead of the Mortgagor any payment relating to any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim or charge; or payment otherwise relating to any other purpose herein and hereby authorized but not enumerated in this Paragraph, and may do so whenever, in its reasonable judgment and discretion, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this instrument, and, provided further, that in connection with any such advance, Mortgagee, in its operation, may, and is hereby authorized to obtain a continuation or report of title or title insurance policy prepared by a title insurance company of Mortgagee's choosing. All such advances and Indebtedness authorized shall be repayable by Mortgagor upon demand with interest at the Default Interest Rate;

c. to prosecute and defend all actions or proceedings in connection with the Premises or the construction of the improvements; and

d. to take such action and require such performance as it deems necessary.

13.03 Expense of Litigation. In any suit to foreclose the lien of this Mortgage or enforce any other remedy of the Mortgagee under this Mortgage, the Note or under the Loan Documents there shall be allowed and included as additional Indebtedness in the judgment or decree, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, survey costs, and cost (which may be estimated as to items to be expended after entry of the decree), of procuring all abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree, the true condition of the title to or value of the Premises. All expenditures and expenses of the nature in this Paragraph mentioned, and such expenses and fees as may be incurred in the protection of said Premises and the maintenance of the lien of this Mortgagee, including the reasonable fees of any attorney relating to this Mortgage, the Note or the Premises, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon at the Default Interest Rate until paid in full.

13.04 Mortgagee's Right of Possession in Case of Event of Default. In any case in which, under the provisions of this Mortgage, or the Loan Documents, the Mortgagee has a right to institute foreclosure proceedings whether or not the entire principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof, or before or after sale thereunder, Mortgagor shall forthwith upon demand of Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to be placed in possession of the Premises as provided by applicable law, and Mortgagee, in its discretion, may enter upon and take and maintain possession of all or any part of said Premises, together with all documents, books, records, papers, and accounts of the Mortgagor or the then owner of the Premises relating thereto, and may exclude the Mortgagor, its agents or servants, wholly therefrom, and may, in its own name as Mortgagee and under the powers herein granted:

a. hold, operate, manage and control the Premises and conduct the business, if any thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues and profits of the Premises including actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, 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;

b. cancel or terminate any lease or sublease or management agreement for any cause or on any ground which would entitle Mortgagor to cancel the same;

c. elect to disaffirm any lease or sublease of all or any part of the Premises made subsequent to the Mortgage without Mortgagee's prior written consent;

d. extend or modify any then existing lease(s) or management agreement(s) and make new leases(s) or management agreement(s), which extensions, modifications, and new lease(s) or management agreement(s) may provide for terms to expire, or for options to extend or renew terms to expire, beyond the maturity date of the Indebtedness hereunder and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such lease(s) and management agreement(s) and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interest in the Premises are subject to the lien hereof and shall also be binding upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge or the mortgage Indebtedness, satisfactory of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser;

e. make all necessary or proper repairs, decorations, renewals, replacements, alterations, additions, betterments, and improvements to the Premises as the Mortgagee may seem judicious, to insure and reinsure the Premises and all risks incidental to Mortgagee's possession, operation and management thereof, and to receive all avails, rents, deposits, issues and profits; and

f. apply the net income, after allowing a reasonable fee for the collection thereof and the management of the Premises, to the payment of taxes, premiums and other charges applicable to the Premises, or in reduction of the Indebtedness under the Note, Loan Agreement and Loan Documents in such order and manner as Mortgagee may select.

13.05 Mortgagee's Determination of Priority of Payments. Any avails, rents, issues, and profits of the Premises received by the Mortgagee after having taken possession of the Premises, or pursuant to any assignment thereof to the Mortgagee under the provisions of this Mortgage, the Loan Documents or any separate security documents or instruments shall be applied in payment of or on account of the following, in such order as the Mortgagee or in case of a receivership as the Court may determine:

a. to the payment of the operation expenses of the Premises, which shall include reasonable compensation to the Mortgagee or the receiver and its agent or agents, if management of the Premises has been 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;

b. to the payment of taxes, special assessments, and water taxes now due or which may hereafter become due on the Premises, or which may become a lien prior to the lien of this Mortgage;

c. to the payment of all repairs and replacements of said Premises and of placing said property in such condition as will, in the judgment of Mortgagee or receiver, make it readily rentable;

d. to the payment of any Indebtedness secured hereby or under the Loan Documents or any deficiency which may result from any foreclosure sale; and

e. any overplus or remaining funds to the Mortgagor, its successors or assigns, as their rights may appear.

13.06 Appointment of Receiver. Upon or at any time after the filing of any complaint to foreclose this Mortgage, the Court may, upon application by Mortgagee and at Mortgagee's sole option, appoint a receiver of the Premises pursuant to applicable law. Such appointment may be made either before or after sale upon appropriate notice as provided by law and without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the Indebtedness secured hereby and without regard to the then value of the Premises, and without bond being required of the applicant. Mortgagee or any employee or agent thereof may be appointed as such receiver. Such receiver shall have the power to take possession, control and care of the Premises and to collect the rents, issues, and profits of the Premises during the pendency of such foreclosure suit, and in case of a sale and a deficiency, during the full statutory period of redemption (provided that the period of redemption has not been waived by the Mortgagor), as well as during any further times when the Mortgagor, its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues, and profits, and for all other powers which may be necessary or are useful in such cases for the protection, possession, control, management, and operation of the Premises during the whole of said period, to extend or modify any then new lease(s) or management agreement(s), and to make new lease(s) or management agreement(s), which extensions, modifications, and new lease(s) or management agreement(s) may provide for terms to expire, or for options to lease(s) to extend or renew terms to expire, beyond the maturity date of the Indebtedness hereunder, its being understood and agreed that any such lease(s) and management agreement(s) and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interest in the 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 mortgage Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser.

13.07 Application of Proceeds of Foreclosure Suit. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority:

a. First, on account of all reasonable costs and expenses incident to and incurred as a result of the foreclosure proceedings;

b. Second, all other items which, under the terms hereof, constitute Indebtedness additional to that evidenced by the Note, with interest thereon at the Default Interest Rate;

c. Third, all interest (calculated at the Default Interest Rate) remaining unpaid on the Note;

d. Fourth, all principal remaining unpaid on the Note;

e. Fifth, any overplus to Mortgagor, its successor or assigns, as their rights may appear.

13.08 Rescission of or Failure to Exercise. The failure of the Mortgagee to exercise the option for acceleration or maturity and/or foreclosure following any Event of Default as aforesaid, or to exercise any other option granted to the Mortgagee hereunder in any one or more instances, or the acceptance by Mortgagee or partial payments hereunder, shall not constitute a waiver of any such Event of Default nor extend or affect any cure period, if any, but such option shall remain continuously in force. Acceleration of maturity, once claimed hereunder by Mortgagee, may, at the option of Mortgagee, be rescinded by written acknowledgment to that effect by the Mortgagee and shall not affect the Mortgagee's right to accelerate the maturity for any future Event of Default.

13.09 Sale of Separate Parcels, Right of Mortgagee to Purchase. In the event of any foreclosure sale of said Premises, the same may be sold in one or more parcels. Mortgagee may be the purchaser at any foreclosure sale of the Premises or any part thereof.

13.10 Insurance During Foreclosure. In the case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any Insurance Policy, if not applied in rebuilding or restoring the Improvements, as aforesaid, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the Court may direct. The foreclosure decree may provide that the Mortgagee's claim attached to each of the casualty Insurance Policies may be canceled and that the decree creditor may cause a new loss clause to be attached to each of said casualty Insurance Policies making the loss thereunder payable to said decree creditors. The foreclosure decree may further provide that in the case of one or more redemptions under said decree, each successive redemption may cause the preceding loss clause attached to each casualty Insurance Policy to be canceled and a new loss payable clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale, Mortgagee may, without the consent of Mortgagor, assign any Insurance Policies to the purchaser at the sale, or take such other steps as Mortgagee may deem advisable to protect the interest of such purchaser.

13.11 Waiver of Right of Redemption and Other Rights. To the full extent permitted by law, Mortgagor agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any Court of competent jurisdiction; or after such sale claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights it may have to require that the Premises be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the

date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and such other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay, or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Mortgage Note. Mortgagor acknowledges that the Premises do not constitute agricultural real estate or residential real estate. The Mortgagor acknowledges that a right to a jury trial is a constitutional one, but that it may be waived. The Mortgagor, after consulting with counsel of choice (or having had the opportunity to consult with counsel), knowingly, voluntarily and without coercion, waives all rights to a trial by jury of all disputes between the Mortgagor and the Mortgagee. The Mortgagee shall not be deemed to have waived any right to a jury trial unless that waiver is expressly made in a written instrument executed by the Mortgagee.

13.12 Mortgagee's Performance of Mortgagor's Obligations. In case of Default, either before or after acceleration of the Indebtedness or the foreclosure of the lien hereof, Mortgagee may, but shall not be required to, make any payment or perform any act herein required of mortgagor (whether or not Mortgagor is personally liable therefor) in any manner deemed expedient to Mortgagee. Mortgagee may, but shall not be required to, furnish and equip the Improvements and rent, operate and manage the Premises and the Improvements and pay operating costs, including management fees, of every kind in connection therewith, so that the Premises shall be usable for their intended purposes. All such monies paid and expenses incurred, including reasonable attorney's fees, shall be so much additional Indebtedness, whether or not the Indebtedness, as a result thereof, shall exceed the face amount of the Note, and shall become immediately due with interest thereon at the Default Interest Rate specified in the Note. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any Default nor shall the provisions of this Paragraph or any exercise by Mortgagee of its right hereunder prevent any default from constituting a Default. Mortgagee is hereby authorized to make any payment:

- a. relating to taxes, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof;
- b. for the purchase, discharge, compromise or settlement of any lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or
- c. in connection with the furnishing or equipping of the Premises or the rental, operation or management of the Premises or the payment of operating costs thereof, may do so in such amounts and to such persons as Mortgagee may deem appropriate. Nothing contained herein shall be construed to require Mortgagee to advance monies for any purpose.

ARTICLE XIV

MISCELLANEOUS

14.01 Rights and Remedies Cumulative. All rights and remedies herein provided are cumulative and the holder of the Mortgage Note secured hereby and of every other obligation secured hereby may recover judgment hereon, issue execution therefor, and resort to every other right or remedy available in law or in equity, without first exhausting and without affecting or impairing the security of any right afforded by this Mortgage.

14.02 Notice. Whenever it is provided herein that notice, demand, request, consent, approval or other communication shall be required or may be given to any party by another party or parties, it shall be in writing and, any law or statute to the contrary notwithstanding, shall be (1) hand delivered; (2) served by Express Mail with overnight delivery; or (3) served by certified mail, return receipt requested, addressed as follows:

If to Mortgagee: Pinnacle Bank
1209 North Milwaukee Avenue
Chicago, Illinois 60622
Attn: James Wasson

With a copy to: Burke, Warren, MacKay & Serritella, P.C.
22nd Floor IBM Plaza
330 N. Wabash
Chicago, Illinois 60611-3607
Attn: Terry D. Jeffrey, Esq.

If to Mortgagor: Optima Wilmette West Limited Partnership
630 Vernon Avenue
Glencoe, Illinois 60022
Attn: David C. Hovey

With a copy to: Altheimer & Gray
10 S. Wacker Drive
Chicago, Illinois 60606
Attn: Alexandra R. Cole

or to such other address as a party may from time to time designate by notice to others, as herein provided. Any notice hereunder shall be deemed to have been given on (1) the date of delivery if hand delivered; (2) the following business day after depositing with Express Mail service; (3) the third business day following the date of postmarking if addressee fails or refuses to receipt for or accept service by certified mail with return receipt requested; or (4) the date of execution of the receipt if by certified mail with return receipt requested. The failure of the addressee to accept any such certified mail shall not constitute a failure to give or receive proper notice.

14.03 Time is of the Essence. It is specifically agreed that time is of the essence of this Mortgage. The waiver of the options or obligations secured hereby or under the Loan Document shall not at any time thereafter be held to be abandonment of such rights. Except as otherwise specifically required, notice of the exercise of any option granted to the Mortgagee herein, or in the Note secured hereby or in the Loan Documents is not required to be given.

14.04 Covenants. All the covenants hereof and herein contained shall run with the land.

14.05 Captions. The captions and headings of various paragraphs are for convenience only, and are not to be construed as defining or limiting in any way the scope or intent of the provisions hereof.

14.06 Option to Subordinate. Only at the sole and exclusive option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any and all leases of all or any part of the Premises only upon the execution by Mortgagee and recording thereof, at any time hereafter, in the office of the Recorder of Deeds of the county wherein the Premises are situated, of a unilateral declaration to that effect.

14.07 Governing Law. The place of negotiation, execution, and delivery of this Mortgage and the location of the Premises being the State of Illinois, this mortgage shall be construed and enforced according to the laws of that State, without reference to the conflicts of law principles of that State. If any provision in this Mortgage shall be inconsistent with an provision of applicable law, the provisions of the law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the law.

14.08 Business Loan. Mortgagor specifically represents that the proceeds of the Note will be used for and the principal obligation secured hereby constitutes a "business loan" coming within the definition and purview of Chapter 815 Illinois Compiled Statutes, paragraph 205/4 (1994) as amended from time to time.

14.09 Non-Agency. Mortgagor acknowledges that the relationship between the parties is that of mortgagor and mortgagee and that in no event shall Mortgagee be deemed to be a partner or joint venturer with Mortgagor. Mortgagee shall not be deemed to be such a partner or joint venturer by reason of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or any other of the Loan Documents.

14.10 Severability. If all or any portion of any provision of this Mortgage or the other Loan Documents shall be held to be invalid, illegal or unenforceable in any respect, the such invalidity, illegality or unenforceability shall not affect any other provision hereof or thereof, and such provision shall be limited and construed in such jurisdiction as if such invalid, illegal or unenforceable provision or portion thereof were not contained herein or therein.

14.11 Binding on Successor and Assigns. Without expanding the liability of any guarantor contained in any instrument of Guaranty executed in connection herewith, this Mortgage and all covenants and provisions hereof shall run with the land and shall extend and be binding upon Mortgagor and all persons claiming under or through Mortgagor. The word "Mortgagee" when used herein, shall include the successors and assigns of the Mortgagee named herein, and the holder or holders, from time to time, of the Note secured hereby. Whenever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall include all genders.

14.12 Consent. Wherever in this Mortgage, the consent of either the Mortgagor or Mortgagee is required, such consent shall not be unreasonably withheld.

14.13 Illegality of Terms. Nothing herein or in the Note contained nor any transaction related thereto shall be construed or shall so operate either presently or prospectively, (i) to require Mortgagor to pay any interest at a rate greater than is now lawful in such case to contract for, but shall require payment of interest only to the extent of such lawful rate; or (ii) to require Mortgagor to make any payment or do any act contrary to law, and if any clause and provision herein contained shall otherwise so operate to invalidate this Mortgage, in whole or in part then such clause or clauses and provisions only shall be held for naught as though not herein contained and the remainder of this Mortgage shall remain operative and in full force and effect, and Mortgagee shall correct any such error within a reasonable time.

14.14 Subrogation. In the event the proceeds of the Loan made by the Mortgagee to the Mortgagor, or any part thereof, or any amount paid out or advanced by the Mortgagee, shall be used directly or indirectly to pay off, discharge, or satisfy, in whole or in part, any prior lien or encumbrance upon the Premises or any part thereof, then the Mortgagee shall be subrogated to such other lien or encumbrance and to any additional security held by the holder thereof and shall have the benefit of the priority of all of same.

14.15 Trustee Exculpation. If the party executing this Mortgage is a Trustee then this Mortgage and each other instrument related hereto and so executed is executed by the Trustee, not personally but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing in this Mortgage and the other Loan Documents shall be construed as creating any Liability on such Trustee personally to perform any express or implied covenant, condition or obligation under this Mortgage and the other Loan Documents, all such liability, if any, being expressly waived by every person or entity now or hereafter claiming any right, title or interest under this Mortgage or the other Loan Documents.

Notwithstanding the foregoing, the Mortgagee shall not be precluded from: (a) recovering any condemnation awards or insurance proceeds attributable to the Mortgaged Property; (b) recovering any tenant security deposits, advance or pre-paid rents; (c) enforcing the personal liability of any Beneficiary who executed the Note and/or the other Loan Documents with respect to the payment of the Note and/or the performance of the other Loan Documents; and/or (d) enforcing the personal liability or any guarantor of the Note and/or the other Loan Documents.

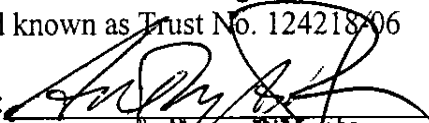
14.16 WAIVER OF JURY TRIAL. THE MORTGAGEE AND THE MORTGAGOR, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED ON OR ARISING OUT OF THIS MORTGAGE OR ANY RELATED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

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

MORTGAGOR:

AMERICAN NATIONAL BANK & TRUST

COMPANY OF CHICAGO, not individually but as Trustee under Trust Agreement dated June 17, 1998 and known as Trust No. 124218706

By: 

Print Name: Anthony DiMonte

Title: Authorized Officer

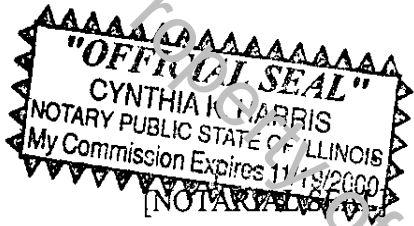
Attest: Attestation not required by American National Bank and Trust Company of Chicago Bylaws

Its: _____

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that ~~Anthony A. DiMonte~~ ^{TRUST OFFICER} Trustee under the AMERICAN NATIONAL BANK & TRUST COMPANY OF CHICAGO Trust Agreement dated June 17, 1998 and known as Trust Number 124218-06, 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 as such ^{TRUST OFFICER} Trustee he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this 6th day of APRIL 1999.



Cynthia K. Harris
Notary Public

My Commission Expires:

JOINDER

The undersigned as Beneficiary of Mortgagor, does hereby affirm, restate and join in all covenants, representations and warranties contained in this Mortgage.

IN WITNESS WHEREOF, the undersigned has executed this Joinder the day and date first above written.

OPTIMA WILMETTE WEST LIMITED PARTNERSHIP, an Illinois limited partnership

By: Optima Wilmette West Development, LLC, General Partner

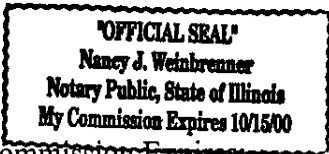
By: *David C. Hovey*
David C. Hovey, Managing Member

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, *Nancy J. Weinbrenner*, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that David C. Hovey, Managing Member of the Optima Wilmette West Development, LLC, the general partner of Optima West Limited Partnership, an Illinois limited partnership who is 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 his own free and voluntary act and as the free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this *5th* day of *April*, 1999.



Nancy J. Weinbrenner
Notary Public

My Commission Expires:
10/15/00

EXHIBIT A
TO
MORTGAGE

LEGAL DESCRIPTION OF MORTGAGED PREMISES

OPTIMA CONSOLIDATION OF LOTS 1 AND 2 IN GOLDBACH'S ADDITION TO GROSS POINT IN THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 1, 1999 AS DOCUMENT 99106029 IN COOK COUNTY, ILLINOIS.

Also described as:

LOTS 1 AND 2 IN GOLDBACH'S ADDITION TO GROSS POINT IN THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 33, TOWNSHIP 42 NORTH, RANGE, 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 18, 1922 IN BOOK 173 OF PLATS PAGE 25 AS DOCUMENT NUMBER 7615477, IN COOK COUNTY, ILLINOIS.

Commonly known as: 1919 Lake Avenue, Wilmette, IL

Permanent Index Numbers: 05-33-102-009-0000
05-33-102-010-0000