

IND.-210

91032359

Chicago Title Inv. Co.
ATTN: D. Laddere
04-53-239

PREPARED BY AND UPON
RECORDING RETURN TO:

Teachers Insurance and Annuity
Association of America
730 Third Avenue
New York, NY 10017
Attention: William H. Goebel, Esq.
Investment Law Department

Asmt # 91032359

STATE OF INDIANA/S.S.N.D.
LAKE COUNTY
FILED FOR RECORD

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ROBERT (BOB) FREELAND
RECORDER

MORTGAGE
AND

SECURITY AGREEMENT

MORTGAGE AND SECURITY AGREEMENT dated the 24th day of June, 1991 by and between GARY JOINT VENTURE an Ohio general partnership with a mailing address at 25425 Center Ridge Road, Cleveland, Ohio 44145-4122 ("Mortgagor"), to TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, a New York corporation with a mailing address at 730 Third Avenue, New York, New York 10017 ("Mortgagee").

WITNESSETH:

THAT whereas Mortgagor is justly indebted to Mortgagee for money borrowed as evidenced by one certain promissory Note of even date herewith (hereinafter called the "Note" or "promissory Note"), the terms of which are incorporated herein by reference, executed and delivered by Mortgagor payable to the order of Mortgagee, at its office at 730 Third Avenue, New York, New York 10017, or at such other place as may be designated in writing by the holder thereof, the principal sum of FIFTY MILLION TWO HUNDRED FORTY-FIVE THOUSAND SEVEN HUNDRED SIXTY-FOUR AND 66/100THS (\$50,245,764.66) DOLLARS, with interest thereon from date, at the rate of NINE AND THREE-FOURTHS (9-3/4%) PER CENT per annum, such principal and interest to be payable in installments as follows:

- (a) On the first day of July, 1991, accrued interest only on the unpaid principal balance of FIFTY MILLION TWO HUNDRED FORTY-FIVE THOUSAND SEVEN HUNDRED SIXTY-FOUR AND 66/100THS (\$50,245,764.66) DOLLARS at the rate of NINE AND THREE-FOURTHS (9-3/4%) PERCENT per annum shall be paid;
- (b) Thereafter on the first day of each of the next succeeding one hundred twenty (120) calendar months immediately following the date thereof to and including the first day of July, 2001, (the "Maturity Date"), installments of principal and interest shall be paid in the amount of FOUR HUNDRED THIRTY-ONE THOUSAND SIX HUNDRED NINETY-

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FOUR AND 86/100THS (\$431,694.86) DOLLARS, each of which installments shall be applied first to interest at the rate of NINE AND THREE-FOURTHS (9 3/4%) PERCENT per annum upon the principal or so much thereof as shall from time to time remain unpaid and the balance thereof shall be applied on account of principal; and

- (c) On the Maturity Date the unpaid principal balance together with accrued interest and all other sums due under the Note or under the Mortgage (hereinafter defined) shall be paid.

And with the privilege of prepayment, if any, as in said promissory Note more particularly set forth.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: that Mortgagor, in consideration of the premises, and for the purpose of securing the payment of the money aforesaid with interest thereon according to the tenor and effect of the said promissory Note, above mentioned, the payment of all other moneys that may become due hereunder, and also to secure the faithful performance and observance of all the terms, covenants, conditions and warranties herein contained, does by these presents, MORTGAGE AND WARRANT unto Mortgagee, all the lands and premises situated and being in the Township of Ross, County of Lake, and State of Indiana, more particularly described on Exhibit "A" attached hereto and forming a part of this Mortgage (the "Land");

TOGETHER with all buildings and improvements of every kind and description that are now or are after the date of this Mortgage erected or placed on the Land (the "Improvements");

TOGETHER with all of Mortgagor's right, title and interest in and to the following property, rights and interests (the Land, the Improvements and such property, rights and interests being collectively called the "Premises"):

- (a) the beds of the ways, roads, streets, avenues, alleys, strips, gaps and gores adjoining the Land including all mineral and water rights and any after-acquired title or therein reversion; and
- (b) all tenements, hereditaments; easements; appurtenances; passages; waters; water rights; water courses; riparian rights and other rights, liberties and privileges of the Land and Improvements or in any way now or after the date of this Mortgage appertaining to the Land and Improvements, including homestead claims and any other claims at law or in equity and also including any after-acquired title, franchise or license and any reversions or remainders in and to the Land and Improvements; and
- (c) all rents, issues, proceeds and profits accruing and to accrue from the Land and Improvements; and
- (d) all materials intended for construction, re-construction, alteration and repairs of the Improvements, such materials to be deemed included in the Land and Improvements immediately upon delivery to the Land; all fixtures and personal property now or after the date of this

Mortgage owned by Mortgagor and attached to or contained in and used in connection with the Land and Improvements, including but not limited to all furniture, furnishings, apparatus, machinery, motors, elevators, fittings, radiators, gas ranges, refrigerators, awnings, shades, screens, blinds, office equipment, carpeting and other furnishings, and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures and appurtenances thereto, and all renewals of replacements of or substitutes for the fixtures and personal property; it being mutually agreed that all the aforesaid property owned by Mortgagor and placed by it on the Premises shall, so far as permitted by law, be deemed to be affixed to the realty and covered by this Mortgage, and as to the balance of the aforesaid property, this Mortgage is hereby deemed to be a Security Agreement for the purpose of creating hereby a security interest in the indebtedness for the benefit of Mortgagee; and

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- (e) all awards and other compensation therefor or hereafter to be made to the present and all subsequent owners of the Premises for the taking by eminent domain, either permanent or temporary, of all or any part of the Premises or any easement or appurtenance thereof, including severance and consequential damage and change in grade of streets, which awards and compensation are hereby assigned to Mortgagee, and Mortgagor hereby appoints Mortgagee its Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such Attorney, at the option of the Attorney, on behalf of Mortgagor, its heirs, personal representatives, successors or assigns to adjust or compromise the claim for any such and to collect and receive the proceeds thereof, to give proper receipts and acquittances therefor and, after deducting expenses of collection, to apply the net proceeds in accordance with the provisions of paragraph 13 of this Mortgage.

TO HAVE AND TO HOLD the SAME unto Mortgagee and its successors and assigns forever.

PROVIDED, HOWEVER, that if Mortgagor shall pay the principal and all interest as provided in the Note and shall pay all other sums hereinafter provided for and shall well and truly keep and perform all of the other covenants herein contained; this Mortgage and the aforesaid Note shall be NULL AND VOID; otherwise, they remain in full force and effect.

AND MORTGAGOR COVENANTS AND WARRANTS:

(i) lawful seisin of an indefeasible estate in fee simple of the Land and Improvements described in Parcel One and good and marketable title to the easements and rights into the remainder of the Premises;

(ii) the Premises are free from all encumbrances and liens whatsoever except for those matters set forth on the title policy issued to Mortgagee insuring the lien of this Mortgage;

(iii) Mortgagor has good and legal right, power and authority to so convey the Premises;

(iv) Mortgagor and its successors in interest will forever WARRANT AND DEFEND the title of the Premises and the lien and priority of this Mortgage against the lawful claims and demands of all persons whomsoever; and

(v) Mortgagor will execute, acknowledge and deliver to Mortgagee any further assurances of the title to the Premises or any part thereof conveyed by this Mortgage and intended to be conveyed, or of the title to any part of the Premises that Mortgagor may be or may become in the future bound to convey to Mortgagee.

All such covenants and warranties run with the Land.

For purposes of this Mortgage and Security Agreement the following definitions apply:

a) This Mortgage and Security Agreement is referred to as "this Mortgage."

b) The outstanding principal indebtedness from time to time under this Note is referred to as the "Principal."

c) The Principal, accrued interest thereon from time to time and all other sums which may from time to time be due under the Note or this Mortgage is referred to collectively as the "Indebtedness."

d) The Note, the Mortgage and any other documents evidencing or securing the Indebtedness are sometimes referred to as the "Loan Documents."

e) "Fixed interest" is the fixed interest rate from time to time specified in the Note.

f) "Contingent interest," if any, is the contingent interest from time to time provided for in the Note.

g) References in the Loan Documents to "interest" include both fixed interest, contingent interest, if any, and interest that is payable at the "Default Rate" (as such term is defined in paragraph 12 hereof) unless expressly stated otherwise.

h) References to the terms "Consolidated Indebtedness," "Consolidated Note Agreement," and "Consolidated Mortgages" are to the indebtedness, Consolidated Note Agreement and Consolidated Mortgages described in Paragraph 52 hereof and are not meant to refer to terms "Indebtedness," "Note," or "Mortgage" described above.

MORTGAGOR HEREBY FURTHER COVENANTS AS FOLLOWS:

1. Mortgagor will pay promptly the Principal and interest thereon at the times and in the manner provided in this Mortgage and in the Note.

2. In order to more fully protect the security of this Mortgage until the Note is paid, Mortgagor will pay monthly to Mortgagee, concurrently with the payment of the monthly installments of Principal and/or fixed interest payable under the terms of the Note, the following sums (referred to collectively as the "Accumulations"):

(a) If applicable, a sum equal to the rental, additional rental and other similar sums due and payable under the terms of any ground lease constituting any part of the Premises, less all sums already paid for such rentals, divided by the number of months to elapse before one month prior to the date when such amounts are due and payable; and

(b) A sum equal to all taxes, assessments, water rates, sewer rentals and all other governmental, municipal or public dues, charges or impositions (collectively, the "Taxes") next due on the Premises (all as Mortgagee estimates) plus the premiums that will next become due and payable on policies of fire, rental value and other insurance covering the Premises and required under the terms hereof, less all sums already paid for such Taxes and premiums, divided by the number of months to elapse before one month prior to the date when the Taxes and premiums are due and payable.

Mortgagee is not obligated to hold nor will it hold the Accumulations in trust. The Accumulations held by Mortgagee will not accrue interest nor will Mortgagee be obligated to pay any interest or other return on the Accumulations. Mortgagor, to the extent permitted by law, waives any and all right to demand, receive or collect any interest on the Accumulations. The Accumulations will be added together with the monthly installments of Principal and/or interest payable under the Note and Mortgagor will pay the aggregate amount each month in a single payment to be applied by Mortgagee to the following items in the order set forth: (i) ground rents, Taxes, fire, rental value and other insurance premiums; (ii) interest on the Principal; and (iii) amortization, if any, of the Principal as provided in the Note. Mortgagor will furnish Mortgagee with such information as Mortgagee may require in order to cause the payments referred to in clause (i) above to be made in the proper fashion.

Mortgagee has the right to make any payment of Taxes notwithstanding that Mortgagor is then protesting or contesting the Taxes or some part of the Taxes, unless Mortgagor gives Mortgagee written notice of the protest or contest not less than forty-five (45) days before the date such Taxes become due and payable. In that event, either Mortgagee will make the payment under protest in the manner prescribed by law or Mortgagee will withhold the payment, but only if the protest or contest precludes enforcement of collection, imposition of criminal penalties and sale or forfeiture of the Premises in satisfaction of the protested or contested Taxes. If the protest or contest could result in penalty or other charges, Mortgagor will also deposit monthly the pro-rata amount of the penalty or additional charge.

Any excess Accumulations remaining after payment of the items for which the Accumulations were collected will be credited to the subsequent monthly payments of the same nature. If any item for which Accumulations are collected exceeds the estimate for such item, Mortgagor will immediately, upon demand, make good the deficiency. If the Premises are sold under foreclosure or are otherwise acquired by Mortgagee after default, any remaining balance of the Accumulations will be credited to the Principal as of the date of the commencement of foreclosure proceedings or as of the date title to the Premises is otherwise acquired.

If the Premises are sold or conveyed, Mortgagor's right, title and interest to the Accumulations will automatically, and without necessity of further assignments, be held for the account of the new owner, subject in all events, to the provisions of this Paragraph 2.

3. Mortgagor will keep the Premises free from all statutory liens and from all other liens of every kind (except for those liens shown on the title policy(ies) issued to Mortgagee to which this Mortgage is subject and to which liens Mortgagor will at all times keep such liens current, will preserve and protect this Mortgage from being lost or forfeited, and will prevent the Premises from being sold to satisfy such liens). Except when payment has previously been made under Paragraph 2 of this Mortgage, Mortgagor will pay all Taxes levied against the Premises before delinquency and before any penalty for non-payment attaches. Not less than ten (10) days before the Taxes would become delinquent or a penalty attach, Mortgagor will deliver to Mortgagee receipted bills evidencing payment. If Mortgagor desires to protest or contest payment of any of the Taxes, either Mortgagor will make the payment under protest in the manner prescribed by law or Mortgagor will withhold the payment, but only if the protest or contest precludes enforcement of collection, imposition of criminal penalties and sale or forfeiture of the Premises in satisfaction of the protested or contested Taxes. If after the date of this Mortgage, an Indiana state law is passed that imposes a tax on any lien on the Land, or changes in any way the laws on the taxation of mortgages or debts secured by mortgage for state or local purposes, or which changes the manner of collecting the Taxes so as to impose a tax on the Mortgage or Mortgagee or so as otherwise to affect this Mortgage, then in any such event, at Mortgagee's option, the Indebtedness will become immediately due and payable (without prepayment premium of any kind) upon thirty (30) days' notice. However, Mortgagee's option and right will be unavailing and the Loan Documents will remain in effect if Mortgagor lawfully may pay, and does pay when payable, all such taxes, assessments and charges, including interest and penalties thereon, to or for Mortgagee.

If any assessment has been or is made payable in installments at the application of Mortgagee or any lessee of all or any portion of the Premises, Mortgagor will nevertheless pay the assessment in its entirety on the day the first installment becomes due or payable or a lien.

4. Mortgagor will keep the Improvements insured against loss or damage by, fire and other hazards, casualties and contingencies (including, but not limited to war risk insurance, if available, and earthquake insurance) and against rent abatement resulting from the same. The insurance will be of such types, in such amounts (but never less than the full replacement cost) and for such periods as Mortgagee requires. Mortgagor will pay promptly when due any premiums on such insurance. All required insurance will be carried in companies approved by Mortgagee. The policies and renewals thereof will be in form satisfactory to Mortgagee and will be delivered to Mortgagee marked "Paid" at least ten (10) days before the expiration of the old policies and will provide for Mortgagee to receive written notice twenty (20) days prior to cancellation. All policies and renewals will have attached to them in form satisfactory to Mortgagee the standard non-contributing mortgagee clause (in favor of and entitling Mortgagee to collect any and all proceeds payable under such insurance), and the standard waiver of subrogation endorsement. Mortgagor will not carry separate insurance, concurrent in kind or form and contributing, in the event of loss, with any insurance required under this Mortgage. If the ownership or occupancy of the Premises changes, Mortgagor will give immediate written notice to all insurers. If this Mortgage is foreclosed or the Premises

are otherwise transferred in extinguishment of the Indebtedness, all of Mortgagor's right, title and interest in any insurance policies then in force will pass to the purchaser or Mortgagee.

If there is a loss, Mortgagor will give immediate notice to Mortgagee. Mortgagor hereby authorizes Mortgagee, at Mortgagee's option, to collect, adjust and compromise any losses under any of the insurance referred to in this paragraph. In all instances, the proceeds will be paid to Mortgagee and after deducting collection costs, Mortgagee may in its sole discretion select one of the following options: (a) Apply (without payment of a prepayment premium of any kind) the proceeds as a credit upon any portion, as selected by Mortgagee, of the Indebtedness, or (b) Apply the proceeds to restore the Improvements, in which event Mortgagee will not be obligated to see to the proper application of the proceeds nor will the amount so released or used be deemed a payment on the Indebtedness, or (c) Deliver the proceeds to the owner of the Premises. Mortgagee may commingle insurance proceeds with its general assets and will not be liable for the payment of any interest or other return on the proceeds held by it.

If there is a casualty, loss or damage to the Improvements, provided Mortgagor is provided with the insurance proceeds, Mortgagor will, at its own expense, promptly restore the Premises to the condition existing immediately prior to the casualty.

Notwithstanding the foregoing, if there is a casualty, loss or damage to the Improvements, Mortgagee will make the proceeds received under any of the insurance policies insuring the Premises available for restoration of the affected Improvements, subject to the following conditions: (a) Mortgagor is not then in default under any of the terms, covenants and conditions of the Loan Documents; (b) the hereinafter described Operating Agreement and all then existing leases affected in any way by such damage or destruction will continue in full force and effect; (c) Mortgagee will first receive satisfactory proof that the Improvements have been fully restored or that by the expenditure of the proceeds will be fully restored, free and clear of all liens, except for the lien of this Mortgage and the Consolidated Mortgages referred to in Paragraph 52 to which this Mortgage is subject; (d) if the proceeds are insufficient to restore or rebuild the Improvements, Mortgagor will deposit promptly with Mortgagee funds which, together with the proceeds, will be sufficient to restore and rebuild the Improvements; (e) if Mortgagor fails to restore the Improvements within a reasonable time, (subject to delays beyond its control) then Mortgagee, at its option, may restore the Improvements on Mortgagor's behalf and for such purpose may do all necessary acts; (f) any insurer claiming that no liability exists as to the Mortgagor or the then owner or the assured under the insurance policies must issue satisfactory waivers of its rights of subrogation; (g) the excess of the proceeds above the amount necessary to complete restoration will be applied as a credit upon any portion of the Indebtedness Mortgagee selects; and (h) the projected aggregate minimum monthly rentals payable after completion restoration under all leases of the Premises will not be less than the sum of 1/12th of the annual ground rental, if any, 1/12th of the Taxes, 1/12th of the annual premiums for insurance required hereunder, 1/12th of the operating expenses and the monthly installment payments of interest and/or principal required under the Note and the Consolidated Note Agreement referred to in Paragraph 52. Otherwise, if less than such sum, then enough of the proceeds will first be applied upon the principal so that the monthly installment payments of Principal and/or interest on the Note and the Consolidated Note Agreement (calculated on the basis of 10.31% per annum) are sufficiently reduced so that the reduced monthly installment payments plus the pro rata amounts of ground rent, taxes and assessments, insurance premiums and operating expenses will not exceed the aggregate minimum monthly rentals. If any of the

conditions to Mortgagee making the proceeds available for restoration are not or cannot be satisfied, then the alternate disposition of the proceeds provided above will again become applicable. Under no circumstances will Mortgagee become personally liable for the fulfillment of the terms, covenants and conditions contained in the Operating Agreement or in any of the leases or otherwise become obligated to take any action to restore the Improvements.

5. Mortgagor will carry and maintain such liability insurance (including, but not limited to, water damage and so-called assumed and contractual liability coverage) as Mortgagee requires from time to time. Such insurance will be in forms, in amounts and with companies satisfactory to Mortgagee. Certificates of such insurance marked "Paid" will be delivered to Mortgagee at least ten (10) days before expiration of the old policies and will provide for Mortgagee to receive written notice ten (10) days prior to any cancellation.

6. Mortgagor will not alter, remove or demolish any of the Improvements without Mortgagee's prior written consent. Mortgagor will not sever, remove, sell or mortgage any fixtures or personal property (except by replacement with items of equal or greater value) included in the Premises without Mortgagee's prior written consent. Mortgagor will promptly replace any of the fixtures, chattels or personal property included in the Premises that are demolished or destroyed in whole or in part with similar fixtures, chattels and personal property that are at least equal in quality and condition to those replaced, and are free from any security interest, encumbrance or reservation of title other than the lien and charge of this Mortgage. Mortgagor will not permit, commit or suffer waste, impairment or deterioration of the Premises. Mortgagor will keep and maintain the Premises in thorough repair and condition. Mortgagor will effect such repairs as Mortgagee reasonably requires. From time to time Mortgagor will make all replacements necessary to keep the Premises in continuously good condition, fit and proper for the respective purposes for which the Premises were originally erected or installed. Mortgagor will comply with all Environmental Laws (defined below) and with all other Federal, State or Municipal statutes, orders, requirements or decrees relating to the Premises. Mortgagor will 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 non-conforming uses), privileges, franchises and concessions that are applicable to the Premises, or that were granted to the Premises or Mortgagor (or were contracted for by Mortgagor) in connection with any existing or presently contemplated use of the Premises. Mortgagor will permit Mortgagee or its agents to enter and inspect the Premises at any reasonable time.

Mortgagee has the right, at any time and from time to time, to engage an independent engineer or other qualified expert to survey the adequacy of the maintenance of the Premises. If the maintenance is found inadequate, the engineer or other expert will determine the estimated cost of the repairs and replacements necessary to protect and preserve the rentability and useability of the Premises and the security of this Mortgage will be deemed impaired to the extent of the estimated cost of such repairs and replacements. At Mortgagee's option and within sixty (60) days after written demand, a sum equal to the amount of the estimated cost of repairs and replacements will become due and payable by Mortgagor to be applied upon the Indebtedness unless within the 60-day period Mortgagor, at its own cost and expense, completes or commences and thereafter, with diligence, completes the requisite repairs and replacements. Mortgagor will reimburse Mortgagee the cost of the survey, that amount being secured by this Mortgage, unless the survey determines the maintenance to be adequate, in which case Mortgagee will pay the cost of the survey.

7. Mortgagor will not voluntarily create or permit any mortgage lien or other lien or liens inferior or superior to the lien of this Mortgage to be created or filed against the Premises except for the Consolidated Mortgages. Mortgagor will keep the Premises free from the claims of all persons supplying labor or materials in the construction, reconstruction or repair of the Improvements, regardless of whether Mortgagor or another person or entity contracted for such labor or materials. Notwithstanding the foregoing, if any mechanic's or materialmen's claim or lien or any other involuntary lien is filed against the Premises, Mortgagor will have thirty (30) days from the date of filing to discharge the claim or lien of record by payment, deposit in court or bond.

8. Mortgagor understands that in making the loan evidenced by the Note, Mortgagee is relying to a material extent upon the business expertise and net worth of Mortgagor or the partners or principals of Mortgagor and upon the continuing interest which Mortgagor and the partners or principals of Mortgagor have in the Premises. Accordingly, neither Mortgagor nor any of the Mortgagor's general partners will, directly or indirectly, voluntarily or involuntarily, (i) sell, assign, transfer or dispose of all or any portion of or any interest in the Premises; or (ii) encumber or suffer to exist any lien against all or any portion of or any interest in the Premises except for the lien of the Mortgage and the lien of the Consolidated Mortgages; and (iii) permit any direct or indirect change in ownership of Mortgagor.

Mortgagor represents that as of the date of this Mortgage it is an Ohio general partnership whose sole general partners are: Richard E. Jacobs, David H. Jacobs, Dominic A. Visconsi, R. F. Coffin, Edward H. Crane and various trusts established for the benefits of the Jacobs' families.

Notwithstanding the prohibition on transfers set forth above, provided there is no default under the Loan Documents, then Mortgagee will permit the following transfers of ownership:

- (a) Internal transfers between the general partners in Gary Joint Venture, or to any corporation, trust, partnership or other entity in which any of the general partners of Gary Joint Venture hold a fifty-one (51%) percent interest, provided that the shares of any such trust, partnership or any other entity, as the case may be, will be subject to the same restrictions on transfer as are set forth above;
- (b) Transfers of an ownership interest in Gary Joint Venture to any adult "member of the immediate family" of a general partner of Gary Joint Venture or in trust for the benefit of any "member of the immediate family" of a general partner of Gary Joint Venture. As used herein the phrase "member of the immediate family" means any parent or ancestor of a parent, a spouse, any descendants (including any legally adopted children), any spouse of any such descendant, any brothers and sisters and any descendants of any such brothers and sisters;
- (c) Transfers of a total of not more than 10% of the partnership interests in Gary Joint Venture to such persons as are associated in the shopping center business as employees of Jacobs, Visconsi & Jacobs Co. ("JVJ") or affiliates of JVJ (such persons become minority partners upon transfer of the

partnership interests to them);

- (d) Sale of the interest(s) of a general partner of Gary Joint Venture to an unaffiliated bona fide third party partner, provided (I) Richard Jacobs, David Jacobs and/or permitted transferees under subparagraph (b) above maintain a combined ownership interest of a minimum of thirty-three and a third (33-1/3%) percent and remain as the managing general partners of Gary Joint Venture and (II) Center Ridge Co. or a similar management company affiliated with Jacobs, Visconsi & Jacobs Co., or another manager acceptable to Mortgagee in its sole discretion, remains as manager of the Premises;
- (e) Subject to the terms of the Right of First Refusal in favor of Mortgagee hereinafter described in paragraph 9 hereof, a single outright sale ("Outright Sale") of the Premises (subject to the lien of this Mortgage and the Consolidated Mortgages referred to in Paragraph 52 hereof) to an unaffiliated bona fide third party buyer which has met the "Suitability Standards" set forth below.

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Suitability Standards
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The Suitability Standards referenced above will be met provided Mortgagee has determined that the entity (I) has a net worth of at least ten million (\$10,000,000) Dollars, (II) is a responsible developer or manager of regional shopping centers engaged in the business of operating enclosed mall shopping centers containing a total of not less than five million square feet of gross leasable area or is an "Institutional Investor" (for the purposes of this paragraph, an "Institutional Investor" means any commercial bank, charitable foundation, insurance company, real estate investment trust, pension fund or investment adviser registered under the Investment Advisers Act of 1940, as amended, and acting as trustee or agent) and (III) has expressly assumed the obligations of developer under the Operating Agreement, if required under the terms of the Operating Agreement (as hereinafter defined), and the obligations of landlord under all leases of space of the Premises.

Mortgagor will give Mortgagee written notice of any transfer of the Premises or of the partnership interests made pursuant to the above within ten (10) days thereof, such notice to contain the salient elements of such transfer and shall confirm compliance with the requirements set forth in this paragraph 8. In addition, with respect to an Outright Sale to be made pursuant to clause (e) of this paragraph 8, Mortgagee will receive written notice not less than thirty (30) days prior to the date of the proposed transfer, which notice will specify that Mortgagee has a "Right of First Refusal" (as such term is hereinafter defined in paragraph 9 hereof) to purchase the Premises on the terms and conditions contained in a proposed contract of sale, the final form of which as agreed to by the proposed purchaser shall be attached to the notice. Such notice will contain the proposed date of transfer and the name, net worth, background and address of the transferee and such other information as is reasonably necessary for Mortgagee to determine compliance with the Suitability Standards and all other applicable requirements set forth above.

9. As a condition precedent to an Outright Sale to

be made pursuant to paragraph 8(e) of this Mortgage, Mortgagor must first give to Mortgagee the right (the "Right of First Refusal") to purchase the Premises on the same terms and conditions as are set forth in the proposed form of contract of sale to be submitted to Mortgagee pursuant to paragraph 8 hereof and Mortgagee shall have declined to exercise such right either in writing or by the failure to send written notice to Mortgagor of its exercising such right within the thirty (30) day period set forth in said paragraph 8. In the event Mortgagee elects to exercise the Right of First Refusal, it shall be evidenced by Mortgagee sending written notice by ordinary mail, overnight courier or telecommunication facsimile to Mortgagor at its address hereinabove first set forth or at such other address to which Mortgagee shall have notice within the said thirty (30) day period, whereupon the Premises shall be conveyed to Mortgagee, or to its designee, within the time frame and on the same terms and conditions as are set forth in the said contract of sale.

10. If the United States Government or any state, county, municipal or other governmental subdivision ever requires internal Revenue or other documentary stamps or payment of any other tax on this Mortgage or on the Note then the Indebtedness will be due and payable at Mortgagee's election upon thirty (30) days written notice of such election to Mortgagor. Mortgagee's election and the right to elect will be unavailing and this Mortgage and the Note will remain in effect, if Mortgagor lawfully may pay for such stamps or tax, including interest and penalties thereon to or for Mortgagee and does in fact pay, when payable, for all such stamps and taxes, including interest and penalties thereon. If Mortgagor is a foreign or domestic corporation or limited partnership, Mortgagor will (i) file any and all corporation or partnership franchise tax reports or any other tax reports or returns within the prescribed time as may be extended from time to time and otherwise will comply with the provisions of any present or future law; and (ii) pay any and all corporation or partnership franchise taxes, or similar taxes when due or payable as provided by any present or future law.

Mortgagor further agrees to deliver to Mortgagee, at any time, upon demand, evidence of citizenship and such other evidence as may be required by any government agency having jurisdiction in order to determine whether the obligation secured by this Mortgage is subject to or exempt from any present or future tax.

11. Mortgagor has made or has caused to be made, or will make or will cause to be made on a timely basis, any reports or returns required under Section 6045(e) of the Internal Revenue Code of 1986 (and any similar reports or returns required by state or local law) relating to the Premises, notwithstanding the fact that the primary reporting responsibility may fall on Mortgagee, Mortgagee's counsel or another party. Mortgagor's obligations under this paragraph will be deemed to be satisfied if proper and timely reports and returns required under this paragraph are filed by a title company or real estate broker involved in the real estate transaction relating to the Premises. Nothing contained in this paragraph will be construed to require Mortgagee or Mortgagee's counsel to file the returns or reports.

12. In any action in which:

- (i) Mortgagee becomes a party by reason of this Mortgage;
- (ii) proof of claim is by law required to be filed; or
- (iii) it becomes necessary to defend or uphold

the terms and conditions of the Mortgage;

Mortgagor will hold Mortgagee harmless from all costs and expenses including without limitation, attorneys' fees, title costs and survey costs. For purposes of the foregoing, "action" includes any suit, proceeding, hearing, motion or application before any court or administrative body including but not limited to condemnation, bankruptcy and administrative proceedings but excludes an action to foreclose or otherwise enforce the Indebtedness. All money paid or expended by Mortgagee in that regard, together with interest thereon from date of such payment at the rate of Twelve and Three-Fourths (12-3/4%) percent per annum (the "Default Rate"), shall be so much an additional indebtedness secured hereby, and shall be immediately and without notice due and payable by Mortgagor.

13. Mortgagor will give Mortgagee immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings ("Condemnation") affecting the Premises, including proceedings for severance and consequential damages and change in grade of streets. Mortgagor will deliver to Mortgagee copies of any papers served in connection with the condemnation. Mortgagor assigns to Mortgagee all awards and other compensations (including severance and consequential damages) made to Mortgagor for any permanent or temporary taking by condemnation of all or any part of the Premises made to Mortgagor before or after the date of this Mortgage. Mortgagor appoints Mortgagee its Attorney-in-Fact, coupled with an interest and authorizes Mortgagee at Mortgagee's option, to act on Mortgagor's behalf to (i) adjust or compromise the claim for any award; (ii) collect and receive the proceeds of any award, and (iii) give proper receipts and acquittances for the proceeds. After deducting expenses of collection, Mortgagee may apply (but without payment of a prepayment premium of any kind) the net proceeds as a credit upon any portion of the Indebtedness that Mortgagee selects, notwithstanding the fact that the Indebtedness is not then due and payable or that the Indebtedness is otherwise adequately secured. Mortgagee may commingle the proceeds with its general assets and will not be liable for the payment of any interest or other return on the proceeds held by it.

If after a condemnation the Premises can be restored to an architecturally viable unit, provided Mortgagor is provided with the Condemnation proceeds, Mortgagor will, at its own expense, restore the remaining portion of the Premises in a manner satisfactory to Mortgagee.

Notwithstanding the foregoing, if less than the entire Premises is damaged or taken by condemnation, Mortgagee will make available the proceeds of any award received in connection with and in compensation for the damage or taking for the purpose of restoring the Improvements affected thereby, subject to the following conditions: (a) Mortgagor is not then in default under any of the terms, covenants and conditions of this Mortgage or the Note; (b) the Operating Agreement (as such terms is hereinafter defined) and all then existing leases affected in any way by the damage or taking will continue in full force and effect; (c) Mortgagee will first be given satisfactory proof that the Improvements have been restored to an architecturally viable unit or that by the expenditure of the proceeds will be so restored, free and clear of all liens, except for the lien of this Mortgage and the liens of the Consolidated Mortgages described in paragraph 52 to which this Mortgage is subject; (d) if the condemnation proceeds are insufficient to restore the Improvements, Mortgagor will deposit promptly with Mortgagee funds which together with the proceeds will be sufficient to restore the Improvements; (e) if Mortgagor fails to restore the Improvements within a reasonable time (subject to delays beyond its control) Mortgagee, at its option, may restore the Improvements on Mortgagor's behalf and for such purpose may do all necessary acts; (f) the excess of the

proceeds not necessary for completing such restoration shall be applied as provided in the preceding paragraph as a credit upon any portion, as selected by Mortgagee, of the Indebtedness; and (g) after restoration, the projected aggregate monthly rental payable after restoration under all leases of the Premises will not be less than the sum of: 1/12th of the annual ground rent, if any, 1/12th of the annual taxes and assessments, 1/12th of the annual premiums for insurance required hereunder, 1/12th of the operating expenses plus the monthly installments of Principal and/or interest under the Note and the Consolidated Note Agreement referred to in Paragraph 52. Otherwise if less than such sum, then so much of the proceeds will first be applied upon the Principal, so that the monthly installment payments of Principal and/or interest on the Note and the Consolidated Note Agreement (calculated on the basis of 10.31% per annum) are sufficiently reduced so that the sum of the reduced installment payments plus the pro rata amounts of ground rent, taxes and assessments, insurance premiums and operating expenses will not exceed the aggregate monthly minimum rentals. In the event any of the conditions to Mortgagee making such proceeds available for restoration are not or cannot be satisfied, then the alternate disposition of such proceeds as provided above shall again become applicable. Under no circumstances shall Mortgagee become personally liable for the fulfillment of the terms, covenants and conditions contained in the Operating Agreement or in any of the leases of the Premises nor obligated to take any action to restore the Improvements.

At any time upon written request, Mortgagor will deliver to Mortgagee, any further assignments and/or instruments Mortgagee deems necessary to assign validly and sufficiently all awards and other compensation made to Mortgagor (including any award from the United States Government) for any permanent or temporary taking by condemnation made before or after the date of this Mortgage. The assignments and/or instruments will be free, clear and discharged of any encumbrances of any kind whatsoever.

14. Within ten (10) days of a written request, Mortgagor will furnish a duly acknowledged written statement of the amount due upon this Mortgage and whether any offsets or defenses exist against the Indebtedness.

15. If Mortgagee makes any payment or advance that Mortgagee is authorized by this Mortgage to make in the place and stead of Mortgagor (i) relating to the Taxes or tax liens asserted against the Premises, Mortgagee 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 estimate or into the validity of any of the Taxes or the tax liens or claims thereof; (ii) relating to any apparent or threatened adverse title, lien, claim of lien, encumbrance, claim or charge, Mortgagee will be the sole judge of the legality or validity of same; or (iii) relating to any other purpose authorized by this Mortgage but not enumerated in this paragraph, Mortgagee may do so whenever, in its judgment and discretion, the payment or advance seems necessary or desirable to protect the full security intended to be created by this Mortgage. In connection with any payment or advance made pursuant to this paragraph, Mortgagee has the option and is authorized to obtain a continuation report of title prepared by a title insurance company. The cost and expenses of the report will be due and payable by Mortgagor upon demand and will be secured by this Mortgage.

16. Any failure by Mortgagor to make any payment due under any of the Loan Documents on the due date for the payment and any breach of any provision of the Loan Documents will constitute a default under all of the Loan Documents. Additionally, a failure to make any payment when due under the hereinafter described Consolidated Note Agreement or upon the indebtedness consolidated under the Consolidated Note Agreement

becoming due and payable or being prepaid without there being the simultaneous prepayment of the Indebtedness evidenced by the Note secured hereby in accordance with the terms of the Note or upon any breach of any provision of the Mortgage or the other Loan Documents securing the indebtedness consolidated by the Consolidating Note Agreement will likewise constitute a default under all of the Loan Documents. Immediately upon the occurrence of the default and after the expiration of any applicable notice and/or grace periods provided in the Loan Documents or at any time thereafter, the whole Indebtedness shall, at Mortgagee's option, become immediately due and payable (with attorney's fees and without relief from valuation or appraisal laws) as fully and completely as if the Indebtedness were originally stipulated to be paid on that date, notwithstanding that the period provided for the payment of the Indebtedness may not have expired. Thereupon or at any time during the existence of the default, Mortgagee may proceed to foreclose this Mortgage or pursue any other right or remedy provided by the Loan Documents or provided at law or in equity. A breach of any provision of the Loan Documents includes without limitation any misrepresentation or other inaccuracy or falsehood in any of the representations and warranties of the Loan Documents. Any failure to exercise the option contained in this paragraph 16 shall not constitute a waiver of the right to exercise the same at any other time.

17. Notwithstanding any provision in this Mortgage or the Note to the contrary, in the event of a monetary default under this Mortgage or the Note, Mortgagee will be entitled to enforce its remedies only after such default has continued uncorrected for five (5) days after the mailing or other actual communication of notice to Mortgagor, and in the event of any non-monetary default, Mortgagee will be entitled to enforce its remedies only after such default has continued uncorrected for fifteen (15) days after the mailing or other actual communication of notice to Mortgagor, provided, however, that if such non-monetary default is of a character as to require more than fifteen days to cure and Mortgagor, prior to the expiration of such 15-day period commences to cure the default, the 15-day cure period will be extended for a reasonable period necessary to cure such default with due diligence, but in no event for more than one hundred twenty (120) days.

18. Notwithstanding any provision in the Note or in this Mortgage to the contrary, it is expressly understood and agreed that if Mortgagee at any time takes action to enforce collection of the indebtedness or any other sums payable under the Note or this Mortgage, Mortgagee will proceed to foreclose the Mortgage instead of instituting suit upon the Note and if as a result of such foreclosure and sale of the Premises, a lesser sum is realized than the amount then due and owing under the Note or this Mortgage, Mortgagee will never institute any action, suit, claim or demand in law or in equity against Mortgagor or any subsequent owner for or on account of such deficiency. Nothing contained in this paragraph will in any way (a) be deemed to diminish or limit the liability of any indemnitor under any indemnity agreement given to indemnify Mortgagee against any loss incurred by reason of failure to comply with any environmental rules, regulations or statutes, or (b) affect or impair the lien of this Mortgage or any representation or warranty of title to the Premises made by Mortgagor, all of which will remain in full force and inure to the benefit of Mortgagee and to any insurer of the title of the Premises.

19. Upon default by Mortgagor in the performance of any covenants herein provided and whether or not Mortgagee has elected to declare the Indebtedness due and payable and without waiver of any other remedy, Mortgagee may, but need not, perform any of such covenants in any form and manner deemed expedient and may, but need not, make full or partial payment of principal or interest on prior encumbrances, if any, and purchase,

discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or consent to any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees and any other moneys advanced by Mortgagee to protect the mortgaged premises and maintain the lien of this Mortgage will (i) bear interest at the Default Rate; (ii) be due and payable by Mortgagor upon demand; (iii) be a lien upon the Premises prior to any right or title to, interest in or claim on the Premises that attached or accrued subsequent to the lien of this Mortgage; and (iv) be deemed to be secured by this Mortgage.

20. Upon foreclosure of this Mortgage in any court of law or equity, whether or not any order or decree has been entered therein, and to the extent permitted by law, a reasonable sum will be allowed for attorneys' fees of the plaintiff in the proceeding, for stenographers' fees and for all moneys expended for documentary evidence and the cost of a complete abstract of title and title report for the purpose of the foreclosure. Such sum will be secured by this Mortgage.

To the extent permitted by law, the judgment or decree foreclosing this Mortgage will include the following amounts which will be paid out of the rents and revenues of the Premises or the proceeds of any sale made pursuant to the judgement or decree: (1) All costs and expenses of bringing suit, advertising, completing the sale and conveyance, attorneys', solicitors' and stenographers' documentary evidence and examination of title and obtaining title report; (2) all moneys advanced by Mortgagee, if any, for any purpose authorized in this Mortgage, with interest thereon as provided in this Mortgage; (3) all the accrued interest remaining unpaid on the Indebtedness; (4) all unpaid Principal; and (5) any other portion of the Indebtedness not enumerated in the preceding items. The surplus of the proceeds, if any, will be paid to Mortgagor upon request or as the court may direct.

21. Upon default by Mortgagor and following the acceleration of maturity, if Mortgagor or anyone on Mortgagor's behalf makes a tender of payment of the amount necessary to satisfy the Indebtedness at any time prior to foreclosure sale, (including sale under power of sale, if any, hereunder), or during any redemption period after foreclosure, the tender of payment will constitute an evasion of the prepayment privilege, if any, contained in the Note, and will be deemed to be a voluntary prepayment of the Note. Such prepayment, to the extent permitted by law, will therefore include the premium required under the prepayment privilege, if any, contained in the Note or if at that time there is no prepayment privilege, then the prepayment, to the extent permitted by law, will include a premium for the prepayment consisting of the higher amount obtained by:

- (a) computing the premium which would be paid if the twelve month period in which the tender of payment is made were the twelve month period which commenced on August 1, 1996; or
- (b) multiplying the Principal by the product of (i) the amount obtained by subtracting (a) the percent per annum of the Treasury Constant Maturities having a maturity date closest in time to the remaining term of the Note ("Treasury Yield") as such interest rate is reported in The Federal Reserve Statistical Release G13 (415) or its successor publication most recently released prior to the date of tender of

payment, from (b) 9 3/4% (Fixed Rate) and (ii) the number of years and fraction thereof remaining between the date of prepayment and the maturity date of the Note, and then arriving at the present value of such amount by discounting at the then treasury discount rate charged on loans to depository institutions by the New York Federal Reserve Bank.

The Treasury Yield will be established based on the Treasury Constant Maturities for the calendar week containing the date of the fifteenth (15th) day prior to the date of tender of payment. If the Treasury Constant Maturities is not published for the specific length of time corresponding to the remaining term of this Mortgage, the Treasury Yield for such length of time will be a weighted average of the percent per annum of the Treasury Constant Maturities for the two (2) periods for Treasury Constant Maturities most nearly corresponding to the length of the applicable specified period in this Mortgage. If the publishing of the yield of Treasury Constant Maturities is ever discontinued, then the Treasury Yield will mean the index which is published by the Treasury Department in replacement thereof or, if no such replacement index is published, the index which, in the reasonable determination of Mortgagee, most nearly corresponds to the yield of the Treasury Constant Maturities. Mortgagor agrees that it is extremely difficult and impractical to ascertain the extent of Mortgagee's damages caused by such prepayment and that the premium determined as described herein is a reasonable estimate of Mortgagee's damages, and not a penalty.

22. In the event of any sale under this Mortgage, Mortgagee or its successors or assigns may become the purchaser of the Premises or any part thereof.

23. If a receiver has been appointed to collect the rents, issues, and profits of the Premises or if Mortgagee enters the Premises in the exercise of its remedies under this Mortgage and if the Mortgagor is allowed to remain in actual occupancy of the Premises, Mortgagor shall become a tenant-at-will and, unless occupied for dwelling purposes, Mortgagor will thereafter pay to Mortgagee or to any receiver so appointed in advance a reasonable rental for any part of the Premises occupied by Mortgagor. If Mortgagor fails to pay such rental, Mortgagor may be dispossessed by the usual legal proceedings available against any defaulting tenant of real estate. Mortgagee will also have the right to bring any action in Mortgagor's name to dispossess any tenant defaulting in the payment of rent to Mortgagee or violating the terms of its occupancy. Mortgagee's rights and powers under this paragraph are effective and enforceable with or without any action to foreclose this Mortgage and without applying at any time for a receiver for the rents or the Premises.

24. In case of any foreclosure or sale of the Premises, to the extent permitted by law, the Premises may be sold in one or more parcels.

25. Mortgagee's failure in one or more instances to exercise the option for acceleration of maturity and/or foreclosure following a default or to exercise any other of Mortgagee's options, rights or remedies under the Loan Documents will not constitute a waiver of the default or of the future right to exercise such option, right or remedy upon a future default nor extend or affect any grace period but rather such options, rights and remedies will remain continuously in force. Mortgagee's waiver of any option, right or remedy will only be valid if made in writing. Acceleration of maturity, once claimed by Mortgagee under the Mortgage, may be rescinded at Mortgagee's option, by Mortgagee's written acknowledgement to that effect. Neither the tender and acceptance of partial

payments under the Loan Documents nor the collection or application of any rents, income, revenues, receipts, issues or profits will in any way affect or rescind an acceleration of maturity, extend or affect any grace period, or constitute a waiver of any default.

26. The rights and remedies provided in the loan documents are cumulative and Mortgagee may recover judgment on the Indebtedness, issue execution therefor and resort to every other right or remedy available at law or in equity without first exhausting the security or any right or remedy afforded by the loan documents. Enumeration of special rights or powers in the loan documents will not be construed to limit any grant of general rights or powers in the loan documents or deprive or limit Mortgagee of any and all rights granted under the laws of the State of Indiana.

27. Upon default Mortgagee may elect to enter upon and take possession of the premises with the irrevocable consent of the Mortgagor as given and evidenced by the execution of this Mortgage, and as mortgagee in possession, let the Premises and receive all the rents, receipts, income, revenues, issues and profits thereof, which are overdue, due or to become due, and to apply the same, after the payment of all charges and expenses deemed by the Mortgagee to be necessary, on account of the Indebtedness hereby secured.

28. Concurrently with making this Mortgage, Mortgagor transferred and assigned to Mortgagee all of its right, title and interest in and to all leases affecting the Premises, including oil and gas leases, together with any and all further leases affecting the Premises and all of the rents, income, receipts, revenues, issues and profits from or due or arising out of the Premises as further security for the payment of the Indebtedness under provisions of an Assignment of Lessor's Interest in Lease(s) or Assignment of Leases and Rents that will be recorded concurrently with this Mortgage. The terms, covenants and conditions of the Assignment of Lessor's Interest in Lease(s) or Assignment of Leases and Rents are expressly incorporated in and made a part of this Mortgage by reference with the same force and effect as though fully set forth in this Mortgage.

At Mortgagee's option and upon Mortgagee executing and recording a unilateral declaration in the Office of the Recorder in and for the county where the Premises are situated, this Mortgage will become subject and subordinate, in whole or in part (but not in respect to the priority of entitlement to insurance proceeds or awards in condemnation) to the leases affecting the Premises.

Mortgagor will not enter into any lease, sublease, license or other agreement affecting the use, occupancy or utilization of all or any portion of the Premises without Mortgagee's express prior written approval of the lease, sublease, license or other agreement.

Mortgagor will not enter into any lease, sublease, license or other agreement affecting the possession, use, occupancy or utilization of space in the Premises that provides for rental or other payment for the possession, use, occupancy or utilization based in whole or in part on the net income or profits derived by any person from the portion of the Premises leased, used, occupied or utilized (other than an amount based on a fixed percentage or percentages of receipts or sales). Mortgagor will include in each lease, sublease, license or other agreement for the possession, use, occupancy or utilization of space in the Premises a provision that neither the lessee nor any other person having an interest in the possession, use, occupancy or utilization of the Premises will enter into any lease, sublease, license or other agreement for possession, use, occupancy or utilization of space in the Premises which provides

for rental or other payment for such possession, use, occupancy or utilization based in whole or in part on the net income or profits derived by any person from the portion of the Premises leased, used, occupied or utilized (other than an amount based on a fixed percentage or percentages of receipts or sales).

Mortgagor will faithfully perform all of the lessor's covenants under subsisting and future leases affecting the Premises and will use its best efforts to enforce or secure the performance of all of the respective tenants' obligations under the leases.

Mortgagor will not do, or neglect to do, or permit to be done, anything which may cause a material modification of or termination of any lease, or of the obligations of any tenant or any person claiming through the tenant, or which may diminish or impair (i) the value of any lease, (ii) the rents provided for in the lease, or (iii) Mortgagor's interest in the lease. Mortgagor covenants and agrees to pursue diligently the enforcement of the terms of the leases and to enforce the landlord's remedies thereunder following any tenant's default in the performance of its obligations.

Mortgagor will not, without Mortgagee's prior written consent, further assign the leases or the rents, income, receipts, revenues, issues or profits, from the Premises.

Mortgagor will not accept prepayment of rents for more than one month (exclusive of security deposits collected in accordance with the lease provisions) under any lease now or hereafter affecting the Premises. Any purported prepayment made without Mortgagee's prior written consent will be void as against Mortgagee.

Mortgagor will give Mortgagee immediate notice of any notice of default or notice of cancellation received from any tenant.

Mortgagor represents and warrants that all representations made by it in the leases are true.

Mortgagor represents and warrants that except as otherwise disclosed in a certain Certificate of Tenancy dated as of the date hereof, by Mortgagor to Mortgagee (i) all Improvements and space demised and let pursuant to each lease affecting the Premises have been completed to the satisfaction of the tenant; (ii) each tenant has accepted possession of its leased space; (iii) all rents and other charges due and payable under each lease have been paid; (iv) no rents or other charges have been prepaid, except as expressly described under the lease; and (v) there is no existing default or breach of any of tenant's covenants or agreements under such lease.

29. The holder of this Mortgage, in any action to foreclose, shall be entitled to the appointment of a receiver of the rents and profits of the Premises as a matter of right and without notice, with power to collect the rents, issues and profits of said Premises, due and becoming due the pendency of such foreclosure suit as well as during the period of redemption from the sale under such foreclosure, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the Indebtedness secured by this Mortgage without regard to the value of the Premises or the solvency of any person or persons liable for the payment of the Indebtedness, and regardless of whether Mortgagee has an adequate remedy at law. The Mortgagor for itself and any subsequent owner hereby waives any and all defenses to the application for a receiver as above provided and hereby specifically consents to such appointment without notice but nothing herein contained is to be considered to deprive the holder of the Mortgage of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The

provision for the appointment of a receiver of the rents and profits and the assignment of such rents and profits is made an express condition upon which the loan hereby secured is made. The rights and remedies herein provided for shall be deemed to be cumulative and in addition to, and not in limitation of, those provided by law.

30. If the Principal or any part of it or any other amount paid out or advanced by Mortgagee is used directly or indirectly to pay off, discharge, or satisfy, in whole or in part, any prior lien or encumbrance affecting the Premises, then Mortgagee will be subrogated to the prior lien or encumbrance and to any additional security held by the holder of the prior lien or encumbrance.

31. If all or any part of the Premises is sold or transferred by operation of law or otherwise, Mortgagee is authorized and empowered to deal with the vendee or transferee with reference to the Premises, the Indebtedness or any of the terms or conditions of the Loan Documents as fully and to the same extent as it might with Mortgagor but without in any way releasing or discharging Mortgagor from Mortgagor's liability or undertakings under the Loan Documents. Nothing in this paragraph abrogates any restrictions on transfer contained in this Mortgage.

32. Without notice and without regard to the consideration, if any, paid for the release and notwithstanding the existence at that time of any inferior liens on the Premises, Mortgagee may release any part of the Premises or any person liable for all or any part of the Indebtedness. Such release will not affect the priority of the lien of this Mortgage, which will continue to encumber the remainder of the Premises as security for the full Indebtedness. Mortgagee may agree with any party obligated on the Indebtedness or having any interest in the Premises to extend the time for payment of any part or all of the Indebtedness. Such agreement will not, in any way, release or impair the lien of this Mortgage, but will extend the term of the lien as against the title of all parties having an encumbered interest in the Premises.

33. If Mortgagee (a) as provided in the preceding paragraph, releases any part of the Premises or any person liable for the Indebtedness; (b) grants an extension of time or otherwise alters the terms for any payments of the Indebtedness; (c) takes other or additional security for the payment of the Indebtedness; or (d) waives or fails to exercise any right granted in the Loan Documents, such act or omission will not release Mortgagor, subsequent purchasers of all or part of the Premises, or makers or sureties of this Mortgage or the Note from any covenant of the Loan Documents. Such act or omission will also not preclude Mortgagee from exercising any right, power or privilege granted in the Loan Documents or intended to be granted in the event of any other default then made or any subsequent default.

34. Mortgagor will give Mortgagee notice of any conveyance, transfer or change of ownership or of occupancy of the Premises. Nothing in this paragraph will abrogate any restrictions on transfer contained in this Mortgage.

35. Notwithstanding anything to the contrary in the Note, this Mortgage or any of the Loan Documents, it is not Mortgagee's intention to charge or collect any interest (whether fixed, contingent or otherwise) which would result in a rate of interest being charged which is in excess of the maximum rate, if any, now permitted by law to be charged for this transaction; and if any sum in excess of the maximum rate of interest is paid or charged, the same will be deemed to have been a prepayment of principal when paid, without premium or penalty, and all payments made thereafter will be appropriately applied to interest and principal to give effect to such maximum rate and

after such application, any excess will be immediately refunded to Mortgagor.

If during the term of this Mortgage the maximum rate of interest, if any, now permitted by law to be charged for this transaction is increased, then for so long as the increase is in effect, the applicable maximum rate permitted to be charged as referred to in the paragraph immediately preceding will be deemed to be such increased rate. If the maximum rate of interest, if any, now permitted by law to be charged for this transaction should be eliminated so that there would be no maximum rate, then for purposes of this loan, there will thereafter be no maximum rate limiting the amount that can be charged.

36. Nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Mortgagor to make any payment or to do any act contrary to law; that if any clauses or provisions herein contained operate or would prospectively operate to invalidate this Mortgage in whole or in part, then such 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.

37. To the extent permitted by law with respect to the Indebtedness or any renewals or extensions thereof, Mortgagor jointly and severally waives and renounces, each for himself and family, the benefit of all valuation, appraisal, homestead, exemption, stay, redemption and moratorium rights under or by virtue of the constitution and laws of the State of Indiana, of any other state or of the United States, now existing or hereafter enacted, and any rights to have the Premises or any other collateral for the indebtedness marshalled upon the foreclosure of the lien of this Mortgage.

38. This Mortgage is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Premises which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagor hereby grants to Mortgagee a security interest in said items. This Mortgage shall be deemed to be a fixture financing statement within the laws of the State of Indiana. For such purposes, the following information is set forth:

- (a) Name and address of Debtor:
Gary Joint Venture, 25425 Center Ridge Road,
Cleveland, Ohio 44145-4122
- (b) Name and address of Secured Party:
Teachers Insurance and Annuity Association of
America, 730 Third Avenue, New York, New York
10017
- (c) Description of the types (or items) of property covered by this Financing Statement: Any fixtures described or referred to herein and included as part of the Premises.
- (d) Description of real estate to which collateral is attached or upon which it is located:
See Exhibit A.
- (e) Fixtures: Some of the above-described collateral are or are to become fixtures upon the real estate described in Exhibit A, the record owner of which is Mortgagor, and this financing statement is to be filed for record in the real estate records.

Mortgagor agrees that Mortgagee may file this

Mortgage, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Premises. Any reproduction of this Mortgage or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Mortgagor agrees to execute and deliver to Mortgagee, within five (5) days of Mortgagee's written request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Mortgage in such form as Mortgagee may require to perfect a security interest with respect to such items. Mortgagor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof. Without the prior written consent of Mortgagee, Mortgagor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Mortgagor's breach of any covenant or agreement of Mortgagor contained in this Mortgage, including the covenants to pay when due all sums secured by this Mortgage, Mortgagee shall have the remedies of a secured party under the Uniform Commercial Code, in addition to any other available remedies. In exercising any of said remedies, Mortgagee may proceed against the items of real property and any items of personal property specified above as part of the Premises separately or together and in any order whatsoever without in any way effecting the availability of Mortgagee's remedies under the Uniform Commercial Code of the remedies provided elsewhere under this Mortgage.

NOT OFFICIAL!

39. Mortgagee in exercising its rights under this Mortgage will also have, without limitation, all of the rights and remedies provided by the Indiana Uniform Commercial Code including the right to proceed under the provisions of the Indiana Uniform Commercial Code governing default as to any personal property which may be included in the Premises, separately from the real estate included in the Premises, or to proceed as to all of the Premises in accordance with its rights and remedies in respect of said real estate. If Mortgagee elects to proceed separately as to such personal property, Mortgagor agrees to make the personal property available to Mortgagee at a place or places acceptable to Mortgagee and if any notification of intended disposition of any such personal property is required by law, such notification will be deemed reasonably and properly given if given at least ten (10) days before such disposition.

40. Except as set forth in Paragraph 9 of this Mortgage, any notice, demand or other communication required by this Mortgage will be in writing, addressed to the appropriate party and sent by either registered or certified U.S. Mail, return receipt requested, postage prepaid or by reputable overnight courier, shipping charges prepaid. Notice is effective upon deposit in the U.S. Mail or delivery to the courier in accordance with the foregoing. For purposes of notice, the addresses of the parties shall be as follows:

If to Mortgagor:

Gary Joint Venture
25425 Center Ridge Road
Cleveland, Ohio 44145
Attention: General Counsel

If to Mortgagee:

Teachers Insurance and Annuity
Association of America
730 Third Avenue
New York, New York 10017
Attn: Senior Vice President,
Mortgage and Real Estate
Division
With a copy to: Vice President
in charge of Investment Law
Division

Each party has the right at any time to change the address to which notice must be sent or the person to which notice must be directed. Such change is not effective until the party changing its address or addressee has given notice in accordance with the requirements of this paragraph to each of the other parties and provided further that the address for notice must at all times be within the United States of America.

41. Mortgagor will pave, grade, surface and thereafter maintain, clean, repair, police and adequately light those areas designated for parking on the survey of the Southlake Mall prepared by Robert A. Norwick dated May 24, 1991, together with the sidewalks, aisles, streets, driveways and sidewalk cuts as shown thereon (such areas together with the designated parking are referred to as the "parking areas"). The parking areas will be reserved and used solely and exclusively for the purpose of providing pedestrian and vehicular ingress, egress and parking for the customers and invitees of the owners of Southlake Mall or of the tenants of any part of the Southlake Mall. The parking areas, as now shown on the survey, will not be reduced, built upon, obstructed, re-designated or re-located. The same will not be leased to or the right to use them granted to any other person except customers, invitees or employees of the owners and tenants of the Southlake Mall without Mortgagee's prior written consent. The parking areas will always be of sufficient size to accommodate not less than the greater of (a) 6,930 spaces; (b) 5.00 spaces for each 1000 square feet of gross leasable area in Southlake Mall; or (c) such greater amount as may be required by law or by any leases of space in the Premises or the Operating Agreements. The spaces will be of size and configuration that comply with all applicable governmental requirements.

42. Mortgagor will at all times forth fully keep and perform, or cause to be kept and performed, all of the terms, covenants and conditions contained in the following documents (collectively the "Operating Agreement"):

- (a) Easement, Restriction and Operating Agreement among Gary Joint Venture, J.C. Penney Company, Inc. and Sears, Roebuck and Co. dated as of the 27th day of June, 1972, and recorded on November 8, 1972 as Document No. 174993 in the Lake County Records, Volume 1316, at Page 578 with the Recorder of Deeds, County of Lake, Indiana;
- (b) First Amendment to Easement, Restriction and Operating Agreement dated as of April 16, 1973, and recorded as Document No. 208331 in the Lake County Records;
- (c) Second Amendment to Easement, Restriction and Operating Agreement, dated as of December 10, 1974 and recorded as Document No. 289791 in the Lake County Records

- (d) Supplement to Easement, Restriction and Operating Agreement by and between like parties dated as of June 27, 1972;
- (e) Joint Improvement Agreement dated as of June 27, 1972, by and between like parties;
- (f) Deed of Declaration dated June 15, 1973 executed by Gary Joint Venture and filed for record as Document No. 208333 in the Office of the Recorder of Deeds, Lake County, Indiana;
- (g) Declaration by Gary Joint Venture dated June 7, 1973 and filed as Document No. 208332 in Lake County Records;
- (h) Amendment to Deed of Declaration, dated as of December 19, 1974 executed by Gary Joint Venture and filed as Document No. 289795 in the Lake County Records;
- (i) Declaration by Gary Joint Venture dated as of June 1, 1977 filed as Document No. 423317 in the Lake County Records;
- (j) Second Amendment to Deed of Declaration dated as of June 1, 1977 executed by Gary Joint Venture and filed for record as Document No. 423318 in the Lake County Records;
- (k) Easement, Restriction and Operating Agreement dated as of June 1, 1977 by and between Gary Joint Venture and Adcor Realty Corporation and filed for record as Document No. 423320 in the Lake County Records;
- (l) Supplement to Easement, Restriction and Operating Agreement dated as of June 1, 1977 by and between like parties, which Agreement is not recorded, but is incorporated in said Easement, Restriction and Operating Agreement for all purposes;
- (m) Third Amendment to Easement, Restriction and Operating Agreement dated as of June 1, 1977 by and among Gary Joint Venture, Adcor Realty Corporation, J. C. Penney Company, Inc., Sears, Roebuck and Co. and I-65-US 30 Corp filed as Document No. 423321 in the Lake County Records;
- (n) Third Amendment to Deed of Declaration by Gary Joint Venture dated June 24th, 1991, filed for record as Document No. 91032353 IN THE LAKE COUNTY RECORDS ;
- (o) Declaration of Drainage Easements by Gary Joint Venture dated June 24th, 1991, filed for record as Document No. 91031994 in the Lake County Records.

The proportionate share of certain pro rata costs and expenses described and defined in the Operating Agreement and any other sums of money hereafter due and payable to Mortgagor under the terms of the Operating Agreement are hereby assigned, transferred and set over to Mortgagee as additional security under this Mortgage, upon condition, however, that such assignment will become operative and effective only in the event of a default. Mortgagor will not sell, transfer or pledge any sums of money payable aforesaid. Mortgagor will also at all times faithfully and timely perform or cause to be performed all other agreements, grants of easements and/or right-of-way,

permits, declarations of covenants, conditions and restrictions, disposition and development agreements, planned unit development agreements, management or parking agreements or other instruments (collectively the "Agreements" in this paragraph) affecting the Premises.

Mortgagor confirms that (a) except as set forth above, none of the aforementioned Agreements nor the Operating Agreement has been further modified and that they each constitute the entire respective agreements between the parties hereto; (b) Mortgagor has not sent nor received any notice from any party to such Agreements or the Operating Agreement alleging a default thereunder; and (c) to the best of Mortgagor's knowledge and belief, no default exists thereunder and such Agreements and the Operating Agreement are in full force and effect.

Mortgagor will not (i) waive or amend any of the terms of the Operating Agreement or any of the Agreements or the rights or easements created by the Operating Agreement or the Agreements; (ii) cancel, surrender or terminate the Operating Agreement or any of the Agreements; (iii) release or discharge any party to or entity bound by the Operating Agreement or any of the Agreements; or (iv) permit the release or discharge of any party of or from performance of any of the terms, covenants or conditions of the Operating Agreement or any of the Agreements, without, in each instance, Mortgagee's prior written consent. Mortgagor will take all necessary action to effect the performance of all of the obligations of the other parties to or entities bound by the Operating Agreement or the Agreements.

Mortgagor will promptly give Mortgagee copies of all notices, demands, or other communications relating to the Operating Agreement or the Agreements.

43. If, after the date of this Mortgage, Mortgagor sells and leases back all or any part of the Premises and if either the lien of this Mortgage is subordinate to any occupancy leases or subleases of the Premises or Mortgagee granted non-disturbance to any occupancy leases or subleases, then the leaseback and any mortgage upon the leaseback either (a) will be made subordinate to the occupancy leases and subleases, or (b) will provide for non-disturbance of the occupancy leases and subleases. All the occupancy leases and subleases will provide for attornment to the lessor under the leaseback and any mortgagee of the leaseback as well as to Mortgagee. Nothing in this paragraph abrogates any restrictions on transfer or further encumbrance contained in this Mortgage.

44. If: (A) Mortgagor makes a general assignment for the benefit of creditors; files a voluntary petition in bankruptcy; is adjudicated a bankrupt or insolvent; files any petition or answer seeking, consenting to, or acquiescing in, reorganization, arrangement, adjustment, composition, liquidation, dissolution or similar relief, under any present or future statute, law or regulation; or files an answer admitting or fails to deny the material allegations of a petition against it for any such relief; (unless any such proceeding against Mortgagor seeking any such relief is dismissed within one hundred twenty (120) days after the commencement thereof); or (B) a trustee, receiver or liquidator of Mortgagor or any substantial part of its properties or assets is appointed with the consent or acquiescence of Mortgagor; (unless any such appointment, if not so consented to or acquiesced in, is vacated or stayed within ninety (90) days); then the Indebtedness will, at Mortgagee's option, be immediately due and payable and the same, with all other costs and charges, will thereupon be collectible by suit at law or in the exercise of any remedy available under this Mortgage or at law or in equity in the same manner as if the Indebtedness had been made payable at the time when any of the foregoing contingencies occurred. The remedies provided under this paragraph are in addition to and not a

limitation on any other rights or remedies contained in this Mortgage or available as a result of any default by Mortgagor under this Mortgage.

45. The Premises are and will be the subject of validly issued and outstanding building permits and certificates of occupancy for the construction and occupancy of the Improvements. The Premises are and will remain permitted by and are consistent with any and all zoning, ecological, environmental and use restrictions and all other governmental laws, rules and regulations affecting the Premises.

46. Mortgagor will not, without Mortgagee's prior written consent in each instance, initiate, join in, or consent to, any change in any zoning ordinance, private restrictive covenant or other public or private restriction changing, limiting or restricting the uses which may be made of the Premises or any part of the Premises. Without limiting the generality of the foregoing, (a) Mortgagor will not by act or omission permit all or any part of the Premises to be availed of by other parties or property not having an interest in or being part of the Southlake Mall Project so as to enable such other parties or property to use the Premises, or any part thereof, for the purpose of having such other parties' property qualify for fulfillment of any municipal or governmental requirements, and (b) Mortgagor will not by act or omission impair the integrity of the Premises as a single zoning lot separate and apart from all other premises.

47. If, after the date of this Mortgage, Mortgagor acquires any property located on and used in connection with the Premises and that by the terms of this Mortgage is required or intended to be encumbered by this Mortgage, such property will become subject to the lien and security interest of this Mortgage immediately upon its acquisition by Mortgagor and without any further mortgage, conveyance, assignment or transfer. Nevertheless, upon Mortgagee's request at any time Mortgagor will execute, acknowledge and deliver any additional instruments and assurances of title and will do or cause to be done anything further that is reasonably necessary for carrying out the intent of this Mortgage.

48. Mortgagor represents and warrants that:

(a) the Premises and the operations presently conducted thereon are not in violation of any Environmental Laws (as hereinafter defined);

(b) during the period that Mortgagor has owned the Premises, the Premises were not used for the generation, treatment, storage or disposal of any hazardous substance except in connection with the normal operation of a shopping center and in compliance with all Environmental Laws;

(c) the Premises and the operations presently conducted thereon are not the subject of any pending or threatened investigation, inquiry or proceeding under any Environmental Laws;

(d) Mortgagor has no knowledge of any use of the Premises by any prior owner which violated any applicable Environmental Laws; and

(e) Mortgagor has duly obtained or secured all permits, licenses and other governmental authorizations required under Environmental Laws for the Premises.

Mortgagor covenants and agrees that:

(i) the Premises will at all times be in compliance with all Environmental Laws;

(ii) Mortgagor will not generate, handle, use, store, dispose of or treat any hazardous substance or solid waste on the Premises except in compliance with Environmental Laws;

(iii) the use of the Premises will not result in the unlawful release of any hazardous substance or solid waste in, on or under the Premises;

(iv) Mortgagor will immediately notify Mortgagee of the occurrence of any violation or receipt of any notice or complaint of any violation or alleged violation of any Environmental Laws; and

(v) Mortgagee, its agents and representatives, may from time to time make periodic inspections of the Premises and in connection with the inspections may make such tests of the air, soil, ground water and building materials, as Mortgagee, its agents and representatives, deem necessary.

(vi) Mortgagor will use Mortgagor's best efforts to cause any and all tenants or other operators of the Premises to conduct their respective business so as to comply in all respects with Environmental Laws; and

(vii) Without limiting the requirements of this paragraph 48, Mortgagor will perform or pay for any cleanup of hazardous substances on the Premises required under any Environmental Law whether or not the disposal of such hazardous substances on the Premises was in violation of any Environmental Laws.

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(viii) Mortgagee, its agents and representatives may from time to time make inspections of the Premises and in connection with the inspections may make such tests of the air, soil, ground water and building materials as Mortgagee or its agents or representatives deems reasonably necessary. If Mortgagee makes such inspections and tests (i) because it has reasonable cause to believe a violation of this Paragraph 45 exists or (ii) during the pendency of any default under the Note or this Mortgage (provided all applicable notice and grace periods have expired), then the costs and expenses of the inspections and tests will be payable by Mortgagor upon demand and such amount will be deemed secured by this Mortgage. In all other instances, the costs and expenses of the tests and inspections will be paid by Mortgagee.

For purposes of this paragraph, the term "Environmental Laws" means and includes any and all laws, statutes, ordinances, rules, regulations, orders, or determinations of any governmental authority pertaining to health or to the environment, including without limitation, the Clean Air Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Federal Water Pollution Control Act, as amended, the Occupational Safety Health Act of 1970, as amended, the Resource Conservation and Recovery Act of 1976, as amended, ("RCRA"), the Hazardous Materials Transportation Act of 1975, as amended, the Safe Drinking Water Act, as amended, and the Toxic Substances Control Act, as amended. The terms "hazardous substance", and "release" have the meanings specified in CERCLA and the terms "solid waste" and "disposal" (or "disposed") have the meanings specified in RCRA. If either CERCLA or RCRA is amended so as to broaden the meaning of any term defined therein, the broader meaning will apply after the effective date of the amendment. If the laws of Indiana establish a meaning for "hazardous substance", "release", "solid waste" or "disposal" which is broader than that specified in either CERCLA or RCRA, the broader meaning will apply.

49. Neither this Mortgage nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed

by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement hereafter made by Mortgagor and Mortgagee relating to this Mortgage will be superior to the rights of the holder of any intervening lien or encumbrance.

50. Mortgagor hereby knowingly, voluntarily and intentionally waives any right it may have to a trial by jury in respect of any litigation based hereon, or arising out of, under or in connection with this Mortgage, the Note or any of the other Loan Documents, and any agreement, contemplated to be executed in conjunction therewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of either party. This provision is a material inducement for Mortgagee to make the loan secured by this Mortgage.

51. Mortgagor will keep and maintain full and correct books and records showing in detail the earnings and expenses of the Premises and will permit Mortgagee or its representatives to examine such books and records and all supporting vouchers and data at any time and from time to time on request, at its offices, hereinbefore identified, or at such other location as may be mutually agreed upon. Within one hundred twenty (120) days following the expiration of each fiscal year of Mortgagor or portion thereof during the term of this Mortgage, Mortgagor will furnish to Mortgagee a statement showing in detail all such earnings and expenses since the last such statement. The statement will be prepared by an independent certified public accountant in accordance with generally accepted accounting principles, and verified by the affidavit of Mortgagor, or if Mortgagor is a corporation, by an affidavit of its principal executive officer, or if Mortgagor is a partnership, by an affidavit of its managing general partner. The statement will also include, if so requested, statements showing all sales made in the Premises, which statements, if requested by Mortgagee, will also include a current rent roll of the Premises setting forth with respect to each tenancy: the name of the tenant, the space occupied, the date and term of such lease, and any amendment thereto, the amount of annual rent paid and whether such tenant has any renewal, termination or expansion option.

52. This mortgage is subordinate to the liens of those certain mortgages held by Mortgagee consolidated by the terms of that certain Consolidation, Extension and Modification Agreement (the "Consolidated Mortgages") of even date herewith between Mortgagor and Mortgagee intended to be recorded in the Recorder's Office before the recording of this Mortgage, which Consolidated Mortgages secure payment of the indebtedness due and owing Mortgagee in the principal sum of \$29,754,235.34 (the "Consolidated Indebtedness"), with interest thereon, pursuant to the terms of that certain Consolidated Note Agreement also of even date therewith between Mortgagor and Mortgagee. At Mortgagee's option, a default will occur under this Mortgage and the Note secured hereby entitling Mortgagee to exercise all remedies provided for by law and in this Mortgage if (a) there is a failure to make any payment when due under the Consolidated Note Agreement, the Consolidated Mortgages or any other loan document securing the Consolidated Indebtedness; (b) the Consolidated Indebtedness becomes due and payable prior to the Maturity Date (as such term is used in the Consolidated Note Agreement) or there is an attempt to prepay the Consolidated Indebtedness without complying with the prepayment provisions of the Note secured by this Mortgage; or (c) a default shall exist under the Consolidated Mortgages or under any of the other loan documents securing the Consolidated Indebtedness.

53. In any foreclosure proceeding instituted by or on behalf of Mortgagee, Mortgagor waives, to the extent permitted by law, any and all legal and equitable rights to require (i) a marshalling of assets, (ii) that the various

parcels or estates encumbered hereby be sold in a reverse order of alienation, or (iii) to require Mortgagee to proceed to exercise its remedies under this Mortgage and the Consolidated Mortgages differently from that which Mortgagee wishes to exercise. In any foreclosure proceeding where a default exists under this Mortgage and the Consolidated Mortgages, Mortgagee may elect to exercise or refrain from exercising its remedies under either or both such mortgages in any order, manner or fashion as Mortgagee may elect to determine and Mortgagor waives any right that it might otherwise have to claim that such election by Mortgagee prejudiced Mortgagor.

54. All the covenants of this Mortgage run with the Land.

55. The Premises being located in the State of Indiana, this Mortgage and the rights and Indebtedness secured are to be, without regard to the place of contract or payment, construed and enforced according to the laws of the State of Indiana.

IT IS SPECIFICALLY AGREED that time is of the essence under the loan documents and that the waiver of the options or obligations provided in or secured by the loan documents, will not, at any time, be held to be abandonment of such rights.

ALL OF THE COVENANTS contained in this Mortgage are joint and several and also bind, and the benefits and advantages thereof also inure to the respective heirs, executors, administrators, successors and assigns of the parties to this Mortgage and the defined terms "Mortgagor" and "Mortgagee" include the respective heirs, executors, administrators, successors and assigns. Whenever used, the singular number includes the plural, the plural the singular and the use of any gender includes all genders. Nothing in this paragraph abrogates any restrictions on transfer contained in this Mortgage.

IN WITNESS WHEREOF, Mortgagor has signed, executed as a sealed instrument and delivered this Mortgage the day and year first above written.



CARY JOINT VENTURE,
an Ohio general partnership

Signed and Sealed in the presence of:

Karen C. Paytoosh
Bessie A. Hooney

Karen C. Paytoosh
Bessie A. Hooney

By: [Signature]
Name:
Title: Partner

By: [Signature]
Name:
Title: Partner

This Mortgage and Security Agreement was prepared by:

William H. Goebel, Esq.
Investment Law Department
Teachers Insurance and Annuity
Association of America
730 Third Avenue
New York, New York 10017

ACKNOWLEDGMENT

STATE OF OHIO)
COUNTY OF CUYAHOGA) SS:

Before me, KAREN C. PAYTOSH, a Notary Public of the State aforesaid, personally appeared R.E. JACOBS and DAVID H. JACOBS before me this day and acknowledged that they are general partners of GARY JOINT VENTURE, an Ohio general partnership, and that by authority duly given, they did execute their names to the within instrument as general partners of GARY JOINT VENTURE, for the purposes of binding and being the act and deed of GARY JOINT VENTURE and for the uses and purposes therein contained.

WITNESS my hand and official seal this 24th day of June, 1991.

Karen C. Paytosh
Notary Public

Documents

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the Lake County Recorder!

My Commission Expires:

KAREN C. PAYTOSH, Notary Public
State of Ohio
My Commission Expires 2/23/83

STOP



IN-210

ATTACHED TO AND FORMING PART OF THAT CERTAIN MORTGAGE AND SECURITY AGREEMENT FROM GARY JOINT VENTURE, MORTGAGOR, TO TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, MORTGAGEE.

EXHIBIT "A"

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PARCEL 1: PART OF THE SOUTHWEST QUARTER AND THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 SECONDS 24 MINUTES EAST, 40.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, ALONG THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET, 376.01 FEET; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 904.18 FEET TO THE POINT OF BEGINNING; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 71.31 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 58 DEGREES 57 MINUTES 55 SECONDS WEST, A CHORD DISTANCE OF 188.62 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 251.51 FEET; THENCE NORTH 43 DEGREES 20 MINUTES 00 SECONDS WEST, 334.48 FEET; THENCE NORTH 46 DEGREES 40 MINUTES 00 SECONDS EAST, 255.69 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 26 DEGREES 43 MINUTES 53 SECONDS WEST, A CHORD DISTANCE OF 94.17 FEET; THENCE NORTH 19 DEGREES 00 MINUTES 00 SECONDS WEST, 78.00 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS NORTH 4 DEGREES 42 MINUTES 06 SECONDS WEST, A CHORD DISTANCE OF 172.88 FEET; THENCE NORTH 9 DEGREES 35 MINUTES 46 SECONDS EAST, 177.00 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, WHOSE CHORD BEARS NORTH 35 DEGREES 24 MINUTES 14 SECONDS WEST, A CHORD DISTANCE OF 49.50 FEET; THENCE NORTH 80 DEGREES 24 MINUTES 14 SECONDS WEST, 103.84 FEET; THENCE ALONG THE ARC OF A 370 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 86 DEGREES 33 MINUTES 07 SECONDS WEST, A CHORD DISTANCE OF 79.25 FEET; THENCE SOUTH 87 DEGREES 18 MINUTES 00 SECONDS WEST, 225.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 80.00 FEET; THENCE NORTH 87 DEGREES 18 MINUTES 00 SECONDS EAST, 225.00 FEET; THENCE ALONG THE ARC OF A 450 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS SOUTH 86 DEGREES 33 MINUTES 07 SECONDS EAST, A CHORD DISTANCE OF 96.39 FEET; THENCE SOUTH 80 DEGREES 24 MINUTES 14 SECONDS EAST, 103.84 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 57 DEGREES 16 MINUTES 30 SECONDS EAST, A CHORD DISTANCE OF 47.13 FEET; THENCE ALONG THE ARC OF A 340 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST, WHOSE CHORD BEARS NORTH 32 DEGREES 13 MINUTES 26 SECONDS EAST, A CHORD DISTANCE OF

201.90 FEET; THENCE ALONG THE ARC OF A 450 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS NORTH 39 DEGREES 44 MINUTES 54 SECONDS EAST, A CHORD DISTANCE OF 152.39 FEET; THENCE NORTH 60 DEGREES 00 MINUTES 00 SECONDS WEST, 185.00 FEET; THENCE NORTH 30 DEGREES 00 MINUTES 00 SECONDS EAST, 552.88 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03 FEET; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 29.84 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A 300.68 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS SOUTH 19 DEGREES 45 MINUTES 47 SECONDS EAST, A CHORD DISTANCE OF 189.82 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE WEST, WHOSE CHORD BEARS SOUTH 4 DEGREES 04 MINUTES 54 SECONDS EAST, A CHORD DISTANCE OF 39.23 FEET; THENCE SOUTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, 154.99 FEET; THENCE SOUTH 17 DEGREES 52 MINUTES 00 SECONDS EAST, 416.47 FEET; THENCE NORTH 72 DEGREES 08 MINUTES 00 SECONDS EAST, 292.00 FEET; THENCE SOUTH 62 DEGREES 52 MINUTES 00 SECONDS EAST, 105.36 FEET; THENCE NORTH 72 DEGREES 08 MINUTES 00 SECONDS EAST, 355.70 FEET; THENCE NORTH 17 DEGREES 52 MINUTES 00 SECONDS WEST, 95.71 FEET; THENCE NORTH 72 DEGREES 08 MINUTES 00 SECONDS EAST, 222.80 FEET; THENCE NORTH 17 DEGREES 52 MINUTES 00 SECONDS WEST, 312.59 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 179.55 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 48.50 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 105.80 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS NORTH 43 DEGREES 38 MINUTES 13 SECONDS EAST, A CHORD DISTANCE OF 49.50 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 78.93 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 100.00 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 30.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF U.S. ROUTE #30; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 180.00 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. ROUTE #30; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 108.93 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS SOUTH 46 DEGREES 21 MINUTES 47 SECONDS EAST, A CHORD DISTANCE OF 49.50 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 196.21 FEET; THENCE SOUTH 17 DEGREES 52 MINUTES 00 SECONDS EAST, 392.71 FEET; THENCE SOUTH 72 DEGREES 08 MINUTES 00 SECONDS WEST, 254.00 FEET; THENCE SOUTH 17 DEGREES 52 MINUTES 00 SECONDS EAST, 666.70 FEET; THENCE NORTH 72 DEGREES 08 MINUTES 00 SECONDS EAST, 736.50 FEET; THENCE ALONG THE ARC OF A 712 FOOT RADIUS CURVE, CONCAVE TO THE WEST, WHOSE CHORD BEARS NORTH 6 DEGREES 49 MINUTES 08 SECONDS WEST, A CHORD DISTANCE OF 322.07 FEET; THENCE NORTH 87 DEGREES 14 MINUTES 16 SECONDS EAST, 83.44 FEET; THENCE DUE SOUTH 353.91 FEET; THENCE SOUTH 9 DEGREES 47 MINUTES 44 SECONDS WEST, 174.01 FEET; THENCE SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 700.00 FEET; THENCE SOUTH 21 DEGREES 38 MINUTES 19 SECONDS EAST, 210.00 FEET; THENCE SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 130.00 FEET; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 210.00 FEET; THENCE

SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 48.58 FEET; THENCE NORTH 17 DEGREES 52 MINUTES 00 SECONDS WEST, 479.41 FEET; THENCE SOUTH 72 DEGREES 08 MINUTES 00 SECONDS WEST, 73.73 FEET; THENCE NORTH 17 DEGREES 52 MINUTES 00 SECONDS WEST, 120.00 FEET; THENCE SOUTH 72 DEGREES 08 MINUTES 00 SECONDS WEST, 270.00 FEET; THENCE SOUTH 17 DEGREES 52 MINUTES 00 SECONDS EAST, 116.00 FEET; THENCE SOUTH 72 DEGREES 08 MINUTES 00 SECONDS WEST, 87.86 FEET; THENCE SOUTH 20 DEGREES 19 MINUTES 09 SECONDS WEST, 100.51 FEET; THENCE SOUTH 72 DEGREES 08 MINUTES 00 SECONDS WEST, 451.23 FEET; THENCE SOUTH 17 DEGREES 52 MINUTES 00 SECONDS EAST, 466.71 FEET; THENCE SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 183.84 FEET TO THE POINT OF BEGINNING.

NOT OFFICIAL!

ALSO COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 2402.02 FEET ALONG THE WEST LINE OF SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 28 EAST, 330.00 FEET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 200.93 FEET; TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 11 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 510.01 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH WHOSE CHORD BEARS NORTH 88 DEGREES 28 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 24.63 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG AN ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 32 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING, BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. ROUTE #30; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 36 MINUTES 33 SECONDS EAST, A CHORD DISTANCE OF 50.24 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 49.76 FEET; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 30.00 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 100.00 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 29.88 FEET TO THE POINT OF BEGINNING. THE TOTAL AREA OF THIS NON-CONTINUOUS PARCEL IS 39.858 ACRES.

PARCEL 2: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST, OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 361.86 FEET ALONG THE WEST LINE OF SECTION 23; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 1,425.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 700.00 FEET; THENCE SOUTH 21 DEGREES

38 MINUTES 19 SECONDS EAST, 210.00 FEET; THENCE SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 700.00 FEET; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 210.00 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 3.374 ACRES.

PARCEL 3: PART OF THE SOUTHWEST QUARTER AND THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST, OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 361.86 FEET ALONG THE WEST LINE OF SECTION 23, THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 2,255.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 670.00 FEET; THENCE SOUTH 21 DEGREES 38 MINUTES 19 SECONDS EAST, 210.00 FEET; THENCE SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 670.00 FEET; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 210.00 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 3.230 ACRES.

PARCEL 4: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET, 376.61 FEET; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 904.18 FEET; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 723.31 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 58 DEGREES 57 MINUTES 55 SECONDS WEST, A CHORD DISTANCE OF 188.62 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 251.51 FEET; THENCE NORTH 43 DEGREES 20 MINUTES 00 SECONDS WEST, 334.48 FEET TO THE PLACE OF BEGINNING; THENCE NORTH 46 DEGREES 40 MINUTES 00 SECONDS EAST, 255.69 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 26 DEGREES 43 MINUTES 53 SECONDS WEST, A CHORD DISTANCE OF 94.17 FEET; THENCE NORTH 19 DEGREES 00 MINUTES 00 SECONDS WEST, 78.00 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS NORTH 11 DEGREES 32 MINUTES 20 SECONDS WEST, A CHORD DISTANCE OF 90.90 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 362.64 FEET, THENCE SOUTH 43 DEGREES 20 MINUTES 00 SECONDS EAST, 238.58 FEET TO THE PLACE OF BEGINNING. PARCEL CONTAINS 1.637 ACRES.

PARCEL 5: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST, OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 2,402.02 FEET ALONG THE WEST LINE OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 28 SECONDS EAST, 330.00

FEET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 200.93 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 11 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 510.01 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH WHOSE CHORD BEARS NORTH 88 DEGREES 28 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 24.63 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG AN ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 32 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 80.00 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 36 MINUTES 33 SECONDS EAST, A CHORD DISTANCE OF 50.24 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 49.76 FEET TO THE POINT OF BEGINNING, BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 30.00 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 100.00 FEET; THENCE ALONG THE ARC OF A 220.68 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS SOUTH 18 DEGREES 34 MINUTES 00 SECONDS EAST A CHORD DISTANCE OF 130.54 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTH, WHOSE CHORD BEARS SOUTH 75 DEGREES 53 MINUTES 48 SECONDS EAST, A CHORD DISTANCE OF 45.11 FEET; THENCE ALONG THE ARC OF A 250 FOOT RADIUS CURVE CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 76 DEGREES 18 MINUTES 24 SECONDS EAST, A CHORD DISTANCE OF 106.77 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 570.53 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST WHOSE CHORD BEARS NORTH 43 DEGREES 38 MINUTES 13 SECONDS EAST, A CHORD DISTANCE OF 49.50 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 78.93 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 100.00 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 30.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 591.93 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30 TO THE POINT OF BEGINNING. THE PARCEL CONTAINS 2.487 ACRES.

PARCEL 6: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 2,402.02 FEET ALONG THE WEST LINE OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 28 SECONDS EAST 330.00 FEET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 200.93 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE,

CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 11 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 510.01 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 28 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 24.63 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG AN ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 32 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 80.00 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 36 MINUTES 33 SECONDS EAST, A CHORD DISTANCE OF 50.24 FEET; NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 821.69 FEET TO THE POINT OF BEGINNING BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 108.93 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS SOUTH 46 DEGREES 21 MINUTES 47 SECONDS EAST, A CHORD DISTANCE OF 49.50 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 573.00 FEET; THENCE ALONG THE ARC OF A 400 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS SOUTH 82 DEGREES 56 MINUTES 47 SECONDS EAST, A CHORD DISTANCE OF 117.10 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS NORTH 62 DEGREES 43 MINUTES 12 SECONDS EAST, A CHORD DISTANCE OF 47.52 FEET; THENCE ALONG THE ARC OF A 385.68 FOOT RADIUS CURVE, CONCAVE TO THE WEST, WHOSE CHORD BEARS NORTH 9 DEGREES 18 MINUTES 10 SECONDS EAST, A CHORD DISTANCE OF 142.77 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 793.00 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30 TO THE POINT OF BEGINNING. THE PARCEL CONTAINS 2.613 ACRES.

PARCEL 7: PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 2,402.02 FEET ALONG THE WEST LINE OF SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 28 SECONDS EAST, 330.00 FEET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 200.93 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 11 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 510.01 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 28 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 24.63 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG AN ARC OF A 53,617.23 FOOT RADIUS

CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 32 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 80.00 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 36 MINUTES 33 SECONDS EAST, A CHORD DISTANCE OF 50.24 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 1,694.69 FEET TO THE PLACE OF BEGINNING, BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 160.00 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 296.44 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 87.90 FEET; THENCE NORTH 54 DEGREES 36 MINUTES 32 SECONDS WEST, 222.00 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS NORTH 16 DEGREES 30 MINUTES 01 SECONDS WEST, A CHORD DISTANCE OF 43.20 FEET; THENCE ALONG THE ARC OF A 465.68 FOOT RADIUS CURVE, CONCAVE TO THE WEST, WHOSE CHORD BEARS NORTH 10 DEGREES 07 MINUTES 22 SECONDS EAST, A CHORD DISTANCE OF 185.45 FEET TO THE PLACE OF BEGINNING. PARCEL CONTAINS 1.135 ACRES.

PARCEL 8: PART OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 02 DEGREES 42 MINUTES 00 SECONDS WEST, 361.86 FEET ALONG THE WESTERLY LINE OF SECTION 23; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 2,955.90 FEET; THENCE NORTH 09 DEGREES 47 MINUTES 44 SECONDS EAST, 174.01 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 275.87 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 219.13 FEET; THENCE NORTH 17 DEGREES 52 MINUTES 00 SECONDS WEST, 245.70 FEET; THENCE NORTH 54 DEGREES 36 MINUTES 33 SECONDS WEST, 44.97 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 87.90 FEET; THENCE NORTH 01 DEGREES 21 MINUTES 47 SECONDS WEST, 296.44 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30, 130.00 FEET; THENCE SOUTH 01 DEGREES 21 MINUTES 47 SECONDS EAST, 53.02 FEET; THENCE SOUTH 61 DEGREES 21 MINUTES 47 SECONDS EAST, 98.97 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 255.33 FEET TO THE EASTERLY LINE OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23; THENCE SOUTH 02 DEGREES 45 MINUTES 44 SECONDS EAST ALONG THE EASTERLY LINE OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, 675.70 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 474.83 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION. PARCEL CONTAINS 7.845 ACRES.

PARCEL 9: PART OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 3,323.36 FEET ALONG THE SOUTH LINE OF SECTION 23; THENCE NORTH 2 DEGREES 45 MINUTES 44 SECONDS WEST, 2,554.45 FEET ALONG THE EAST LINE OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23 TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF THE CHESAPEAKE & OHIO RAILROAD AND THE POINT OF BEGINNING; THENCE NORTH 62 DEGREES 41 MINUTES 15 SECONDS WEST, 30.34 FEET ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE CHESAPEAKE & OHIO RAILROAD TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF THE U.S. HIGHWAY 30; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 312.27 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 30; THENCE SOUTH 01 DEGREE 20 MINUTES 47 SECONDS EAST, 53.02 FEET; THENCE SOUTH 61 DEGREES 21 MINUTES 47 SECONDS EAST, 98.97 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 255.33 FEET TO THE EASTERLY LINE OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23; THENCE NORTH 02 DEGREES 45 MINUTES 44 SECONDS WEST ALONG THE EAST LINE OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, 87.97 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 0.747 ACRES.

PARCEL 10: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST 361.86 FEET ALONG THE WEST LINE OF SECTION 23; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 513.42 FEET TO THE POINT OF BEGINNING; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, WHOSE CHORD BEARS NORTH 66 DEGREES 43 MINUTES 26 SECONDS WEST, A CHORD DISTANCE OF 148.83 FEET; THENCE ALONG THE ARC OF A 200 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 51 DEGREES 45 MINUTES 00 SECONDS WEST, A CHORD DISTANCE OF 183.15 FEET; THENCE NORTH 24 DEGREES 30 MINUTES 00 SECONDS WEST, 110.44 FEET; THENCE NORTH 46 DEGREES 40 MINUTES 00 SECONDS EAST, 176.65 FEET; THENCE SOUTH 43 DEGREES 20 MINUTES 00 SECONDS EAST, 334.48 FEET; THENCE NORTH 46 DEGREES 40 MINUTES 00 SECONDS EAST, 251.51 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS SOUTH 58 DEGREES 57 MINUTES 55 SECONDS EAST, A CHORD DISTANCE OF 188.62 FEET; THENCE SOUTH 21 DEGREES 38 MINUTES 19 SECONDS EAST, 71.31 FEET; THENCE SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 433.05 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 3.110 ACRES.

PARCEL 11: PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE

SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.00 FEET TO THE EASTERLY RIGHT OF WAY OF MISSISSIPPI STREET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST ALONG THE EASTERLY RIGHT OF WAY OF MISSISSIPPI STREET 763.68 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 287.04 FEET; THENCE NORTH 87 DEGREES 18 MINUTES 00 SECONDS EAST, 38.88 FEET; THENCE NORTH 46 DEGREES 40 MINUTES 00 SECONDS EAST, 95.27 FEET; THENCE SOUTH 43 DEGREES 20 MINUTES 00 SECONDS EAST, 238.58 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 176.65 FEET; THENCE SOUTH 65 DEGREES 30 MINUTES 00 SECONDS WEST, 142.69 FEET, TO THE POINT OF BEGINNING. PARCEL CONTAINS 1.286 ACRES.

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PARCEL 12: PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET; THENCE ALONG SAID RIGHT OF WAY OF MISSISSIPPI STREET NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 1,050.72 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 448.35 FEET; THENCE NORTH 44 DEGREES 10 MINUTES 00 SECONDS EAST, 260.33 FEET; THENCE NORTH 87 DEGREES 18 MINUTES 00 SECONDS EAST, 35.02 FEET; THENCE ALONG THE ARC OF A 370 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS SOUTH 86 DEGREES 33 MINUTES 07 SECONDS EAST, A CHORD DISTANCE OF 79.25 FEET; THENCE SOUTH 80 DEGREES 24 MINUTES 14 SECONDS EAST, 103.84 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, WHOSE CHORD BEARS SOUTH 35 DEGREES 24 MINUTES 14 SECONDS EAST, A CHORD DISTANCE OF 49.50 FEET; THENCE SOUTH 9 DEGREES 35 MINUTES 46 SECONDS WEST, 177.00 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS SOUTH 2 DEGREES 45 MINUTES 34 SECONDS WEST, A CHORD DISTANCE OF 83.33 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 457.91 FEET; THENCE SOUTH 87 DEGREES 18 MINUTES 00 SECONDS WEST, 38.88 FEET TO THE EASTERLY RIGHT OF WAY LINE OF MISSISSIPPI STREET AND THE POINT OF BEGINNING. PARCEL CONTAINS 4.090 ACRES.

PARCEL 13: PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF MISSISSIPPI STREET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST ALONG THE EASTERLY RIGHT OF WAY LINE OF MISSISSIPPI STREET, 1,757.06 FEET; THENCE NORTH 87 DEGREES 18 MINUTES 00 SECONDS EAST, 225.00 FEET; THENCE ALONG THE ARC OF A 450 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS SOUTH 86 DEGREES 33 MINUTES 07 SECONDS EAST, A CHORD DISTANCE

OF 96.39 FEET; THENCE SOUTH 80 DEGREES 24 MINUTES 14 SECONDS EAST, 41.83 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE ALONG THE ARC OF A 236 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS NORTH 20 DEGREES 12 MINUTES 24 SECONDS EAST, A CHORD DISTANCE OF 350.57 FEET; THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS EAST 167.50 FEET; THENCE ALONG THE ARC OF A 450 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS SOUTH 44 DEGREES 13 MINUTES 15 SECONDS WEST, A CHORD DISTANCE OF 82.74 FEET; THENCE ALONG THE ARC OF A 340 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST, WHOSE CHORD BEARS SOUTH 32 DEGREES 13 MINUTES 26 SECONDS WEST, A CHORD DISTANCE OF 201.90 FEET; THENCE ALONG THE ARC OF A 135 RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS SOUTH 57 DEGREES 16 MINUTES 30 SECONDS WEST, A CHORD DISTANCE OF 47.13 FEET; THENCE NORTH 80 DEGREES 24 MINUTES 14 SECONDS WEST, 62.01 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 1.280 ACRES.

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PARCEL 14: THE RECIPROCAL AND NON-EXCLUSIVE RIGHTS, EASEMENTS AND PRIVILEGES OF USE, INGRESS, EGRESS, PEDESTRIAN AND VEHICULAR ACCESS, SUPPORT, ENCROACHMENTS, PARKING, UTILITY AND OTHER PURPOSES CREATED AND GRANTED AS AN APPURTENANCE TO PARCELS HEREINABOVE DESCRIBED IN AND BY THE FOLLOWING DOCUMENTS (HEREINAFTER COLLECTIVELY CALLED "OPERATING AGREEMENTS"):

1. EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF THE 27TH DAY OF JUNE, 1972 BY AND BETWEEN GARY JOINT VENTURE, J. C. PENNEY COMPANY, INC., AND SEARS, ROEBUCK AND CO. AND RECORDED NOVEMBER 8, 1972 AS DOCUMENT NO. 174993 IN THE LAKE COUNTY RECORDS, VOLUME 1316 AT PAGE 578 WITH THE RECORDER OF DEEDS, COUNTY OF LAKE, INDIANA.
2. SUPPLEMENT TO SAID EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF THE 27TH DAY OF JUNE, 1972 BY AND AMONG LIKE PARTIES, WHICH AGREEMENT IS NOT RECORDED, BUT INCORPORATED IN THE SAID EASEMENT, RESTRICTION AND OPERATING AGREEMENT FOR ALL PURPOSES.
3. A FIRST AMENDMENT TO EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF THE 16TH DAY OF APRIL, 1973 AND RECORDED AS DOCUMENT NO. 208331 IN LAKE COUNTY RECORDS.
4. DECLARATION BY GARY JOINT VENTURE DATED THE 7TH DAY OF JUNE, 1973 AND FILED AS DOCUMENT NO. 208332 IN THE LAKE COUNTY RECORDS.
5. DEED OF DECLARATION DATED JUNE 15, 1973, EXECUTED BY GARY JOINT VENTURE AND FILED AS DOCUMENT NO. 208333 IN THE LAKE COUNTY RECORDS.
6. SECOND AMENDMENT TO EASEMENT RESTRICTION AND OPERATING AGREEMENT, DATED AS OF DECEMBER 10, 1974 AND RECORDED AS DOCUMENT NO. 289791 IN THE LAKE COUNTY RECORDS.
7. AMENDMENT TO DEED OF DECLARATION, DATED AS OF DECEMBER 19, 1974 EXECUTED BY GARY JOINT VENTURE AND FILED AS DOCUMENT NO.

289795 IN THE LAKE COUNTY RECORDS.

8. DECLARATION BY GARY JOINT VENTURE DATED AS OF JUNE 1, 1977 FILED AS DOCUMENT NO. 423317 IN THE LAKE COUNTY RECORDS.

10. EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF JUNE 1, 1977 BY AND BETWEEN GARY JOINT VENTURE AND ADCOR REALTY CORPORATION AND FILED FOR RECORD AS DOCUMENT NO. 423320 IN THE LAKE COUNTY RECORDS.

11. SUPPLEMENT TO EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF JUNE 1, 1977 BY AND BETWEEN LIKE PARTIES, WHICH AGREEMENT IS NOT RECORDED, BUT IS INCORPORATED IN SAID EASEMENT, RESTRICTION AND OPERATING AGREEMENT FOR ALL PURPOSES.

12. THIRD AMENDMENT TO EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF JUNE 1, 1977 BY AND AMONG GARY JOINT VENTURE, ADCOR REALTY CORPORATION, J. C. PENNEY COMPANY, INC., SEARS, ROEBUCK AND CO. AND I-65- US 30 CORP FILED AS DOCUMENT NO. 423321 IN LAKE COUNTY RECORDS.

13. THIRD AMENDMENT TO DEED OF DECLARATION BY GARY JOINT VENTURE DATED JUNE 24th, 1991, FILED FOR RECORD AS DOCUMENT No. 91032353 IN THE LAKE COUNTY RECORDS.

14. DECLARATION OF DRAINAGE EASEMENTS BY GARY JOINT VENTURE DATED JUNE 24th, 1991, FILED FOR RECORD AS DOCUMENT No. 91031994 IN THE LAKE COUNTY RECORDS.

IN, ON, OVER, UPON AND UNDER CERTAIN ADJOINING REAL PROPERTY THEREIN MORE PARTICULARLY DESCRIBED, TOGETHER WITH ALL OF THE RIGHTS, POWERS, PRIVILEGES AND BENEFITS UNDER SAID OPERATING AGREEMENTS ACCRUING TO THE OWNER OR OWNERS OF THE PARCELS ABOVE DESCRIBED, THEIR SUCCESSORS, LEGAL REPRESENTATIVES AND ASSIGNS.