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Chicago Tide Insurance Company

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MORTGAGE AND SECURITY AGREEMENT

This Mortgage and Security Agreement (as from time to time amended and in effect, the "Mortgage") is made as of April 1, 1996, by Douglas Pointe III Associates L.L.C., an Indiana limited liability company with a place of business at 1610 Pointe Drive, Suite B, Valparaiso, Indiana 46383 (together with any successors to and assigns of any or all of its present or future interests in the Property, as hereinafter defined, other than the Lender, as hereinafter defined, called the "Borrower"), and delivered to United Fidelity Bank, fsb, a federally-chartered savings bank, with a place of business at 18 N.W. Fourth Street, Evansville, Indiana 47706-1347 (together with any other holder from time to time of the Note, as hereinafter defined, called the "Lender"). Certain terms are used in this Mortgage as specifically defined herein. These definitions are set forth or referred to in Section 8 hereof. Terms used but not defined herein shall be used with the meanings given to such terms in the Credit Agreement as defined herein.

Asm # 96025602

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NOT OFFICIAL!

WITNESSETH:

This Document is the property of

WHEREAS, pursuant to the provisions of Indiana Code Title 36, Article 7, Chapters 11.9 and 12, the Borrower and the City of Hammond, Indiana, (the "Issuer") have entered into a certain Loan Agreement dated as of April 1, 1996 (the "Agreement"), under which the Issuer has agreed to lend to the Borrower the sum of \$2,840,000 (the "Bond Loan") and the Borrower has agreed to repay the Bond Loan, together with interest thereon and also to pay to the Issuer certain expenses and charges;

WHEREAS, in order to provide the funds with which to make the Bond Loan to the Borrower, the Issuer, pursuant to a certain Trust Indenture (the "Indenture") dated as of April 1, 1996 between the Issuer and Bank One, Indianapolis, N.A., as Trustee (the "Trustee"), has issued contemporaneous herewith its City of Hammond, Indiana Tax Exempt Adjustable Rate Economic Development Revenue Bonds, Series 1996 A (Annex at Douglas Pointe Project) in the original principal amount of \$2,840,000 (the "Bonds");

MORTGAGE AND SECURITY AGREEMENT RESPONSE

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WHEREAS, as evidence of the Bond Loan, the Borrower has executed and delivered to the Issuer its Note of even date herewith, in the principal sum of \$2,840,000 (the "Bond Note"; with the Agreement, Indenture, and any and all documents executed in connection therewith, collectively, the "Bond Documents");

WHEREAS, the Issuer is assigning its rights under the Agreement to the Trustee (except for certain rights and benefits granted for the protection of the Issuer under the Agreement as more fully described in the Indenture) for the equal and ratable benefit of all present and future holders of the Bonds;

WHEREAS, in connection with the issuance of the Bonds and to induce the Lender to facilitate the issuance from the Federal Home Loan Bank of Indianapolis (the "Bank") of one or more direct pay letters of credit for a term of a minimum of ten years (the "Letters of Credit") with respect to the Bonds by entering into a Reimbursement Agreement, Addendum to Reimbursement

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Agreement, and Advances, Pledge and Security Agreement to secure the Bank and assure reimbursement to the Bank for draws made on the Letters of Credit (the "Reimbursement Agreement"), the Borrower and the Lender have entered into a Credit Agreement of even date herewith (the "Credit Agreement"); and

WHEREAS, the Borrower desires to provide the Lender with this Mortgage to provide security for certain obligations of the Borrower pursuant to the Credit Agreement;

NOW, THEREFORE, in consideration of the Credit Agreement and issuance by the Bank of the Letter of Credit the Borrower hereby agrees as follows:

1. Granting Clause; Secured Obligations; Property; Conditions

1.1 Granting Clause. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower does hereby MORTGAGE and WARRANT to the Lender so much of the Property as constitutes the Premises, and grants to the Lender a first security interest in so much of the Property as constitutes the Collateral, to secure the Secured Obligations.

1.2 Secured Obligations. As used herein, the term "Secured Obligations" shall mean all indebtedness, liabilities, obligations and undertakings of the Borrower to the Lender, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising or acquired, including without limitation:

(a) the payment and performance of all covenants and agreements contained in the Credit Agreement, as from time to time amended and in effect, relating to the Premises;\*

(b) the payment and performance of all covenants and agreements in a certain revolving credit promissory note of even date herewith made by the Borrower to the order of the Lender in the maximum principal amount of \$2,875,014, and all renewals, amendments, modifications, consolidations, replacements, increases and extensions thereof (the "Note"), at the times, in the manner and with interest and prepayment and late charges, if any, all as more fully provided therein;\*

(c) the payment and performance of all other sums and performance of all covenants and agreements contained or required under this Mortgage and in a certain assignment of leases and rents of even date recorded herewith, as from time to time amended and in effect (the "Assignment"), and granted by the Borrower to the Lender covering the Premises and securing the Secured Obligations;

(d) the payment of all other sums and performance of all covenants and agreements contained in each of the other Credit Facility Documents with the exception of the Hazardous Materials Indemnity Agreement; and

(e) without limiting the generality of the foregoing, the payment of the "Secured Debt", which term shall include all indebtedness, liabilities and amounts from time to time evidenced by the Note, and, to the extent permitted

\*This is a revolving credit mortgage loan pursuant to the terms of the Credit Agreement and the revolving credit promissory note of even date.

by law, all other indebtedness and liabilities, direct or indirect, of the Borrower to the Lender due or to become due hereunder, under the Credit Agreement, under the Assignment, or under any other Credit Facility Document (including, without limitation, any future advances, disbursements, payments and reimbursements made, and charges, expenses and costs incurred by the Lender pursuant to the provisions of the Credit Agreement, the Note, the Assignment, this Mortgage or any such other Credit Facility Document) even if the aggregate amount of the Secured Debt outstanding at any one time exceeds the face amount of the Note.

1.3 The Property; the Premises; the Collateral. The "Property" shall mean: the parcel or parcels of land in Hammond, Lake County, Indiana now known as and numbered 5525 Hyles Avenue, Hammond, Indiana, as more particularly described in Exhibit A attached hereto; and all buildings, structures and other improvements now or hereafter existing thereon; all rights-of-way or use, servitudes, licenses, all leases, tenancies and occupancies, together with all rents, rental subsidies or payments in lieu of rent, tenements, hereditaments, appurtenances, easements, profits, mineral rights and other rights now or hereafter existing, belonging or pertaining thereto; all fixtures and other articles of every kind and nature whatsoever now or hereafter owned or leased by the Borrower, and used or procured for use in connection with the operation and maintenance of any of the foregoing, insofar as the same are, or can by agreement of the parties be made, a part of the real estate, including, without limiting the generality of the foregoing, any and all boilers, pumps, tanks, electric panel switchboards, lighting equipment and wiring, heating, plumbing and ventilating apparatus, sprinklers, if any, elevators, escalators, refrigerating, air conditioning and air-cooling equipment and other building service equipment (said land, buildings, structures, improvements, rights, fixtures and other articles being collectively called the "Premises"); and all personal property, including without limitation all goods, equipment, inventory, accounts, documents, instruments, chattel paper and general intangibles (each as defined in the Uniform Commercial Code), all amounts on deposit with the Lender in any demand deposit, checking, savings, certificate of deposit or other deposit or investment account, including escrow or reserve accounts and the Equity Funds to the extent that they shall have been contributed to the Borrower by the Equity Investor, now or hereafter owned or leased by the Borrower and now or hereafter placed in or on, or used or created in connection with the construction, ownership, use, occupancy, maintenance or operation of, the Premises, and the proceeds and products thereof and replacements therefor and accessions and additions thereto, including all proceeds of insurance policies, including title insurance, relating to any of the foregoing, and further including all of the rights of the Borrower (but none of its obligations) under all contracts, agreements, warranties and guarantees related to construction of all or any portion of the Premises, and including, subject to the provisions of any applicable governmental laws, statutes, ordinances, bylaws, codes, rules and regulations, all of the rights and interest of the Borrower in any licenses, permits and approvals for the construction, ownership, use, occupancy, maintenance and operation of the Premises (said personal property being collectively called the "Collateral").

1.4 Construction Mortgage. This Mortgage is given in part to secure obligations incurred for the construction of improvements on land, including the acquisition of land, and is intended to be a "construction mortgage" under and as defined in Section 9-313 of the Uniform Commercial Code.

1.5 Conditions. This Mortgage is upon the further condition that all representations, warranties, conditions, covenants and agreements of the Borrower contained herein and in each other Credit Facility Document be true and correct, and be kept, observed and fully performed and satisfied.

2. Representations and Warranties of Borrower.

The Borrower hereby represents and warrants to the Lender as follows:

2.1 Authority of Borrower. The Borrower is a duly organized and validly existing limited liability company in good standing under the laws of the State of Indiana, and has powers adequate for the execution, delivery and performance of its obligations under the Credit Facility Documents and for carrying on the business now conducted or proposed to be conducted by it. The Borrower has taken all necessary corporate action required to make the Credit Facility Documents the valid and enforceable obligations they purport to be.

2.2 Execution, Delivery and Effect of Documents. Each of the Credit Facility Documents has been duly executed and delivered by or on behalf of the Borrower pursuant to authority legally adequate therefor, and each of the Credit Facility Documents is in full force and effect and has not been amended or modified, and is a legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms.

2.3 Legal Proceedings. There are no actions, suits or proceedings (including, without limitation, any Taking proceeding or any proceeding in the nature of bankruptcy or for reorganization or arrangement) or investigation at law or in equity, or before or by any court or public board or body, contemplated by or pending or threatened against or affecting the Borrower, any member of the Borrower, or the Property, or to the knowledge of the Borrower any basis therefor, wherein an unfavorable decision, ruling or finding might in any material respect adversely affect the validity or enforceability of any of the Credit Facility Documents, or the condition (financial or otherwise) of the Borrower or the ability of the Borrower to meet its obligations under any of the Credit Facility Documents, except actions, suits and proceedings fully covered by insurance and fully disclosed to the Lender.

2.4 Compliance With Law, Etc. The Borrower is not (i) in violation of any term or provision of the articles of organization or operating agreement of the Borrower, or (ii) in violation of or default under any term or provision of any mortgage, lease, agreement or other instrument or document by which the Borrower or the Property is bound or affected, or (iii) in violation of any judgment, order, writ, injunction, decree or demand of any court or governmental authority, or (iv) in violation of any law, statute, ordinance, bylaw, rule or regulation by which the Borrower or the Property is bound or affected. The execution, delivery and performance of the Credit Facility Documents and the consummation of the transactions contemplated thereby will

not violate or constitute a default under the articles of organization or operating agreement of the Borrower or any term or provision of any such mortgage, lease, agreement or other instrument or document, and none of such instruments and documents imposes or is made in contemplation of any obligation which is or will be inconsistent with any other obligation imposed upon the Borrower under the Credit Facility Documents. No approval by, authorization of, or filing with any federal, state, or municipal or other governmental commission, board, agency or other authority is necessary in connection with the execution and delivery of the Credit Facility Documents by the Borrower.

2.5 Title to Security; First Lien. The Borrower has good and clear record and marketable title in fee to such of the Property as is real property, and good and marketable absolute title to the balance of the Property, in either case subject to no liens, encumbrances, easements or restrictions other than Permitted Encumbrances; and this Mortgage is and will remain a valid, enforceable and perfected first lien on and security interest in the Property. The Borrower has good and marketable absolute title to all other Security, subject to no liens, encumbrances, easements or restrictions other than as permitted in the Credit Facility Documents, and the Security Documents are and will remain a valid, enforceable and perfected first lien on and security interest in such other Security.

2.6 Financial Statements. All financial statements of the Borrower or any Guarantor furnished to the Lender in connection with the credit facility contemplated by the Credit Agreement have been prepared in accordance with generally accepted accounting principles consistently applied (except as therein otherwise set forth) and fairly present the financial condition of the Persons covered thereby at the dates thereof and the results of their operations for the periods covered thereby, and no such Person has any known contingent liabilities of any material amount which are not referred to in such financial statements or in the notes thereto.

2.7 Hazardous Materials. There has been no release of any Hazardous Materials, including without limitation any oil, hazardous substance, hazardous waste, toxic substance or solid waste as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., as amended ("CERCLA"), as amended by Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499 100 Stat. 1613) ("SARA"), the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq., as amended ("RCRA"), the Toxic Substance Control Act of 1976 ("TSCA"), the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq. ("HMTA"), the Clean Water Act, 33 U.S.C. § 1251 et seq. (the "Clean Water Act"), the regulations promulgated under CERCLA, SARA, RCRA, TSCA, HMTA and the Clean Water Act and all applicable state and local laws, rules and regulations including, without limitation, IC 13-7-8.5-1 et seq., IC 13-7-8.7-1 et seq., and IC 13-7-22.5 et seq. (CERCLA, SARA, RCRA, TSCA, HMTA, the Clean Water Act, such regulations promulgated thereunder, and all such applicable state and local laws, rules and regulations being collectively called the "Superfund and Hazardous Waste Laws") on, upon, under, in, about or into the Property; to the best of the Borrower's knowledge, there have been no such releases on, upon, under, in, about or into any real property

adjoining or in the vicinity of the Property which through soil or groundwater migration could affect the Property; and the Borrower has not received any notice from any governmental authority claiming that the Property violates any law or regulation relating to Hazardous Materials or other hazardous substances, or oil.

3. Covenants of the Borrower.

The Borrower covenants and agrees with the Lender as follows:

3.1 Construction and Completion of Improvements. All buildings, structures and other improvements now being or hereafter constructed on the Premises shall be completed in a good and workmanlike manner, in accordance with all applicable governmental laws, statutes, ordinances, bylaws, codes, rules, regulations and requirements, in accordance with plans and specifications approved in advance and in writing by the Lender, and otherwise in accordance with the provisions of the Credit Facility Documents. The Borrower shall correct any defects or faults in such improvements, and shall pursue diligently any remedies or recourse which the Borrower may have under agreements, warranties and guarantees related to the construction thereof.

3.2 Financial Statements and Other Information! During the term of the Credit Facility, the Borrower shall furnish, or cause to be furnished, to the Lender, the following financial statements and other information:

(a) The balance sheet and annual statements of income, members' equity, cash flows and surplus accounts for the Borrower within ninety (90) days following the end of each fiscal year of the Borrower, all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved, and audited by an independent certified public accountant approved by the Lender in writing;

(b) The balance sheet and annual statements of income, cash flows and surplus accounts for the Managing Member within ninety (90) days following the end of each fiscal year of the Managing Member, all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved, and audited by an independent certified public accountant acceptable to the Lender;

(c) A report of the activities of the Borrower for the prior fiscal year within ninety (90) days following the end of each fiscal year of the Borrower, which report shall include, without limitation, distributions to the members of the Borrower, separately identifying distributions from (i) cash flow from operations during the period, (ii) cash flow from operations during a prior period which had been held as reserves, (iii) proceeds from disposition of property and investment, (iv) lease payments on net leases with builders and sellers, (v) reserves from the gross proceeds of any capital contribution of any members, (vi) borrowed monies, and (vii) transactions outside of the ordinary course of business with the description thereof;

(d) Annual operating and income and expense statements relating to the Property within ninety (90) days following the end of each fiscal year of the

Borrower, setting forth for such year the occupancy level of the Project as of the end of the fiscal year, all rents and income from the Property and all expenses incurred by the Borrower and in connection with the construction, ownership, maintenance and operation of the Property, including taxes, insurance premiums, and the costs of all maintenance and replacement of the Property, as well as lessees' annual sales volumes and all other information necessary to calculate or verify any payments required under Leases;

(e) Within ninety (90) days following the end of each calendar year, the annual report to be filed with the United States Treasury concerning the status of the Project as low-income housing and, if required, a certificate to the appropriate state agency concerning the same within ninety (90) days following the end of each calendar year;

(f) Within ninety (90) days after the end of each calendar year, a recent set of photographs of the Project with the date noted thereon that reasonably depicts the condition of the Project as of the date taken;

(g) Prior to October 15 of each year, an estimate of the share of each member of the Borrower of the tax credits, profits and losses of the Borrower for federal income tax purposes for the current fiscal year. Such estimate shall be prepared by the Managing Member and by an independent certified public accountant acceptable to the Lender and shall be in the form specified by the Lender;

(h) K-1's and other forms and reports sent to the members of the Borrower shall at the same time be sent to the Lender;

(i) Annual cash flow statements on all real estate owned by Borrower, the Managing Member or any entity related to Borrower within ninety (90) days following the end of each calendar year, all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved, and certified by a person acceptable to the Lender;

(j) Federal income tax returns for the Borrower and the Managing Member within one hundred and twenty (120) days after year-end, as well as all information relating to the Borrower and/or the Project, which is necessary, in the view of the Lender's accountants, for the preparation of the federal income tax returns of the members of the Borrower;

(k) The balance sheet and quarterly statements of income, cash flows and surplus accounts for the Borrower and the Managing Member within thirty (30) days following the end of each fiscal quarter of the entity for which they are prepared, all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the period involved, and certified by the Managing Member;

(l) Monthly rent rolls and cash flow statements for the Project within thirty (30) days following the end of each calendar month, all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved, and certified

by the Borrower. These statements will be required monthly until the Project achieves 100% Tax Credit-qualified occupancy, and thereafter, quarterly statements will be required within thirty (30) days following the end of each fiscal quarter of the Borrower;

(m) A certification of the Borrower within thirty (30) days following the end of each fiscal quarter for the Borrower that the Project and its tenants are in compliance with all applicable federal, state and local requirements and regulations relating to the Tax Credits;

(n) Within fifteen (15) days after the end of any calendar quarter during which any of the following occur, a detailed report by the Borrower of such event:

- (i) there is a material default by the Borrower under any document or agreement relating to the Project,
- (ii) any reserve relating to the Project has been reduced or terminated by application of funds therein for purposes materially different from those for which such reserve was established,
- (iii) the Managing Member has received notice of a material fact which may substantially affect further distributions or tax credit allocations to any member of the Borrower, or
- (iv) any member has pledged or encumbered its interest in the Borrower;

(o) Promptly upon knowledge thereof, written notice of any litigation, arbitration or administrative proceeding to which the Borrower or any Guarantor may hereafter become a party which may affect the Property or the construction, ownership, maintenance or operation thereof, which may involve any material risk of any material judgment or liability not fully covered by insurance or which otherwise may result in any material adverse change in the business or assets or in the condition, financial or otherwise, of the Borrower or any Guarantor;

(p) Promptly upon knowledge thereof, written notice of the existence of any Default, specifying the nature thereof and what action the Borrower has taken, is taking or proposes to take with respect thereto;

(q) Promptly upon receipt of same, copies of any notifications of releases of hazardous substances, hazardous materials or oil, or threats thereof, which are given by or on behalf of the Borrower to any federal, state or local governmental authorities with respect to the Premises. Such copies shall be sent to the Lender concurrently with their being mailed or delivered to the governmental agencies or authorities; and

(r) From time to time upon request of any authorized representative of the Lender, such other information regarding the business, affairs and condition, financial or otherwise, of the Borrower or any Guarantor as such



representative may request. The authorized representatives of the Lender shall have the right during normal business hours to examine the books and records of the Borrower, to make copies, notes and abstracts therefrom, and to make an independent examination or audit of its books and records for the purpose of verifying the accuracy of the reports delivered by the Borrower pursuant to this Section 3.2 or otherwise and ascertaining compliance with the Credit Facility Documents.

### 3.3 Title and Permitted Encumbrances; Restrictions on Transfer.

(a) The Borrower shall not, directly or indirectly, permit or suffer to be created or to remain, and shall discharge, or promptly cause to be discharged, any mortgage, lien, attachment, lis pendens or other encumbrance, charge or restriction on, or any pledge of, the Property or any part thereof or interest therein, other than the Security Documents and Permitted Encumbrances. The Borrower shall promptly give the Lender notice of and, unless the Lender requests otherwise, appear in and diligently contest at the Borrower's sole cost and expense, any action or proceeding which purports to affect the Borrower's title to the Property or the priority or validity of this Mortgage. As used herein, the term "Permitted Encumbrances" shall mean (i) the easements, restrictions and encumbrances, if any, set forth or referred to in Exhibit B attached hereto, (ii) liens for real property taxes not yet delinquent, (iii) Leases set forth on Exhibit B to the Assignment as in effect on the date hereof, and (iv) Leases entered into or effected after the date hereof without violating Section 3.4(a) hereof.

(b) The Borrower shall not, directly or indirectly, without the prior written consent of the Lender in each instance obtained, convey, sell, assign, transfer, dispose of or permit any conveyance, sale, assignment, transfer or disposition, whether voluntary or involuntary, of ownership or control of all or any part of any legal or beneficial interest in the Property or any part thereof (including any grant of a mortgage, other lien or security interest in any legal or beneficial interest in the Property or any part thereof, or any sale, assignment, transfer or disposition of any rents and other contractual claims). Without limiting the generality of the foregoing, any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any membership interests of any limited liability company which holds any legal or beneficial interest in the Property, at any time without such prior written approval of the Lender, shall be a breach of the covenants in this Section 3.3. The Borrower acknowledges and agrees that any such consent, if given in the Lender's sole uncontrolled discretion, may be conditioned upon amendments to and modifications of the Credit Facility Documents, which amendments and modifications may include, without limitation, an increase in the interest rate due on, or imposition or acceleration of a schedule of amortization of, the principal amount then outstanding under the Note, and upon payment of a fee to the Lender and an assumption by the Borrower of an obligation to pay the Lender's costs and expenses, including reasonable attorneys' fees, incurred in connection with such consent of the Lender, if given, or otherwise. Notwithstanding the foregoing, the Borrower may, without the consent of the Lender, increase the number of the members of the Borrower's Management Committee pursuant to the Borrower's Operating Agreement after the occurrence of a Designated Event (as defined in said Operating Agreement) on the terms and conditions provided in Section 8(q) of the Credit Agreement.

### 3.4 Leases.

(a) The Borrower shall not enter into any Lease, other than a Residential Lease, without in each instance obtaining the prior written consent of the Lender; provided, however, that if the Lender requests submission to it of one or more Residential Leases, amendments thereto or replacements thereof or if so required under the terms of the Tax Credit Agreement, all as set forth in Section 3.4(e) (i) hereof, then the Borrower shall not enter into any such Residential Lease without the prior written consent of the Lender.

(b) Without the Lender's prior written consent, the Borrower shall not cancel, terminate, surrender, change, modify or amend any Lease or take or fail to take any action which would adversely affect the Borrower's rights under, or justify, effect or permit a cancellation, termination, surrender, change or modification of, any Lease including, without limitation, any reduction in or other agreement with respect to the rent payable under any Lease during the term, including any extension, thereof or upon renewal thereof; provided, however, that the Lender's prior written consent shall not be required to any such cancellation, termination, surrender, change, modification or amendment of a Residential Lease made in the ordinary course of the Borrower's operation of the Premises, nor to any action or failure to act solely affecting a Residential Lease taken or omitted in the ordinary course of the Borrower's operation of the Premises, provided that the provisions of the Tax Credit Agreement are complied with at all times.

(c) Without the Lender's prior written consent, the Borrower shall not waive, release, reduce, discount or otherwise discharge or compromise, directly or indirectly, any rent or payments in lieu thereof, under the Leases, or suffer or permit or take any action which would release or diminish the liability of the other parties to the Leases; provided, however, that the Lender's prior written consent shall not be required to any such action with respect to a Residential Lease taken in the ordinary course of the Borrower's operation of the Premises, provided that the provisions of the Tax Credit Agreement are complied with at all times.

(d) Subject to the provisions of Section 3.4(b) hereof, the Borrower shall perform punctually and comply with all of the Borrower's obligations under each Lease and shall use all means available to it to enforce the obligations of the other parties under all Leases.

(e) The Borrower shall (i) submit to the Lender for examination and approval all Leases and amendments to or replacements of all such Leases, except that the Borrower shall not be required so to submit Residential Leases and amendments thereto and replacements thereof unless the Lender from time to time shall so request or the same is required under the terms of the Tax Credit Agreement; (ii) assign to the Lender all Leases and the Borrower's rights thereunder, and the rents, rental subsidies, issues and profits from the Property, such assignments to: (1) be in form and substance satisfactory to the Lender; (2) be legally sufficient to empower the Lender to assign any and all such Leases to any Person or Persons claiming title to the Property or to any part thereof by virtue of foreclosure proceedings or otherwise; (3) not

be merely the passing of security interests but to be absolute assignments, contingent only upon the right of the owner of the equity of redemption of the Property to have and retain the rents, issues and profits of such Leases and the Property until an Event of Default occurs and to provide that during the existence of any Event of Default, such rents, issues and profits received by the Lender prior to the foreclosure of this Mortgage shall be applied to payment of the Lender's costs and expenses, including reasonable attorneys' fees, then to the extinguishment of the Secured Debt, then to the Borrower, and that after foreclosure of this Mortgage no assignee of any Lease so assigned shall be liable to account to the Borrower or its successors-in-title for rents, issues or profits thereafter accruing; and (4) constitute the Lender as attorney-in-fact for the Borrower during the existence of any Event of Default for the collection and proper application of such rents, issues and profits.

(f) The Borrower shall notify the Lender promptly of any material breach or default of which the Borrower has knowledge on the part of the Borrower or any other party in the payment or performance of any of the terms, covenants or agreements of any Lease, except that the Borrower shall not be required so to notify the Lender of any such breach or default which solely affects a single Residential Lease; such notice shall include a copy of the notice of default if such is given.

(g) Upon the foreclosure of the lien created by this Mortgage on the Property pursuant to the provisions hereof, any Leases then existing and created by Borrower shall not be destroyed or terminated by application of any doctrine or principle of merger or as a matter of law or as a result of such foreclosure unless the Lender or any other purchaser at any such foreclosure sale shall so elect. No act by or on behalf of the Lender or any such purchaser shall constitute a termination of any Lease unless the Lender or such purchaser shall have given written notice thereof to the other party or parties thereto.

### 3.5 Operation of Property.

(a) The Borrower shall make such repairs and replacements and take such other steps as may be necessary to keep and maintain the Property and any abutting grounds, sidewalks, roadways and parking and landscaped areas under the Borrower's control in at least as good repair, order and condition as the same now are or hereafter may be put while this Mortgage is outstanding, excepting only deterioration incidental to reasonable wear and use and Takings; it being understood, however, that the foregoing exception for reasonable wear and use shall not relieve the Borrower from the obligation to repair or replace worn out, inoperative or otherwise deficient elements of the Property.

(b) The Borrower shall not (except as otherwise expressly permitted in this Mortgage or otherwise in advance and in writing by the Lender, including pursuant to the Credit Agreement) permit or suffer the removal, demolition or any other waste of any of the Property, except that nothing in this Mortgage shall be deemed to prevent replacements or substitutions for items constituting part of the Collateral where such replacements and substitutions are comparable as to function, quality and value.

(c) The Borrower shall well, truly and seasonably keep, observe and satisfy all federal, regional, state and local laws, statutes, ordinances, bylaws, codes, rules and regulations relating to the Property or the occupancy or use thereof.

(d) The Borrower shall not make or permit any structural or nonstructural alterations, improvements or additions to the Property except (i) pursuant to and in accordance with the Credit Agreement, (ii) pursuant to Leases approved in advance and in writing by the Lender, or (iii) as otherwise expressly permitted in advance and in writing by the Lender.

(e) The Borrower shall not permit the use of the Property for any purpose other than pursuant to the terms of the Credit Agreement, the Bond Documents, the Land Use Restriction Agreement (as defined in the Agreement), and the Plans and Specifications (as defined in the Credit Agreement), or suffer any occupancy of the Premises which violates the provisions of Section 3.4(a) of this Mortgage.

(f) The Borrower shall permit the Lender and its authorized representatives to enter and examine the Property from time to time at all reasonable times.

(g) The Borrower shall not, except after obtaining the prior written consent of the Lender in each instance or as specifically provided in Leases approved in advance and in writing by the Lender, collect funds in advance as consideration or deposit for the occupancy, use or leasing of the Property or any part thereof, or any other rent or prepayments of money from any tenant or other occupant or user of any part of the Property, aggregating in excess of an amount equal to one month's rent, plus a security deposit equal to one month's rent, which consent of the Lender may be conditioned upon, among other things, restrictions on or prohibitions against disbursement of funds so collected.

(h) The Borrower shall operate or cause the Project to be operated at all times in compliance with the provisions of the Tax Credit Agreement.

### 3.6 Compliance with Superfund and Hazardous Waste Laws.

(a) The Borrower shall comply with the requirements of all applicable environmental, health, safety and sanitation laws, ordinances, bylaws, codes, rules and regulations and interpretations and orders of regulatory and administrative authorities with respect thereto, including all requirements of the Superfund and Hazardous Waste Laws, and shall undertake promptly and pursue diligently to completion, at its own cost and expense, appropriate remedial containment and clean-up action in the event of any release or threat of release of hazardous substances, hazardous materials or oil on, upon or into the Property as necessary to preclude any action by governmental authorities to enforce the Superfund and Hazardous Waste Laws, including, without limitation, the attachment of any lien.

(b) The Borrower shall indemnify, defend and hold harmless the Lender and each of its officers, employees, agents and contractors from and against all loss, liability, damage and expense, including reasonable attorneys' fees, occasioned by or associated with any claims, suits and/or enforcement actions, including any administrative or judicial proceedings, and instituted or requested by any Person, including any governmental authority, on account of (i) any release or threat of release of hazardous substances, hazardous materials or oil on, upon, or into the Property, (ii) any and all damage to real or personal property or natural resources and/or harm or injury to Persons alleged to have resulted from such release or threat of release of hazardous substances, hazardous materials or oil, or (iii) the Lender's exercising or failing or neglecting to exercise, in whole or in part, any of its rights under the provisions of this Section.

(c) In the event that there shall be a release or threat of release of hazardous substances, hazardous materials or oil on, upon or into the Property, the Lender shall have the right (but not the obligation), upon five (5) days prior written notice to the Borrower (or without notice in the case of emergency), to cause the release or threat of release to be contained and/or cleaned up on behalf of the Borrower. The contractor(s) selected by the Lender shall have the right to enter upon the Property with such personnel, machinery and equipment as they shall deem necessary for the purpose and to undertake such remedial containment and clean-up actions as they shall deem appropriate, without thereby incurring any liability to the Borrower on account thereof. The Borrower agrees to cooperate with any such contractor(s) and to render such assistance to such contractor(s) as may be requested to facilitate such remedial containment and clean-up actions. The Borrower shall be liable to the Lender for all costs and expenses, including reasonable attorneys' fees, incurred on account of such remedial action and shall reimburse the Lender therefor on demand in accordance with Section 9.1 hereof.

(d) Any partial exercise by the Lender of the remedies set forth above or any partial undertaking on the part of the Lender to cure any failure on the part of the Borrower or any occupant of the Premises to comply with the Superfund and Hazardous Waste Laws shall not obligate the Lender to complete the actions taken or require the Lender to expend further sums therefor or to cure the Borrower's or any such occupant's failure to comply; neither shall the exercise of any such remedies operate to place upon the Lender any responsibility for the operation, control, care, management or repair of the Property, or make the Lender the "operator" of the Property or its equivalent within the meaning of the Superfund and Hazardous Waste Laws.

(e) The Lender is hereby specifically authorized at its sole election, without notice at any time, to cause one or more environmental assessments of the Property to be undertaken. Environmental assessments may include a detailed visual inspection of the Property, including, without limitation, all storage areas, storage tanks, drains, dry wells and leaching areas, as well as the taking of soil samples, surface water samples and ground water samples, and such other investigation or analysis as is necessary or appropriate for a complete assessment of the compliance of the Property and the use and operation thereof with all Superfund and Hazardous Waste Laws.

3.7 Payments. The Borrower shall pay or cause to be paid promptly when due:

(a) principal, interest, prepayment, late charges, if any, under the Note, the Credit Agreement and this Mortgage at the times and in the manner provided in the Note, the Credit Agreement, this Mortgage and the other Credit Facility Documents;

(b) all indebtedness under the Bond Documents, including but not limited to the principal of, premium, if any and the interest on, the Bond Loan as evidenced by the Bond Note, and any and all other amounts due hereunder or under the Bond Note or the Agreement;

(c) all taxes, betterments, assessments and other governmental levies, water rates, sewer charges, insurance premiums and other charges, to whomever and whenever laid or assessed, whether on the Property, this Mortgage, any other Security Document or on any interest therein or on the Secured Debt, or any other debt or obligation expressly secured hereby; and

(d) all federal, state and other taxes of whatever kind and nature which could, if unpaid, result in a lien on the Property or on any interest therein.

If, at any time, the Lender does not require the escrow of tax or insurance premium payments pursuant to Section 3.8 hereof, the Borrower shall furnish to the Lender the receipted real estate tax bills or insurance premium bills for the Premises within thirty (30) days after the date from which interest or penalty would accrue for nonpayment thereof. The Borrower shall also furnish to the Lender evidence of all other payments referred to above within fifteen (15) days after written request therefor by the Lender.

3.8 Escrow Account. If and to the extent from time to time requested by the Lender, the Borrower shall pay directly to the Lender monthly on each date on which a payment is due under the Note one-twelfth of such amount as the Lender from time to time estimates will be required to be paid before the same shall become past due, all taxes, betterments, assessments and other governmental liens or charges, and insurance premiums against the Property. The Lender shall not be deemed a trustee with respect to such payments and shall not be required to keep such payments separate from its general accounts or to pay interest thereon to the Borrower. If, at any time, such payments are or will be insufficient to discharge the amounts actually required to pay such taxes, betterments, assessments, liens and charges, or insurance premiums as may then or thereafter be due, any deficiency shall be promptly paid by the Borrower to the Lender. The Borrower shall transmit to the Lender all bills for such taxes, betterments, assessments, liens and charges, or insurance premiums as soon as received. When the Lender has received from the Borrower or on the Borrower's account funds sufficient to pay such taxes, betterments, assessments, liens and charges, or insurance premiums, such obligations shall, except as hereinafter provided, be paid when due. Should the amount paid by the Borrower in any year exceed the aggregate required, such excess shall be applied to such escrow payments for the succeeding year. Payments from said account for such purposes may be made by the Lender at its discretion even

though subsequent owners of the Property may benefit thereby. The obligations of the Borrower to pay taxes, betterments, assessments, liens and charges, or insurance premiums as provided for herein shall not be affected except to the extent that such obligations actually have been met through the application of the terms of this Section.

### 3.9 Notices and Estoppel Certificates.

(a) The Borrower shall deliver to the Lender, promptly upon receipt of the same, copies of all notices, certificates, documents and instruments received by the Borrower which materially affect the Property or its occupancy or use, including, without limitation, notices from parties to any Leases claiming that the Borrower is in default in the performance or observance of any of the terms thereof.

(b) If and to the extent from time to time requested by the Lender, the Borrower shall furnish to the Lender written statements, signed and, if so requested, acknowledged, setting forth the amount of the Secured Debt which the Borrower acknowledges to be due to the Lender, specifying any claims of offset or defense which the Borrower asserts against the Secured Debt or any obligations to be performed hereunder, the then state of facts relative to the condition of the Property, and such other matters as the Lender shall request.

3.10 Recording and Filing, Etc. At all times, and at its sole cost and expense, the Borrower shall cause this Mortgage, the Assignment, each other Security Document, any subordination or other agreement between any tenant holding a leasehold interest in the Premises and the Lender, and each amendment, modification or supplement thereof and appropriate financing and continuation statements, to be recorded and filed and to be kept recorded and filed in such manner and in such places, shall pay all such recording, filing or other taxes, fees and other charges, and shall comply with all such statutes and regulations, as may be required by law in order to establish, preserve, perfect and protect the lien and security interests of the Lender in the Property and the Collateral (including, without limitation, any property acquired after the execution hereof) and the rights of the Lender thereunder.

### 4. Security Agreement Representations, Warranties and Covenants.

The Borrower hereby covenants and agrees with the Lender that as of the execution hereof and hereafter from time to time when requested by the Lender, including upon any acquisition of items of property constituting Collateral, the Borrower shall (a) execute and deliver to the Lender, in form appropriate for recording and filing, a first security agreement and/or financing statement or statements relating to the Collateral or any part thereof, and the Lender may record or file as such a financing statement or statements a carbon, photographic or other reproduction of a financing statement or this Mortgage; (b) not change its name, identity or corporate or other structure in any manner without giving the Lender at least thirty (30) days' prior written notice thereof (with the Lender's prior written consent thereto, if otherwise required hereunder), and in connection with such change the Borrower will execute and deliver to the Lender all such additional security agreements, financing statements and other documents as the Lender may require, (c) pro-

vide to the Lender such other assurances as may be required by the Lender to establish, preserve, perfect and protect the Lender's first and prior security interest in the Collateral. The Borrower hereby represents and warrants to and covenants and agrees with the Lender that (i) the Collateral is and shall be used primarily for business purposes and is not and shall not be bought, leased or used primarily for personal, family or household purposes, (ii) except for Permitted Encumbrances, no financing statement, security agreement, or other lien instrument covering all or any part of the Collateral or any proceeds thereof is on file in any public office, (iii) the Borrower's chief place of business and chief executive office, and the office where the Borrower keeps its books and records, are and shall at all times be located at 1610 Pointe Drive, Suite B, Valparaiso, Indiana 46383 or at such other address as it may specify by notice actually received by the Lender at least thirty (30) days prior to any such change in location, and in connection with any such change in location the Borrower will execute and deliver to the Lender all such additional security agreements, financing statements and other documents as the Lender may require, and (iv) the Borrower will keep such of its tangible personal property as constitutes Collateral at the Premises, and will keep all other Collateral and all instruments, documents, books and records evidencing, reflecting or otherwise relating to the Collateral at such chief executive office.

5. Eminent Domain; Application of Award.

In case of any taking by eminent domain or condemnation for public use of, or any damage by reason of the action of any public or governmental entity or authority to, all or any part of the Property (a "Taking"), or the commencement of any proceedings or negotiations which might result in a Taking, the Borrower shall promptly give written notice thereof to the Lender, generally describing the nature and extent of the Taking or the nature of such proceedings and negotiations for the Taking and the nature and extent of the Taking which might result therefrom, as the case may be. The Lender may, at its option, appear in any proceeding in connection with, or any negotiations relating to, a Taking and the Borrower shall promptly give to the Lender copies of all notices, pleadings, determinations and other papers in any such proceedings. The Borrower shall in good faith and with due diligence and counsel satisfactory to the Lender file and prosecute the Borrower's claim or claims for any award or payment on account of any Taking of the Property. The Borrower shall not settle any such claim or claims without the Lender's prior written consent. The Borrower hereby assigns to the Lender all of the Borrower's right, title and interest in and to any claim to damages or to participation in any award in connection with a Taking and hereby authorizes such awards to be paid directly to the Lender. If the Borrower collects any such claim or claims, by settlement, judicial decree or otherwise, the Borrower shall promptly pay the same to the Lender. Any such payments, after deducting therefrom all costs and expenses, including reasonable attorneys' fees, incurred by the Lender in connection therewith, may be applied by the Lender, at the Lender's option, either to the reduction of the Secured Debt and any other obligations hereby secured, or to a restoration of so much of the Property as remains, with any balance to be paid over to the Borrower.



6. Insurance; Casualty.

6.1 Coverage. The Borrower shall, at the Borrower's sole cost and expense, obtain and keep in force while this Mortgage is in effect the following policies of insurance for the benefit of the Issuer, the Trustee and the Lender:

(a) Builder's completed value risk insurance in amounts required by the Lender (which amounts shall be sufficient to prevent the Borrower from being deemed a "co-insurer" of any loss, but in any event in an amount not less than 100% of full replacement value, exclusive of foundations and excavations) against all risks of physical loss, including coverage against collapse and damage during transit, and including coverage for cost of demolition and increased cost of construction and for contingent liability from the operation of any building laws as they may pertain to non-conforming property, with deductibles not to exceed \$5,000, in nonreporting form, covering the improvements from time to time constituting a part of the Premises and the total value of work performed and equipment, supplies and materials furnished, and containing an endorsement for permission to occupy upon completion of work or occupancy;

(b) Business interruption insurance and/or loss of "rental value" insurance in such amounts as are requested from time to time by the Lender (which amounts shall at minimum provide coverage for at least one year's projected rental income for the Property);

(c) Comprehensive public liability insurance (including coverage for elevators and escalators, if any, on the Premises and completed operations coverage for two years after construction of the improvements contemplated by the Credit Agreement have been completed) on an "occurrence basis" against claims for "personal injury" including, without limitation, bodily injury, death or property damage occurring on, in or about the Premises and the adjoining streets, sidewalks and passageways, such insurance to afford immediate minimum protection to a limit not less than that required by the Lender with respect to personal injury or death to any one or more persons or damage to property (in an amount not less than \$5,000,000 on an occurrence basis);

(d) Worker's compensation insurance (including employer's liability insurance, if requested by the Lender) for all employees of the Borrower engaged on or with respect to the Premises in such amounts as are satisfactory to the Lender, but not less than such amounts as may from time to time be established by law;

(e) Boiler and machinery insurance covering any pressure vessels, air tanks, boilers, machinery, pressure piping, and any heating, air conditioning, elevator and escalator equipment, provided such improvements contain equipment of such nature, and insurance against loss of occupancy or use arising from any such breakdown, in such amounts as are satisfactory to the Lender;

(f) If and to the extent any Collateral is not covered by such builder's risk insurance, insurance against loss or damage to the Collateral by fire and

other risks covered by insurance of the type now known as "all risk coverage" (in amounts sufficient to prevent the Borrower from being deemed a "co-insurer" of any loss, but in any event in an amount not less than 100% full replacement value, exclusive of foundations and excavations);

(g) Flood insurance required by federal law unless the Lender receives evidence satisfactory to it from an independent source that the Premises are not located in an area designated by the Federal Emergency Management Agency as having special flood hazards; and

(h) Such other insurance coverages in such amounts and such additional amounts for existing coverages as may from time to time, in light of requirements of mortgagees of similar premises, be required by the Lender against the same or other hazards.

6.2 Policy Provisions. The policies of insurance provided for in Sections 6.1 (a), (b), (e), (f) and (g) shall provide that any proceeds shall be payable to the Lender, as its interest may appear, pursuant to a standard mortgagee endorsement and all liability policies shall include the Lender as a named insured. The Borrower shall perform, observe and keep all the conditions of all insurance policies covering the Premises and, in case of any loss or damage or claim, the Borrower shall forthwith render to the insurance company a statement in writing, in compliance with the terms of the appropriate policy, and will give immediate notice by mail to the Lender, who may make proof of loss or claim. Each insurance company is hereby authorized and directed to make payment for such loss directly to the Lender instead of to the Borrower. The insurance proceeds for each loss, after deducting therefrom all costs and expenses, including reasonable attorneys' fees incurred by the Lender in connection therewith, under any policy provided for in this Section 6 shall be adjusted by the Borrower only with the written consent of the Lender and shall be paid to the Lender. Such insurance proceeds actually received by the Lender to the extent relating to the Premises (the "Available Proceeds") shall be applied by the Lender in accordance with Section 8(n) of the Credit Agreement. Except to the extent insurance proceeds are actually retained by the Lender and applied to the Secured Debt, nothing herein shall be deemed to relieve the Borrower from the obligation to maintain and repair the Premises and to restore all damage and destruction to the Premises, regardless of whether or not sufficient proceeds are available. No such retention and application shall be deemed a cure or waiver of any Default under this Mortgage. All such policies issued by the respective insurers shall provide that the loss, if any, thereunder shall be adjusted and paid as provided in this Mortgage. All policies of insurance provided for herein shall also provide: (a) that such policies shall not be cancelled or materially amended without at least thirty (30) days' prior written notice to the Lender; (b) that any amount payable due to loss shall be payable to the Lender, notwithstanding any act or omission or negligence of the Borrower which might otherwise result in forfeiture of said insurance; and (c) that the insurer waives all rights of set off, counterclaim or deduction against the Borrower.

6.3 Carriers; Evidence of Insurance. All insurance provided for in this Section 6 shall be effected with insurers approved in advance and in writing by the Lender. Upon delivery hereof and thereafter not less than fifteen (15) days prior to the expiration dates of the expiring policies, originals of the policies provided for in this Article 6 shall be delivered by the Borrower to the Lender. The Borrower may procure and keep in force, in place of separate policies, blanket policies of insurance having the same coverage and provisions as are herein required with respect to separate policies. If such blanket insurance is so furnished, the Borrower shall deliver to the Lender, in lieu of separate policies as hereinabove required, an attested copy of the policy, stating the amount allocated to the improvements on the Premises.

7. Rights and Remedies of Lender.

7.1 Rights Exercisable Regardless of Default. Whether or not a Default exists under this Mortgage, the Lender shall have the following rights, which rights may be exercised by the Lender at any time, but only after notice to the Borrower, and only to the extent permitted by law and necessary to protect the Lender's rights hereunder and in the Property:

(a) The Lender is hereby specifically authorized to make, at the Lender's sole option, any or all payments required to be made either hereunder or otherwise in respect of the Property by the Borrower. Such payments may include, but are not limited to, payments for taxes, assessments, betterments and other governmental levies, and charges, water rates, insurance premiums, maintenance, repairs or improvements constituting part of the Premises. The Lender shall have the right, but not the duty, to perform any obligations of the Borrower relating to the Property, without waiving any other rights or releasing the Borrower from any obligation hereunder.

(b) The Lender shall have the right, but not the duty, to intervene or otherwise participate in any legal or equitable proceeding which, in the Lender's sole judgment, affects the Property or any of the rights created or secured by the any of the Credit Facility Documents.

7.2 Effect of Exercise of Rights. Any sums paid, and any costs or expenses, including reasonable attorneys' fees, incurred by the Lender, pursuant to the Lender's exercise of rights specified or referred to herein, shall: (a) as between the parties hereto and their successors-in-interest, be deemed valid, so that in no event shall the necessity or validity of any such payments, costs or expenses be disputed; and (b) with respect to such sums, costs and expenses, be, until paid, part of the Secured Debt, and the Lender shall be entitled, to the extent permitted by law, to receive and retain the full amount of insurance proceeds or of the Secured Debt in any action for redemption by the Borrower or for an accounting for the proceeds of a foreclosure sale.

7.3 Events of Default. The occurrence of any one or more of the following events and conditions (each an "Event of Default") shall constitute a default under and breach of this Mortgage:

(a) failure to pay any amount or installment of interest or of principal and interest under the Note, or to make any other payment of the Secured Debt, when due or within any grace period which may be applicable thereto; or

(b) failure to pay any tax, betterment, assessment, or other governmental lien or charge before the respective dates upon which interest or penalty would begin to accrue for nonpayment thereof; or

(c) any relinquishment of or failure to maintain required insurance on the Property, without in each instance the prior written consent of the Lender; or

(d) The Borrower or any Restricted Affiliate or any Guarantor or any member of the Borrower shall be involved in financial difficulties as evidenced by: (1) its commencement of a voluntary case under Title 11 of the United States Code as from time to time in effect, or its authorizing, by appropriate action or proceedings of members, directors or other governing body, the commencement of such a voluntary case; (2) its filing an answer or other pleading admitting or failing to deny the material allegations of a petition filed against it commencing an involuntary case under said Title 11, or seeking, consenting to or acquiescing in the relief therein provided, or by its failing to controvert timely the material allegations of any such petition; (3) the entry of an order for relief in any involuntary case commenced under said Title 11; (4) its seeking relief as a debtor under any applicable law, other than said Title 11, of any jurisdiction relating to the liquidation or reorganization of debtors or to the modification or alteration of the rights of creditors, or by its consenting to or acquiescing in such relief; (5) the entry of an order by a court of competent jurisdiction (i) finding it to be bankrupt or insolvent, (ii) ordering or approving its liquidation, reorganization or any modification or alteration of the rights of its creditors, or (iii) assuming custody of, or appointing a receiver or other custodian for, all or a substantial part of its property; or (6) by its making an assignment for the benefit of, or entering into a composition with, its creditors, or appointing or consenting to the appointment of a receiver or other custodian for all or a substantial part of its property; or

(e) any material representation or warranty made by the Borrower in the Credit Facility Documents be untrue when made or not be fulfilled; or

(f) failure to observe or perform any of the provisions of, or occurrence of any event or transaction constituting a violation of, the provisions of Section 3.3(b) hereof; or

(g) failure of the Borrower to permit the Lender or any of its authorized representatives to enter and examine the Property at any reasonable time or times; or

(h) failure to observe or perform any covenant, agreement, condition, term or provision of any of the restrictions, covenants and conditions set forth or referred to in any of the Credit Facility Documents other than this Mortgage, in any Lease, or in any other Permitted Encumbrance or any other right, easement, restriction or encumbrance affecting the Property within the applicable grace period therein specified, if any; or

(i) occurrence of an Event of Default under the Credit Agreement or any Credit Facility Document other than this Mortgage;

(j) occurrence of an Event of Default under the Bond Documents; or

(k) The Borrower or any Restricted Affiliate or any Guarantor shall fail to make any payment of Indebtedness (other than Indebtedness constituting Secured Obligations) for money borrowed or Indebtedness under any capitalized lease or other purchase money obligation or shall fail to perform the terms of any agreement relating to such Indebtedness and such Default shall continue, without having been duly cured, waived or consented to, beyond the period of grace, if any, therein specified, or any such Indebtedness shall be accelerated or declared due and payable prior to the stated maturity thereof; or

(l) failure to pay, observe or perform any obligation, Indebtedness, covenant or agreement to or with the Lender to be paid, observed or performed on the part of the Borrower, any Restricted Affiliate or any Guarantor; or

(m) failure to observe or perform any other covenant, agreement, condition, term or provision of this Mortgage, and such failure shall continue without having been duly cured for a period of ten (10) days after written notice thereof given by the Lender to the Borrower.

7.4 Remedies. Upon the occurrence of any Event of Default, the Lender may at any time thereafter, at its option and without notice, exercise any or all of the following rights and remedies:

(a) terminate its obligations to make advances under the Credit Agreement and/or declare the entire Secured Debt due and payable, and the Secured Debt shall thereupon become and be immediately due and payable, anything in any of the Credit Facility Documents to the contrary notwithstanding, and without presentation, protest or further demand or notice of any kind, all of which are expressly hereby waived by the Borrower, provided that, notwithstanding and without limitation of the generality of the foregoing, upon the occurrence of an Event of Default under Section 7.3(d) hereof, the Lender's obligations to make advances under the Credit Agreement automatically shall so terminate and the entire Secured Debt automatically shall become and be immediately so due and payable;

(b) apply to the Secured Debt or otherwise any deposits or other sums credited by or due from the Lender to the Borrower including, without limitation, funds held in the escrow account referred to in Section 3.8 hereof (without first enforcing any other rights of the Lender against the Borrower or any endorsers of the Note or Guarantors, or against the Property);

(c) exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code;

(d) foreclose on the Property or any portion thereof by judicial proceeding and sale;

(i) occurrence of an Event of Default under the Credit Agreement or any Credit Facility Document other than this Mortgage;

(j) occurrence of an Event of Default under the Bond Documents; or

(k) The Borrower or any Restricted Affiliate or any Guarantor shall fail to make any payment of Indebtedness (other than Indebtedness constituting Secured Obligations) for money borrowed or Indebtedness under any capitalized lease or other purchase money obligation or shall fail to perform the terms of any agreement relating to such Indebtedness and such Default shall continue, without having been duly cured, waived or consented to, beyond the period of grace, if any, therein specified, or any such Indebtedness shall be accelerated or declared due and payable prior to the stated maturity thereof; or

(l) failure to pay, observe or perform any obligation, Indebtedness, covenant or agreement to or with the Lender to be paid, observed or performed on the part of the Borrower, any Restricted Affiliate or any Guarantor; or

(m) failure to observe or perform any other covenant, agreement, condition, term or provision of this Mortgage, and such failure shall continue without having been duly cured for a period of ten (10) days after written notice thereof given by the Lender to the Borrower.

7.4 Remedies. Upon the occurrence of any Event of Default, the Lender may at any time thereafter, at its option and without notice, exercise any or all of the following rights and remedies:

(a) terminate its obligations to make advances under the Credit Agreement and/or declare the entire Secured Debt due and payable, and the Secured Debt shall thereupon become and be immediately due and payable, anything in any of the Credit Facility Documents to the contrary notwithstanding, and without presentation, protest or further demand or notice of any kind, all of which are expressly hereby waived by the Borrower, provided that, notwithstanding and without limitation of the generality of the foregoing, upon the occurrence of an Event of Default under Section 7.3(d) hereof, the Lender's obligations to make advances under the Credit Agreement automatically shall so terminate and the entire Secured Debt automatically shall become and be immediately so due and payable;

(b) apply to the Secured Debt or otherwise any deposits or other sums credited by or due from the Lender to the Borrower including, without limitation, funds held in the escrow account referred to in Section 3.8 hereof (without first enforcing any other rights of the Lender against the Borrower or any endorsers of the Note or Guarantors, or against the Property);

(c) exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code;

(d) foreclose on the Property or any portion thereof by judicial proceeding and sale;

(e) take such other actions or proceedings as the Lender deems necessary or advisable to collect or enforce or to protect its interest in the Property and the Secured Debt; and

(f) exercise any and all rights and remedies contained in any other Credit Facility Document.

Such options shall continue until all such Events of Default have been cured, and may be exercised individually, sequentially or in concert, all such remedies being cumulative, the exercise of one not being deemed a waiver of any of the others or a cure of any Event of Default.

7.5 Receiver. Upon the occurrence of any Event of Default, or at any time thereafter, the Lender shall be entitled at its option to the appointment of a receiver of the Property. Such appointment may be made either before or after foreclosure sale, without notice, without regard to the solvency or insolvency of the Borrower at the time of application for such receiver and without regard to the then value of the Property. The Lender may be appointed as such receiver. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (i) the Secured Debt, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; and (ii) the deficiency in case of a sale and deficiency.

7.6 No Waiver; Rights and Remedies Cumulative. The failure of the Lender to exercise any right or remedy or option provided for herein or otherwise shall not be deemed to be a waiver of any of the covenants or obligations secured by this Mortgage or otherwise. No sale of all or any of the Property, no forbearance on the part of the Lender, no release or partial release of any of the Property, and no extension, whether oral or in writing, of the time for the payment of the whole or any part of the Secured Debt or any other indulgence given by the Lender to the Borrower or any other Person, shall operate to release or in any manner affect the lien of the Mortgage or the original liability of the Borrower, notice of any such extensions or indulgences being hereby waived by the Borrower. All of the foregoing rights, remedies and options are cumulative, and the exercise of one shall not be construed to be a waiver of any of the others.

7.7 Borrower's Waiver of Certain Rights. The Borrower hereby waives (i) the benefit of all laws now existing or that hereafter may be enacted providing for any appraisal before sale of any portion of the Property, and (ii) the benefit of all laws that hereafter may be enacted in any way extending the time for the enforcement or the collection of the Secured Debt or creating or extending a period of redemption from any sale made in collecting the Secured Debt. To the full extent the Borrower may do so, the Borrower agrees that it will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension or redemption, and the Borrower, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to

mature or declare due the whole of the Secured Debt and marshaling in the event of foreclosure of the liens hereby created. Lender shall not be required to marshal the Property, the Leases, rents, issues and profits assigned by the Assignment, or any other Security in any particular order. The Borrower hereby covenants and agrees that it will not enforce or otherwise exercise any rights of reimbursement, subrogation, contribution or other similar rights against any co-obligor, Guarantor or any other Person obligated on or with respect to any Secured Obligations or granting any Security prior to the payment in full of the Secured Debt. If any law referred to in this Section and now in force, of which the Borrower or its representatives, successors and assigns or other Person may take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section. The Borrower expressly waives and relinquishes any and all rights and remedies which it may have or be able to assert by reason of the laws of the State of Indiana pertaining to the rights and remedies of sureties.

8. Definitions.

For purposes of this Mortgage, the following terms defined elsewhere in this Mortgage in the Sections set forth below shall have the respective meanings therein defined:

<u>TERM</u>	<u>DEFINITION</u>
"Agreement"	Recitals
"Assignment"	Section 1.2(c)
"Available Proceeds"	Section 6.2
"Bank"	Recitals
"Bond Documents"	Recitals
"Bond Loan"	Recitals
"Bond Note"	Recitals
"Bonds"	Recitals
"Borrower"	Preamble
"CERCLA"	Section 2.7
"Collateral"	Section 1.3
"Credit Agreement"	Recitals
"Event of Default"	Sections 7.3, 8
"Indenture"	Recitals
"Issuer"	Recitals
"Letters of Credit"	Recitals
"Lender"	Preamble
"Mortgage"	Preamble
"Note"	Section 1.2(b)
"Permitted Encumbrances"	Section 3.3(a)
"Premises"	Section 1.3
"Property"	Section 1.3
"RCRA"	Section 2.7
"Reimbursement Agreement"	Recitals
"Secured Debt"	Section 1.2(e)
"Secured Obligations"	Section 1.2



"Superfund and Hazardous Waste Laws"	Section 2.7
"Taking"	Section 5
"Trustee"	Recitals

In addition, for purposes of this Mortgage, the following terms shall have the respective meanings set forth below:

"Completion Guaranty" shall mean each and every guaranty relating to completion of the Project now existing or hereinafter entered into, including, without limitation, each Completion Guaranty referred to in Section 4.1 of the Credit Agreement.

"Credit Facility Documents" shall include the Credit Agreement, the Note, this Mortgage, the Assignment and each other present or future instrument or agreement evidencing, securing, guaranteeing or otherwise relating to any or all of the Secured Obligations or which is stated to be a Credit Facility Document as defined in this Mortgage, including, without limitation each document listed in Section 10 of the Credit Agreement, each as from time to time amended or modified, and all statements, reports and certificates delivered to the Lender by or on behalf of the Borrower, any Guarantor or any other Person in connection herewith or therewith, including without limitation each such agreement, instrument, statement, report and certificate referred to in or delivered from time to time pursuant to Section 3.2 hereof.

"Default" shall mean any Event of Default under this Mortgage or any other specified Credit Facility Document and any event or condition which, with the giving of notice or the passage of time or both, would constitute such an Event of Default.

"Default Rate" shall mean the Default Rate as defined in the Note.

"Equity Investor" shall mean NDC Douglas Properties, Inc.

"Event of Default" shall mean each of the events and conditions set forth in Section 7.3 hereof; provided that, as used with reference to any other Credit Facility Document, such term shall mean an event or condition which constitutes a default under or breach of such Credit Facility Document beyond the applicable grace period therein specified, if any.

"Guarantor" shall mean each Person who from time to time guarantees or grants any Security for the payment or performance of any of the Secured Obligations, including without limitation each such Person, if any, identified as a Guarantor in the Credit Agreement.

"Guaranty" shall mean each and every guaranty of payment or performance of any of the Secured Obligations now existing or hereinafter entered into, including, without limitation, each Guaranty referred to in Section 4.1 of the Credit Agreement.

"Indebtedness" shall mean all obligations, contingent or otherwise, which in accordance with generally accepted accounting principles should be classi-

fied upon the obligor's balance sheet as liabilities, but in any event including liabilities secured by any mortgage, pledge, lien or other security interest existing on property owned or acquired by the obligor, whether or not the liability secured thereby shall have been assumed, all obligations under capitalized leases, and all guaranties, endorsements or other contingent obligations in respect of Indebtedness of others.

"Lease" shall mean each present or future lease or other agreement for the use or occupancy of all or any portion of the Premises, including without limitation each such lease or other agreement, if any, set forth on Exhibit B attached to the Assignment, any and all modifications, extensions and renewals of each such lease or other agreement, and the rents or payments in lieu of rent therein reserved.

"Person" shall mean a corporation, association, partnership, limited liability company, trust, trustee, organization, business, individual, government or political subdivision thereof or any governmental agency.

"Residential Lease" shall mean a Lease of a residential apartment with a party or parties who intend to occupy or permit a relative to occupy such apartment for residential purposes, provided that the term of each such Lease shall expire within eighteen months after the date of its execution or after any renewal or extension of the term thereof, provided further that the lessee shall not have any right under such Lease to renew such Lease or extend the term thereof, and provided further that such Lease shall be at a rental and otherwise on economic terms at least as favorable to the Borrower as any Lease of such apartment in effect on or after the date hereof.

"Restricted Affiliate" shall mean any Person (i) which is a Subsidiary of the Borrower or of any direct or indirect Subsidiary of the Borrower, or (ii) which, if the Borrower is a trust, is a trustee or beneficiary of the Borrower, or (iii) which, if the Borrower or any such beneficiary of the Borrower is a general or limited partnership, a limited liability company or a joint venture, is a general partner, managing member or joint venturer in the Borrower or such beneficiary of the Borrower, or (iv) which, if the Borrower or any such beneficiary of the Borrower is a corporation, owns, directly or indirectly through a Subsidiary of such Person, more than 10% of the outstanding shares of any class of capital stock or other equity interest of the Borrower or such beneficiary of the Borrower, or (v) which is a direct or indirect Subsidiary of any Restricted Affiliate (as defined in clause (ii), (iii) or (iv) above).

"Security" shall mean all assets now or from time to time hereafter encumbered or subjected to a lien, security interest or charge (or intended or required so to be) pursuant to this Mortgage or any other Security Document to secure any or all of the Secured Obligations, including without limitation the Property.

"Security Documents" shall include this Mortgage, the Assignment, the Assignment of Construction Contract, the Assignment of Development Agreement and each other present or future instrument or agreement securing any or all of the Secured Obligations.

"Subsidiary" of any specified Person shall mean any Person over which such specified Person exercises control, provided that if such Specified Person owns, directly or indirectly, more than fifty percent of the equity interest in any Person, such specified Person shall be conclusively presumed to control such Person.

"Tax Credits" shall have the meaning given to such term in the Tax Credit Agreement.

"Uniform Commercial Code" shall mean the Uniform Commercial Code as enacted in Indiana and from time to time amended and in effect.

9. General.

9.1 Lender's Expenses. Any and all costs and expenses incurred by the Lender in connection with making, performing, protecting or collecting the Secured Debt, the loans secured by this Mortgage and any guarantee of any Guarantor, and in connection with the Lender's exercise of the rights, remedies and elections provided in the Credit Facility Documents, including, without limitation, reasonable attorneys' fees and all claims for brokerage and finder's fees which may be made in connection with the making of the said loans, shall be paid by the Borrower on the demand of the Lender. If the Lender is made a party defendant to any litigation concerning this Mortgage or the Property or any part thereof or therein, or the construction, ownership, maintenance, operation, occupancy or use thereof, then the Borrower shall indemnify, defend and hold the Lender harmless from and against all claims, liabilities, judgments, costs and expenses by reason of said litigation, including reasonable attorneys' fees and expenses incurred by the Lender in any such litigation, whether or not any such litigation is prosecuted to judgment. If the Lender commences an action to enforce any of the terms of any of the Credit Facility Documents or any guarantee of any Guarantor under or because of the breach by the Borrower or any Guarantor of any of the terms hereof or thereof, or for the recovery of all or any portion of the Secured Debt, the Borrower shall pay to the Lender all costs and expenses of such action, including reasonable attorneys' fees, and the right to such expenses and attorneys' fees shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If the Borrower breaches any provision of this Mortgage or if any Guarantor breaches any provision of any guarantee, the Lender may employ an attorney or attorneys to protect its rights hereunder or thereunder, and in the event of such employment following any breach by the Borrower or any Guarantor, Borrower shall pay the reasonable attorneys' fees and expenses incurred by the Lender, whether or not an action is actually commenced against the Borrower or any Guarantor by reason of such breach. All amounts due to the Lender pursuant to this Section shall bear interest at the Default Rate from time to time in effect until paid.

9.2 Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be effective when mailed, postage prepaid, by registered or certified mail, addressed in the case of the Borrower to it at 1610 Pointe Drive, Suite B, Valparaiso, Indiana 46383,

Attention: Larry N. Gough, and in the case of the Lender to it at 18 N.W. Fourth Street, Evansville, Indiana 47706-1347, Attention: Michael Sutton, Senior Vice President, with a copy to Fidelity Federal Capital Corporation, 8888 Keystone Crossing, Suite 900, Indianapolis, IN 46240-4617, Attention: Theresa P. Bennett, President and C.E.O., or to such other addresses as either party may from time to time specify by like notice.

9.3 Amendments. This Mortgage may not be waived, changed or discharged orally, but only by an agreement in writing and signed by the Lender, and any oral waiver, change or discharge of any provision of this Mortgage shall be without authority and of no force and effect.

9.4 Other Representations and Warranties. All statements contained in any loan application, report, certificate or other instrument or document delivered by or on behalf of the Borrower or any Guarantor to the Lender or the Lender's representatives in connection with the application for, or execution, disbursement or payment of, the loans secured by this Mortgage shall constitute representations and warranties made by the Borrower hereunder.

9.5 Miscellaneous. Section captions are not a part hereof. The invalidity of any provisions of this Mortgage, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provisions hereof. This Mortgage shall be interpreted in accordance with and governed by the laws of the State of Indiana. This Mortgage shall be binding upon and inure to the benefit of the respective permitted successors and assigns of the parties hereto. The term "Borrower" or "Guarantor", together with any pronoun referring thereto, shall include the singular, plural, masculine, feminine and neuter, as the context may require; and if more than one Person constitutes the Borrower, the obligations of such Persons shall be joint and several. IN THE EVENT OF ANY LITIGATION IN CONNECTION WITH THIS MORTGAGE, THE BORROWER AND THE LENDER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ALL RIGHTS TO A TRIAL BY JURY.

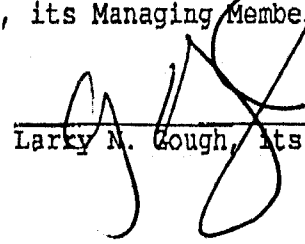
9.6 Future Advances. Notwithstanding any other provisions hereof, the total amount of future obligations and advances secured hereby will not exceed \$2,991,726.

IN WITNESS WHEREOF, these presents have been executed under seal as of the day and year first above written.

DOUGLAS POINTE III ASSOCIATES L.L.C.

By: Douglas Pointe III Management  
LLC, its Managing Member

Witness:

By:   
Larry N. Gough, its Managing Member

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Larry N. Gough, known to me to be the Managing Member of Douglas Pointe Phase III Management LLC, an Indiana limited liability company, which is the Managing Member of Douglas Pointe III Associates L.L.C., who as such Managing Member acknowledged the execution of the foregoing Mortgage and Security Agreement for and on behalf of said Douglas Pointe III Associates L.L.C.

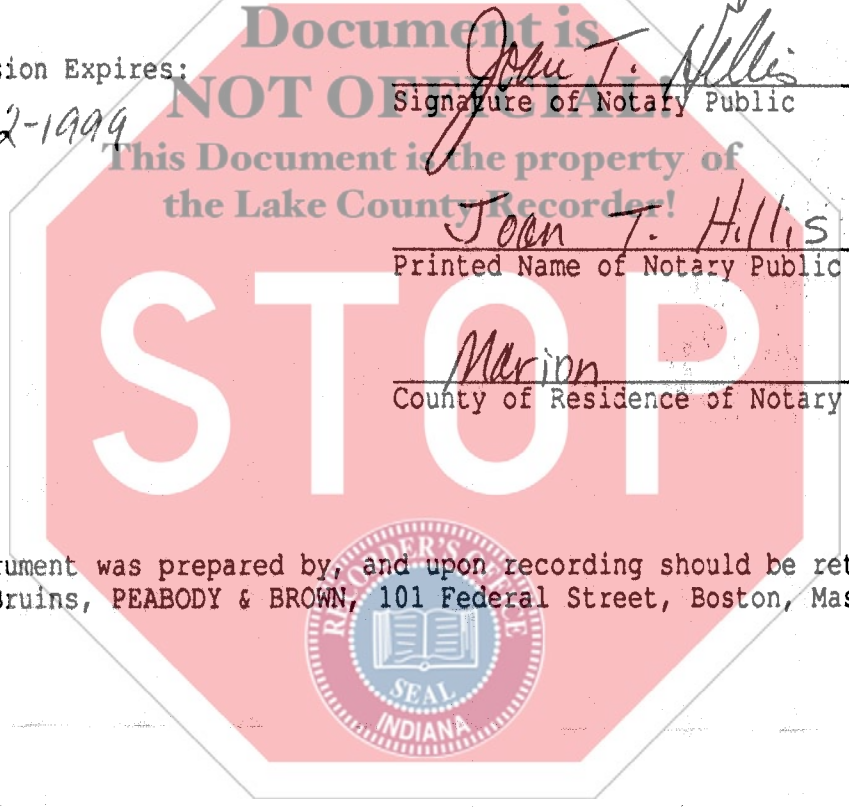
WITNESS my hand and Notarial Seal this 17<sup>th</sup> day of April, 1996.

My Commission Expires:  
11-12-1999

Joan T. Hillis  
Signature of Notary Public

This Document is the property of  
the Lake County Recorder!  
Joan T. Hillis  
Printed Name of Notary Public

Marion  
County of Residence of Notary Public



[SEAL]  
This instrument was prepared by, and upon recording should be returned to,  
Faith K. Bruins, PEABODY & BROWN, 101 Federal Street, Boston, Massachusetts  
02110.

EXHIBIT A

to

Mortgage and Security Agreement  
dated as of April 1, 1996 granted  
by Douglas Pointe III Associates L.L.C.  
to United Fidelity Bank, fsb

Property Description

PARCEL 1

Lot G-2, Douglas Pointe II (a Planned Unit Development), as shown in  
Plat Book 77, Page 75, in Lake County, Indiana.

PARCEL 2

The non-exclusive easement appurtenant to Parcel 1 described above, for  
vehicle and pedestrian ingress and egress and vehicle parking over and  
across Lot G-1, in Douglas Pointe II, as reserved and set out in  
Corporate Warranty Deed dated December 19, 1994 and recorded December  
21, 1994, as document no. 94085863.

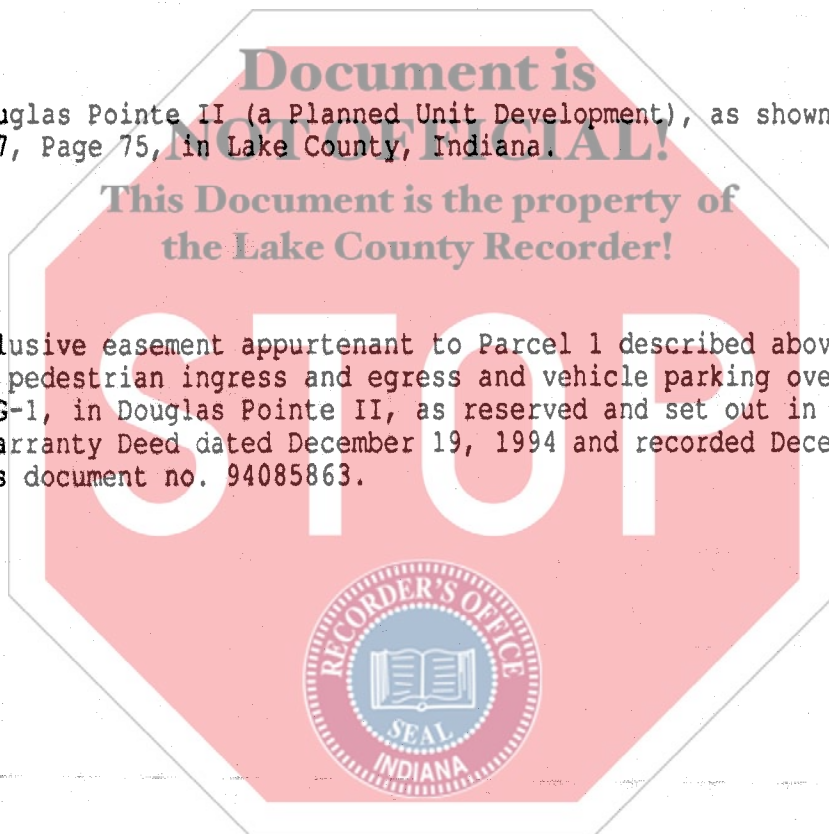


EXHIBIT B

to

Mortgage and Security Agreement  
dated as of April 1, 1996 granted  
by Douglas Pointe III Associates L.L.C.  
to United Fidelity Bank, fsb

Permitted Encumbrances

1. Easement for public utilities over the South, East and West 15 feet of the land as shown and granted on the Final Plat of Douglas Pointe Phase Two, as shown in Plat Book 77, Page 75 in Lake County, Indiana (the "Plat").
2. Easements for public utilities over the Northerly 7.5 feet of the land as shown and granted on the Plat.
3. Utility Easements and ingress/egress easements affecting the land as indicated on the Plat.
4. Non-exclusive easement right for vehicle parking for the benefit of Lot G-1, Douglas Pointe II, as set out in Item C in the Corporate Warranty Deed dated December 19, 1994 and recorded December 21, 1994, as Document No. 94085863.
5. Declaration of Covenants, Easements, Conditions and Restrictions for Douglas Pointe Development recorded October 8, 1992 as Document No. 92064153, and First Amendment thereto recorded June 16, 1994 as Document No. 94044481 as amended and restated by Amended and Restated Declaration of Covenants, Easements, Condition and Restrictions, dated February 7, 1996 and recorded February 20, 1996, as Document No. 96010877, made by and between Douglas Pointe Associates, L.P., an Indiana Limited Partnership ("Douglas I"), Douglas Pointe II Associates, L.P., an Indiana Limited Partnership ("Douglas II"), and Douglas Pointe Development Corporation, an Indiana Corporation (the "Corporation").
6. Resolution Nos. 7490R5 and/or 7490R4, of the Common Council of the City of Hammond establishing an economic revitalization area was recorded on March 10, 1993 as Document No. 93015671.
7. Terms and provisions of a Declaration of Extended Low-Income Housing Commitment dated March 12, 1996 made by Douglas Pointe III, Assoc., L.L.C., to be recorded herewith.
8. Terms and provisions of the Land Use Restriction Agreement dated as of April 1, 1996 to be recorded herewith by and among the City of Hammond, Indiana, Douglas Pointe III Associates, L.L.C., and Bank One, Indianapolis, NA, as Trustee under the Trust Indenture dated as of April 1, 1996 to be recorded herewith.