

493735 LD 4138

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

**97069082 MORTGAGE, SECURITY  
AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS**

97 OCT 14 PM 1:17

MORRIS W. CARTER

**THIS MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS** (the "Mortgage") is made as of October 14, 1997, by GARY JOINT VENTURE, an Ohio general partnership whose address is c/o The Richard E. Jacobs Group, 25425 Center Ridge Road, Cleveland, Ohio 44145 ("Mortgagor") in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION ("Mortgagee") whose address is 225 West Wacker Drive, Suite 2550, Chicago, Illinois 60606, Attention: Senior Loan Officer, as agent for Wells Fargo Bank, National Association and each other person which executes the Loan Agreement (as defined below) as a lender or which executes and delivers an Assignment and Assumption (as defined in the Loan Agreement) as an assignee (collectively, "Lenders").

97069662

**THIS IS A CREDIT LINE MORTGAGE**

The Maximum Aggregate Amount of Principal to be Secured Hereby at any one time is \$160,000,000.

The Names of the Noteholders Secured Hereby are:  
The Lenders and Wells Fargo Bank, National Association

The Mailing Address of the Noteholders, to which Communications may be Mailed or Delivered is:

Wells Fargo Bank, National Association  
225 West Wacker Drive, Suite 2550  
Chicago, IL 60606  
Attn: Senior Loan Officer

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD  
97 OCT 14 PM 1:17  
MORRIS W. CARTER  
RECORDER

THIS INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS AND SECURES OBLIGATIONS CONTAINING PROVISIONS FOR CHANGE IN INTEREST RATES, EXTENSIONS OF TIME FOR PAYMENT AND OTHER MODIFICATIONS IN THE TERMS OF SUCH OBLIGATIONS. THIS INSTRUMENT SECURES FUTURE ADVANCES WHICH ARE OBLIGATORY SUBJECT TO THE PROVISIONS OF THE SECURED DOCUMENTS.

This Mortgage, Security Agreement and Assignment of Leases and Rents shall be deemed to constitute a continuously perfected fixture filing to be filed of record in the office of the Recorder of Lake County, Indiana pursuant to I.C. 26-1-9-402 and 26-1-9-403 and as set forth in Section A.8 hereof.

THIS DOCUMENT IS BEING RE-RECORDED TO ATTACH SIGNATURE AND NOTARY PAGES.

119.00  
11/1/97  
CP

Chicago Tide Insurance Company

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

97 DEC -5 AM 11:01

MORRIS W. CARTER

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MORTGAGOR HEREBY MORTGAGES, PLEDGES, ASSIGNS, BARGAINS, HYPOTHECATES, CONVEYS, GRANTS, TRANSFERS, SETS OVER, AND WARRANTS TO MORTGAGEE all that certain land (the "Land"), property and all buildings and all other improvements now thereon or hereafter constructed thereon (the "Improvements") (the Land and the Improvements are herein collectively called the "Premises") situated in the County of Lake, State of Indiana, described in Exhibit "A" attached hereto and by this reference incorporated herein, subject only to the liens and encumbrances (the "Permitted Encumbrances") described in Exhibit "B" attached hereto and by this reference incorporated herein.

TOGETHER WITH all of the following which, with the Premises, are (except where the context otherwise requires) herein collectively called the "Mortgaged Property":

(a) All appurtenances and all estate, rights and privileges of Mortgagor in and to the Premises;

(b) Any and all water and water rights, ditch, and ditch rights, reservoir and reservoir rights, stock or interests in water, irrigation or ditch companies, royalties, minerals, oil and gas rights, lease or leasehold interests owned by Mortgagor, now or hereafter used or useful in connection with, appurtenant to or related to the Premises.

(c) All right, title and interest of Mortgagor in and to all streets, roads and public places, opened or proposed, and all easements and rights of way, public or private, now or hereafter used in connection with the Premises;

(d) SUBJECT to the rights of Mortgagor under Paragraph A.8 hereof, all fixtures, equipment, construction materials, accounts, accounts receivable, contracts, contract rights, general intangibles, chattel paper, instruments and other items of personal property now owned or hereafter acquired by Mortgagor and now or hereafter affixed to, placed upon or used in connection with the Premises;

(e) SUBJECT to the rights of Mortgagor under Paragraph A.7 hereof, all of the Leases and Rents (as defined in Paragraph A.7); and

(f) SUBJECT to the rights of Mortgagor under Paragraphs A.2 and A.3 hereof, any and all awards, payments or other amounts including interest thereon, which may be made with respect to the Mortgaged Property as a result of injury to or decrease in the value of the Mortgaged Property or as a result of the exercise of the right of eminent domain.

TO HAVE AND TO HOLD the Mortgaged Property, together with all and singular of the rights, privileges, tenements, hereditaments and appurtenances thereto in anyway incident or belonging unto Mortgagor and to its successors and assigns forever.

FOR THE PURPOSE OF SECURING the following (the "Indebtedness"), in such order of priority as Mortgagee may elect:

(1) Payment of an indebtedness in the aggregate principal sum of Eighty Million Dollars (\$80,000,000) with interest thereon, according to the terms of four certain Promissory Notes Secured by Mortgage of even date herewith having a maturity date as therein provided, made by Mortgagor to the order of Wells Fargo Bank, National Association, U.S. Bank National Association, f/k/a and d/b/a First Bank National Association, PNC Bank, National Association and KeyBank, National Association, respectively, and any and all extensions, modifications, substitutions or renewals thereof (collectively, the "Note"), and the performance and discharge of each and every obligation of Mortgagor set forth in the Note;

(2) Payment to Mortgagee and Lenders of all other sums, with interest thereon, becoming due or payable under the provisions hereof, the provisions of that certain Loan Agreement made by and between Mortgagor, Mortgagee and Lenders of even date herewith (the "Loan Agreement"), which Loan Agreement is incorporated herein by reference to the same extent and effect as if fully set forth herein and made a part of this Mortgage, the provisions of any and all other instruments, agreements and documents executed by Mortgagor or any other person or party and delivered to or for the benefit of Mortgagee or any Lender in connection with the Indebtedness (such other instruments, agreements and documents, including without limitation any assignment of leases or rents, or both, and any guarantees, together with the Note, the Loan Agreement, that certain Indemnity Agreement among Mortgagor, Mortgagee and certain other parties executed as of even date herewith, and this Mortgage are sometimes hereinafter collectively referred to as the "Loan Documents"), including any future payments, advances or expenditures made by any Lender or Mortgagee pursuant to the Loan Documents;

(3) Due, prompt and complete observance and performance of each and every obligation, covenant and agreement of Mortgagor contained herein, in the Loan Agreement or in any of the other Loan Documents;

(4) The payment of such additional sums with interest thereon as may be hereafter borrowed from the Lenders or Mortgagee, its successors or assigns, by Mortgagor when evidenced by another promissory note or notes, which by the terms thereof is or are secured by this Mortgage;

(5) Any judgment(s) or final decree(s) rendered to collect any money obligations of Mortgagor to Mortgagee and/or to enforce the performance or collection of all covenants, agreements, other obligations and liabilities of the Mortgagor under the Mortgage or any or all of the other Indebtedness; and

(6) The payment and performance of any and all other indebtedness, obligations and liabilities of any kind relating to the Indebtedness, of Mortgagor to any Lender or Mortgagee, now or hereafter existing, absolute or contingent, joint and/or several, due or not due, secured or unsecured, or direct or indirect, including indebtedness, obligations and liabilities of Mortgagor, to any Lender or Mortgagee, as a member of any partnership, syndicate or association or other group and whether incurred by Mortgagor as principal, surety, endorser, guarantor, accommodation party or otherwise, and any obligations which give rise to an equitable remedy for breach of performance if such breach gives rise to an obligation by

Mortgagor to pay any Lender or Mortgagee, provided that any such indebtedness, obligation or liability contains a written provision that it is to be so secured by this Mortgage.

PROVIDED, HOWEVER, that if the Indebtedness shall be paid indefeasibly by Mortgagor to Mortgagee, and all covenants herein contained to be performed by Mortgagor shall be performed by or on behalf of Mortgagor, then this Mortgage shall become and be null and void and of no further force or effect (except for provisions which expressly survive termination of this Mortgage), whereupon Mortgagee shall promptly execute and deliver to Mortgagor such instrument(s) as are necessary to evidence and confirm the cancellation of this Mortgage and to cause this Mortgage to be released of record, for all purposes.

#### A. PROVISIONS RELATING TO THE MORTGAGED PROPERTY

A.1 Taxes, Governmental Claims and Other Liens. Mortgagor agrees to pay or cause to be paid, prior to the date they would become delinquent if not paid (and prior to the incurrance of any statutory penalty or interest), and all taxes, assessments and governmental charges whatsoever levied upon or assessed or charged against the Mortgaged Property, including all water and sewer taxes, assessments and other charges, fines, impositions and rents, if any. Subject to Mortgagor's right to contest as provided for herein, Mortgagor shall submit to Mortgagee copies of tax statements and paid tax receipts evidencing the due and punctual payment of all real estate and personal property taxes, charges and assessments levied upon or assessed or charged against the Mortgaged Property on or before thirty (30) days following the delinquent date of any such taxes. Mortgagor also agrees to pay, satisfy and obtain the release of all other claims, liens and encumbrances (other than Permitted Exceptions) affecting or purporting to affect the title to, or which may be or appear to be liens on, the Mortgaged Property or any part thereof, and all costs, charges, interest and penalties on account thereof, including the claims or stop notices of all persons supplying labor or materials to the Mortgaged Property, and to give Mortgagee, upon demand, evidence satisfactory to Mortgagee of the payment, satisfaction or release thereof. Notwithstanding the foregoing provisions of this Paragraph A.1, nothing herein contained shall require Mortgagor to pay any claims, liens, or encumbrances which Mortgagor in good faith disputes and which Mortgagor, at its own expense, is currently and diligently contesting; provided, however, that Mortgagor shall, within five (5) days after filing of any claim, lien or encumbrance that is disputed or contested by Mortgagor, if required by Mortgagee, obtain and record a surety bond sufficient to release said claim, lien or encumbrance (including statutory penalties and interest), and thereafter diligently prosecute such dispute or contest to a prompt determination in a manner not prejudicial to Mortgagee and pay all amounts ultimately determined to be owing.

A.2 Insurance. Mortgagor agrees to keep the Mortgaged Property insured against loss or damage by fire with extended coverage, and against any other risks or hazards which in the opinion of Mortgagee should be insured against, to the amount of the full insurable value thereof on a replacement-cost basis (or less in the discretion of Mortgagee) with a company or companies and in such form and with such endorsements as may be approved or required by Mortgagee. Loss under all such insurance shall be payable to Mortgagee in accordance with the application and distribution of proceeds principles set forth in this Paragraph A.2, and all such

insurance policies shall be endorsed with a standard, non-contributory mortgagee's clause in favor of Mortgagee. Mortgagor shall also carry public liability insurance, in such form, amount and with such companies as Mortgagee may from time to time require, naming Mortgagee as an additional insured. The policy or policies evidencing all insurance referred to in this Paragraph A.2 and receipts for the payment of premiums thereon or certificates of such insurance satisfactory to Mortgagee shall be delivered to and held by Mortgagee. All such insurance policies shall contain a provision requiring at least thirty (30) days' notice to Mortgagee prior to any cancellation or modification. At least thirty (30) days before expiration of such policies, Mortgagor shall renew such policies, pay the premiums therefor and give Mortgagee satisfactory evidence of such renewal and payment. Mortgagor agrees to pay all premiums on such insurance as they become due, and will not permit any condition to exist on or with respect to the Mortgaged Property which would wholly or partially invalidate any insurance thereon. Mortgagee shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any such insurance, incur any liability for the form or legal sufficiency of insurance contracts, solvency of insurers, or payment of losses, and Mortgagor hereby expressly assumes full responsibility therefor and all liability, if any, thereunder. Mortgagor hereby absolutely assigns and transfers to Mortgagee all of Mortgagor's right, title and interest in and to all such policies and any unearned premiums paid thereon and Mortgagee shall have the right, but not the obligation, to assign the same to any purchaser of the Mortgaged Property at any foreclosure sale; provided, however, that so long as no Default exists hereunder and no event has occurred and no fact exists that with notice or lapse of time or both would constitute a Default hereunder, Mortgagor shall have the right under a license granted hereby, and Mortgagee hereby grants to Mortgagor a license, to exercise rights under said policies and in and to said premiums subject to the provisions of this Mortgage. Said license shall be revoked automatically upon the occurrence of a Default hereunder or an event which with notice, and/or lapse of time or both would constitute a Default hereunder. The requirements of Mortgagee for insurance under the provisions of this Paragraph A.2 may be modified or amended in whole or in part by Mortgagee, in its reasonable discretion, and Mortgagor agrees, upon any expiration of any existing policy or policies of insurance, to provide a replacement policy or policies which shall meet such amended or modified insurance standards. In the event of loss, Mortgagor shall give immediate written notice to the insurance carrier and Mortgagee. Mortgagor hereby authorizes and empowers Mortgagee, at Mortgagee's option and in Mortgagee's sole discretion as attorney-in-fact for Mortgagor, to pay premiums, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Mortgagee's expenses incurred in the collection of such proceeds; provided, however, that so long as no Default exists hereunder and no event has occurred which with notice and/or lapse of time would constitute a Default hereunder, Mortgagor may, with the prior written consent of Mortgagee, make such proofs of loss, adjust and compromise such claims, appear in and prosecute such actions and receive such proceeds. Mortgagor further authorizes Mortgagee, at Mortgagee's option (1) to hold the balance of such proceeds to be used to reimburse Mortgagor for the costs of reconstruction, restoration or repair (hereafter in this Paragraph A.2 referred to as "reconstruction") of the Mortgaged Property or (2) to apply the balance of such proceeds, first to the payment of the sums secured by this Mortgage, whether or not then due, and then to the payment of the sums secured by the "Additional Mortgages" (as such term is hereinafter defined) in such order as Mortgagee shall

elect, whether or not then due; provided, however, that Mortgagee shall hold the balance of any proceeds actually received by Mortgagee to be used to reimburse Mortgagor for the costs of reconstruction of the Mortgaged Property if all of the following conditions are satisfied within sixty (60) days from date of the damage or destruction:

(i) Mortgagor satisfies Mortgagee that after the reconstruction is completed, the value of the Mortgaged Property, upon completion of construction of the improvements thereon, as determined by Mortgagee in its reasonable discretion, will be not less than the value of the Mortgaged Property on a completed basis including land and improvements, as determined by Mortgagee in approving the Indebtedness.

(ii) In Mortgagee's reasonable opinion, the undisbursed portion of the Loan, after deposit of such insurance actually received is sufficient to pay all costs of reconstruction of the Mortgaged Property. If the undisbursed portion of the Loan is not sufficient, Mortgagee will permit Mortgagor either to demonstrate its ability to provide additional funds to the satisfaction of Mortgagee or to deposit additional funds to make up such insufficiency.

(iii) Mortgagor has delivered to Mortgagee a construction contract for the work of reconstruction in form and content acceptable to Mortgagee with a contractor acceptable to Mortgagee.

(iv) Mortgagee in its reasonable discretion has determined that after the work of reconstruction is completed, the Mortgaged Property, will produce income sufficient to pay all costs of operations and maintenance of the Mortgaged Property with a reasonable reserve for repairs, and service all debts secured by the Mortgaged Property.

(v) Mortgagor is not in Default hereunder and no event has occurred and no fact exists that with notice, and/or lapse of time or both would constitute a Default hereunder.

"Additional Mortgages" shall mean that certain Second Mortgage, Security Agreement and Assignment of Leases and Rents of even date herewith by Mortgagor hereunder, granting a lien on the Mortgaged Property in favor of Mortgagee hereunder as security for certain borrowings by Mortgagor JG Lakehurst Ltd., an Ohio limited liability company and affiliate of Mortgagor ("JG Lakehurst Ltd."); that certain Mortgage, Security Agreement and Assignment of Leases and Rents of even date herewith by JG Lakehurst Ltd. as "Mortgagor," granting a lien on certain property, including that certain mall commonly known as Lakehurst Mall, located in Waukegan, Illinois, (the "Lakehurst Mall") of which JG Lakehurst Ltd., is the owner, in favor of Mortgagee hereunder as security for certain borrowings by JG Lakehurst Ltd.; and that certain Second Mortgage, Security Agreement and Assignment of Leases and Rents of even date herewith by JG Lakehurst Ltd. as "Mortgagor" granting a lien on Lakehurst Mall in favor of Mortgagee hereunder as security for the Indebtedness hereunder. If the insurance proceeds are held by Mortgagee to be used to reimburse Mortgagor for the cost of reconstruction of the Mortgaged Property (a) the Mortgaged Property shall be promptly and diligently restored by Mortgagor to

the equivalent of its condition immediately prior to the casualty in accordance with the original plans and specifications or to such other condition as Mortgagee may approve in writing, (b) disbursements of such insurance proceeds shall be in accordance with disbursement procedures acceptable to Mortgagee, and (c) any proceeds actually received by Mortgagee and not required to reconstruct the Mortgaged Property or to satisfy the conditions set forth in subparagraphs (i) through (iv) of this Paragraph A.2 shall be delivered to Mortgagor after expiration of the lien period for the work of reconstruction. If the insurance proceeds are applied to the payment of the sums secured by this Mortgage and the Additional Mortgages, such proceeds shall be applied to the payment, first, of the sums secured by this Mortgage, whether or not then due, and second, to the payment of the sums secured by the Additional Mortgages in such order as Mortgagee shall elect, whether or not then due. After so applying such insurance proceeds Mortgagee may retain an appraiser (at the expense of Mortgagor and JG Lakehurst Ltd.) to determine the value of the Mortgaged Property. Such appraisal shall be conducted by an appraiser and in a manner acceptable to Mortgagee. If, pursuant to such appraisal, Mortgagee reasonably determines the remaining security to be inadequate to secure the remaining indebtedness secured by the Mortgaged Property, upon written demand from Mortgagee, Mortgagor and JG Lakehurst Ltd. shall prepay on principal such an amount as will reduce the remaining aggregate outstanding principal of the Loan and the "Lakehurst Loan" (as such term is defined in the Loan Agreement) to a balance for which adequate security is present. For purposes of the preceding sentence, the adequacy of the security shall be determined by Mortgagee based on a ratio of seventy-five percent (75%) of the aggregate outstanding principal of the Loan and the Lakehurst Loan to the value of the Mortgaged Property.

**A.3 Condemnation and Other Awards.** Immediately upon its obtaining knowledge of the institution or the threatened institution of any proceeding for the condemnation of the Mortgaged Property or any part thereof, Mortgagor shall notify Mortgagee of such fact. Mortgagor shall then, if requested by Mortgagee, file or defend its rights thereunder and prosecute the same with due diligence to its final disposition and shall cause any awards or settlements to be paid over to Mortgagee for disposition pursuant to the terms of this Mortgage. Mortgagor may be the nominal party in such proceeding but Mortgagee shall be entitled to participate in and to control the same and to be represented therein by counsel of its own choice, and Mortgagor will deliver, or cause to be delivered, to Mortgagee such instruments as may be requested by it from time to time to permit such participation. If the Mortgaged Property or any part thereof is taken or diminished in value, or if a consent settlement is entered, by or under threat of such proceeding, the award or settlement payable to Mortgagor by virtue of its interest in the Mortgaged Property shall be, and by these presents is, assigned, transferred and set over unto Mortgagee to be held by it, in trust, subject to the lien and security interest of this Mortgage. Any such award or settlement shall be first applied to reimburse Mortgagee for all costs and expenses, including reasonable attorneys' fees, incurred in connection with the collection of such award or settlement. The balance of such award or settlement shall be, at Mortgagee's option (1) held by Mortgagee to be used to reimburse Mortgagor for the costs of rebuilding, reconstruction or repair (hereafter in this Paragraph A.3 referred to as "reconstruction") of the Mortgaged Property or (2) applied to the payment, first, of the sums secured by this Mortgage, whether or not then due, and second, to the payment of the sums secured by the Additional Mortgages in such order as Mortgagee shall elect, whether or not then due; provided, however, that Mortgagee

shall hold the balance of such award or settlement to be used to reimburse Mortgagor for the costs of reconstruction of the Mortgaged Property if the conditions set forth in subparagraphs (i) through (v) of Paragraph A.2 hereof are satisfied within sixty (60) days from the date of such award or settlement. If the award or settlement is held by Mortgagee to be used to reimburse Mortgagor for the costs of reconstructing the Mortgaged Property (a) the Mortgaged Property shall be promptly and diligently restored to such condition as Mortgagee may approve in writing, (b) disbursement of such award or settlement shall be in accordance with disbursement procedures acceptable to Mortgagee, and (c) any award or settlement not required to reconstruct the Mortgaged Property or to satisfy the conditions set forth in subparagraphs (i) through (v) of Paragraph A.2 hereof shall be delivered to Mortgagor after expiration of the lien period for the work of reconstruction.

#### A.4 Condition of Mortgaged Property.

(a) Mortgagor agrees to properly care for and keep the Mortgaged Property in good condition and repair. Without the prior written consent of Mortgagee, Mortgagor agrees not to cause or permit any building or improvement which constitutes a part of the Premises to be removed, demolished or altered structurally, in whole or in part, or any fixture or article of personal property (other than obsolete property) which constitutes a portion of the Mortgaged Property to be removed, damaged or destroyed unless such personal property is replaced with property of equal value. Mortgagor agrees not to abandon the Premises or leave the Premises unprotected, unguarded, vacant (except for vacancies during any period of renovation and vacancies in the mall tenant spaces which occur during the ordinary course of Mortgagor's business) or deserted, and not to cause or permit any waste to the buildings, improvements or fixtures constituting a portion of the Mortgaged Property. Mortgagor agrees to complete, restore and reconstruct in good and workmanlike manner to the condition required hereby any improvement which constitutes a part of the Premises which may be damaged or destroyed in accordance with and subject to the provisions of Paragraph A.2 hereof; to comply with all laws, ordinances, regulations and governmental orders affecting the Mortgaged Property or requiring any alterations or improvements thereto; not to commit, suffer or permit any act with respect to the Mortgaged Property in violation of law, or of any covenants, conditions or restrictions affecting the Mortgaged Property; to make or cause to be made from time to time all needful or proper replacements, repairs, and renewals; and to do any other act or acts, all in a timely and proper manner, which from the character or use of the Mortgaged Property may be reasonably necessary to protect and preserve the value of the Mortgaged Property.

(b) Mortgagee may, at any reasonable time and without notice to Mortgagor, enter and inspect or protect the Mortgaged Property, in person or by agent, in such manner and to such extent as it may deem necessary.

A.5 Alterations and Additions. Mortgagor agrees that, as to any material alteration, addition, construction or improvement to be made upon the Premises, plans and specifications therefor shall be prepared and shall be subject to Mortgagee's reasonable approval in advance of the commencement of work; once commenced, all work thereunder shall be prosecuted with due diligence; and all construction thereof will be in substantial accordance with



the plans and specifications so approved and will comply with all laws, ordinances and regulations made or promulgated by any governmental agency or other lawful authority and with the rules of the applicable Board of Fire Underwriters. Should Mortgagor at any time fail to comply with any notice or demand by any governmental agency involved, which alleges a failure to comply with any such plan, specification, law, ordinance or regulation, such failure shall, at Mortgagee's option, constitute a Default hereunder.

A.6 Status of Title. Mortgagor agrees to protect, preserve and defend its interest in the Mortgaged Property and title thereto; to appear and defend this Mortgage in any action or proceeding affecting or purporting to affect the Mortgaged Property, the lien or security interest of this Mortgage thereon, or any of the rights of Mortgagee hereunder, and to pay all costs and expenses incurred by Mortgagee in or in connection with any such action or proceeding, including reasonable attorneys' fees, whether any such action or proceeding progresses to judgment and whether brought by or against Mortgagee. Mortgagee, as the case may be, shall be reimbursed for any such costs and expenses in accordance with the provisions of Paragraph C.3 hereof. Mortgagee may, but shall not be under any obligation to, appear or intervene in any such action or proceeding and retain counsel therein and defend the same or otherwise take such action therein as either may be advised and may settle or compromise the same and, in its behalf and for any of such purposes, may expend and advance such sums of money as either may deem necessary, and Mortgagee shall be reimbursed therefor in accordance with the provisions of Paragraph C.3 hereof.

A.7 Assignment of Rents and Performance of Leases.

(a) As additional consideration for the indebtedness evidenced by the Note, Mortgagor hereby absolutely assigns and transfers to Mortgagee the following:

(1) All leases, written or oral, now in existence or hereafter arising and all agreements for the use and occupancy of all or any portion of the Premises together with all the right, power and authority of Mortgagor to alter, modify or change the terms of such leases and agreements or to surrender, cancel or terminate such leases and agreements and together with any and all extensions and renewals thereof and any and all further leases including subleases upon all or any part of the Premises (all of such leases, agreements, subleases and tenancies being hereinafter collectively called the "Leases");

(2) Any and all guaranties of the obligations of the lessees (the "Lessees") under any of such Leases;

(3) The immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which Mortgagor may now or shall hereafter (whether during any applicable period of redemption, or otherwise) become entitled or may demand or claim, arising or issuing from or out of the Leases, or from or out of the Premises or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, parking maintenance charges or fees, tax and insurance contributions, proceeds of sale of electricity, gas,

chilled and heated water and other utilities and services, deficiency rents and liquidated damages following default or late payment of rent, premiums payable by any Lessee upon the exercise of a cancellation privilege provided for in any Lease and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Premises, together with any and all rights and claims of any kind that Mortgagor may have against any Lessee under any Lease or any subtenants or occupants of the Premises (all such money, rights and claims being hereinafter collectively called the "Rents"), LESS AND EXCEPTING THEREFROM, HOWEVER, any sums which by the express provisions of any Lease are payable directly to any governmental authority or to any other person, firm or corporation other than the lessor under any Lease or any person, firm or corporation which controls or is controlled by or is under common control with the lessor under any Lease.

(b) Provided that there exists no Default hereunder and no event has occurred which with notice and/or lapse of time or both would constitute a Default hereunder, Mortgagor shall have the right under a license granted hereby and Mortgagee hereby grants to Mortgagor a license (but limited by the remedies of Mortgagee set forth herein) to collect, but not more than one month in advance, all of the Rents arising from or out of the Leases or any renewals or extensions thereof, or from or out of the Premises or any part thereof, but only as trustee for the benefit of Mortgagee. Mortgagor shall apply the Rents so collected first to amounts due under the Loan Documents. Thereafter, so long as no Default exists hereunder and no event has occurred and no fact exists which with notice, and/or lapse of time or both would constitute a Default hereunder, Mortgagor may use the Rents in any manner not inconsistent with the Loan Documents. The license granted hereby shall be revoked automatically upon the occurrence of a Default hereunder or an event which with notice, and/or lapse of time or both would constitute a Default hereunder.

(c) Mortgagor shall (i) observe, perform and discharge duly and punctually all and singular the obligations, terms, covenants, conditions and warranties of the Mortgagor, as lessor under the Leases, (ii) give prompt notice to Mortgagee of any failure on the part of Mortgagor to observe, perform and discharge the same or of any claim made by any Lessee of any such failure by Mortgagor, (iii) upon Mortgagee's request, notify and direct in writing each and every present or future Lessee or occupant of the Premises or of any part thereof that any security deposit or other deposits heretofore delivered to Mortgagor have been retained by Mortgagor or assigned and delivered to Mortgagee, as the case may be, (iv) enforce or secure in the name of Mortgagee, the performance of each and every obligation, term, covenant, condition and agreement in the Leases to be performed by any Lessee or any guarantor, (v) appear in and defend any action or proceeding arising under, occurring out of or in any manner connected with the Leases or the obligations, duties or liabilities of Mortgagor and any Lessee thereunder, do so in the name and on behalf of Mortgagee upon request by Mortgagee, but at the expense of Mortgagor, and pay all costs and expenses of Mortgagee, including reasonable attorneys' fees and disbursements, in any action or proceeding in which Mortgagee may appear, (vi) use best efforts (acting in good faith and in accordance with sound business practice) to keep the Premises leased at a good and sufficient rental and on other terms and conditions reasonably acceptable to Mortgagee, (vii) deliver to Mortgagee executed copies of all existing and future "Qualified

Leases" (as such term is defined herein) when executed upon all or any part of the Premises, (viii) at the request of Mortgagee, transfer and assign such future Leases upon the same terms and conditions as herein contained, and (ix) make, execute and deliver to Mortgagee upon demand and at any time or times, any and all assignments and other documents and instruments which Mortgagee may deem advisable to carry out the true purposes and intent of the assignment set forth in this Paragraph A.7.

(d) Unless Mortgagor first obtains the written consent of Mortgagee, Mortgagor shall not (i) cancel, terminate or consent to any surrender of any Lease (except in the ordinary course of business with respect to Leases in default), (ii) commence any action of ejectment or any summary proceedings for dispossession of any Lessee under any Lease or exercise any right of recapture provided in any Lease (except in the ordinary course of business with respect to Leases in default), (iii) materially modify or in any way alter the terms of any Lease if the effect thereof is to cause such Lease to fail to be a Qualified Lease (as defined below), (iv) waive or release any Lessee or any guarantors from any obligations or conditions to be performed by any Lessee or any guarantor of any Lease if the effect thereof is to cause such Lease to fail to be a Qualified Lease, (v) enter into any Lease (unless such Lease is a Qualified Lease) or renew or extend the term of any Lease unless an option for such renewal or extension was originally so reserved by the Lessee and for a fixed and definite rental, (vi) consent to any modification of the express purposes for which the Premises or any portion thereof have been leased pursuant to any Lease, (vii) consent to any subletting of the Premises or any part thereof, to any assignment of any Lease by any Lessee thereunder, or to any assignment or subletting of any sublease, (viii) receive or collect any Rents from any Lessee for a period of more than one month in advance (whether in cash or by evidence of indebtedness), (ix) pledge, transfer, mortgage or otherwise encumber or assign future payments of Rents, or (x) waive, excuse, condone, discount, setoff, compromise, or in any manner release or discharge any Lessee under any Lease of and from any obligations, covenants, conditions and agreements to be kept, observed and performed by such Lessee, including the obligation to pay Rents thereunder, in the manner and at the time and place specified therein, if the effect thereof is to cause such Lease to fail to be a Qualified Lease; provided, however, that the foregoing restrictions on Mortgagor shall not apply (a) to any Lease which is for space containing less than 1,000 square feet of gross leasable area so long as the aggregate amount of space not restricted by this Paragraph A.7(d) pursuant to this clause (a) does not exceed 10% of the gross leasable area of the Mortgaged Property (excluding anchor tenant space) or (b) to any Lease which is for a term of less than one year so long as the aggregate amount of space not restricted by this Paragraph A.7(d) pursuant to this clause (b) does not exceed 15% of the gross leasable area of the Mortgaged Property (excluding anchor tenant space). "Qualified Lease" means any Lease which (x) is on a standard form approved by Mortgagee and contains terms no less favorable to Mortgagor than those shown on Exhibit C or (y) is approved by Mortgagee. Any approval of Mortgagee required by this Paragraph A.7(d) shall not be unreasonably withheld.

(e) Subject to the license described and limited in subparagraph (b) above, Mortgagor hereby constitutes and appoints Mortgagee the true and lawful attorney-in-fact, coupled with an interest, of Mortgagor, empowered and authorized in the name, place and stead of Mortgagor to demand, sue for, attach, levy, recover and receive all Rents and any premium or

penalty payable upon the exercise by any Lessee under any Lease of a privilege of cancellation originally provided in such Lease and to give proper receipts, releases and acquittances therefor and after deducting expenses of collection, to apply the net proceeds as a credit upon any portion of the Indebtedness secured hereby selected by Mortgagee notwithstanding the fact that such portion of said Indebtedness may not then be due and payable or that such portion of said Indebtedness is otherwise adequately secured, and Mortgagor does hereby authorize and direct any such Lessee to deliver such payment to Mortgagee, in accordance with this Mortgage, and Mortgagor hereby ratifies and confirms all that its said attorney, Mortgagee, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment is irrevocable and continuing and such rights, powers and privileges shall be exclusive in Mortgagee, its successors and assigns, so long as any part of the obligations secured hereby remain unpaid or undischarged. A Lessee need not inquire into the authority of Mortgagee to collect any Rents, and its obligations to Mortgagor shall be absolutely discharged to the extent of any payment to Mortgagee. Subject to the license described and limited in subparagraph (b) above, Mortgagor hereby constitutes and appoints Mortgagee the true and lawful attorney-in-fact, coupled with an interest, of Mortgagor empowered and authorized in the name and stead of Mortgagor to subject and subordinate at any time and from time to time any Lease or any part thereof to the lien and security interest of this Mortgage or any other mortgage, deed of trust or security agreement on or to any ground lease of the Premises, or to request or require such subordination, where such reservation, option or authority was reserved to Mortgagor under any such Lease, or in any case where Mortgagor otherwise would have the right, power or privilege so to do. The foregoing appointment is irrevocable and continuing and such rights, powers and privileges shall be exclusive in Mortgagee, its successors and assigns so long as any part of the obligations secured hereby remain unpaid or undischarged, and Mortgagor hereby warrants that Mortgagor has not, at any time prior to the date hereof, exercised any such rights or assigned the right to do so, and Mortgagor hereby covenants not to exercise any such right to subordinate any such Lease to the lien of this Mortgage or to any other mortgage, deed of trust or security agreement or to any ground lease unless requested to do so by Mortgagee.

(f) So long as the obligations secured hereby remain unpaid and undischarged and unless Mortgagee otherwise consents in writing, the fee and the leasehold estates, if any, in and to the Premises shall not merge but shall always remain separate and distinct, notwithstanding the union of such estates either in Mortgagor, Mortgagee, any Lessee or any third party by purchase or otherwise.

(g) The acceptance by Mortgagee of the assignment provided in this Paragraph A.7, together with all of the rights, powers, privileges and authority created in this paragraph or elsewhere in this Mortgage, shall not, prior to entry upon and taking possession of the Premises by Mortgagee, be deemed or construed to constitute Mortgagee a "mortgagee in possession" nor thereafter or at any time or in any event obligate Mortgagee to appear in or defend any action or proceeding relating to the Leases, the Rents or the Premises or to take any action hereunder or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under any Lease or to assume any obligation or responsibility for any security deposits or other deposits delivered to Mortgagor by any Lessee and not assigned and delivered to Mortgagee, nor

shall Mortgagee be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Premises.

(h) Mortgagor represents and warrants that Mortgagor has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the Leases on Mortgagor's part to be kept, observed and performed; and the Lessees thereunder are not in default of any of the terms or provisions of the respective Leases except as disclosed to Mortgagee in writing prior to the date hereof.

(i) Mortgagor represents and warrants that the Leases are valid and unmodified except as indicated herein and are in full force and effect; Mortgagor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due; the Rents now due or to become due for any periods subsequent to the date hereof have not been collected and that payment thereof has not been anticipated for a period of more than one month in advance, waived or released, discounted, setoff or otherwise discharged or compromised except as set forth in the Leases; Mortgagor has not received any funds or deposits from any Lessee for which credit has not already been made on account of accrued Rents other than the security deposits provided for in the Leases; Mortgagor has not received any bona fide and acceptable offer to purchase the Premises or any part thereof which would in any way affect any right or option of first refusal to purchase all or any portion of the Premises now contained in any Lease; and Mortgagor has not done any thing which might prevent Mortgagee from or limit Mortgagee in operating under or enforcing any of the provisions hereof.

**A.8 Personal Property Security Interest.** Mortgagor and Mortgagee hereby acknowledge and agree that this Mortgage shall constitute a Security Agreement within the meaning of the Uniform Commercial Code (the "Code") of the State of Indiana and which shall cover all property now or hereafter affixed or attached to or incorporated upon the Premises and now or hereafter owned by Mortgagor or in which Mortgagor now or hereafter has an interest, which to the fullest extent permitted by law shall be deemed fixtures and a part of the real property, notwithstanding that such property may not be deemed to form a part of that portion of the Mortgaged Property constituting realty (the "Real Estate"), or may not constitute a "fixture" (within the meaning of Section 9-313 of the Code). In addition, this Mortgage shall cover, and Mortgagor, to the extent of any present or hereafter created rights of Mortgagor in such property, hereby grants to Mortgagee for the benefit of Mortgagee and Lenders a security interest in: (i) all building materials, fixtures, equipment and other personal property to be incorporated into any improvements constructed on the Premises; (ii) all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings and other personal property which are now or may hereafter be appropriated for use on (whether such items are stored on the Premises or elsewhere), located on, or used in connection with, the Premises; (iii) all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes, drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks, arising from or related to the Premises and any business conducted on the Premises by Mortgagor, including without limitation any personal property described in subparagraph (d) on page 2 hereof; and (iv)

all replacements and substitutions for, or additions to, all products and proceeds of, and all books, records and files relating to, any of the foregoing.

Mortgagor agrees, to the extent permitted by law, that; (i) all of the goods described within the definition of the term "Mortgaged Property" herein are or are to become fixtures on the Land; (ii) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of Sections 9-313 and 9-402 of the Code, and (iii) Mortgagor is the record owner of the Land. The information provided in this Paragraph is provided in order that this Mortgage shall comply with the requirements of the Code for a mortgaged instrument to be filed as a financing statement. The Mortgagor is the "Debtor" and its name and mailing address are set forth in the Preamble of this Mortgage. The "Secured Party" is the Mortgagee and its name and mailing address from which information concerning the security interests granted herein may be obtained are as set forth in the Preamble of this Mortgage. A statement describing the portion of the Mortgaged Property comprising the fixtures hereby secured is set forth herein. Mortgagor agrees that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing the express declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from the Mortgaged Property and/or adapted for use therein and/or which is described or reflected in the Mortgage is, and at all times and for all purposes and in all proceedings, legal or equitable, shall be regarded as part of the Real Estate encumbered by this Mortgage irrespective of whether (i) any such item is physically attached to the Land or Improvements; (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Mortgagee; or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (1) rights in or to the proceeds of any fire and/or hazard insurance policy; or (2) any award in eminent domain proceedings for a taking or for loss of value; or (3) Mortgagor's interest as lessor in any present or future Leases or rights to Rents growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to a lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee or Lenders as determined by this instrument or impugning the priority of Mortgagee's and Lenders' lien granted hereby or by any other recorded document, but such mention in the Financing Statement is declared to be for the protection of Mortgagee and Lenders in the event any court or judge shall at any time hold, with respect to the matters set forth in (1), (2) or (3) above, that notice of Mortgagee's and Lenders' priority of interest to be effective against a particular class of persons, including, but not limited to, the federal government and any subdivision or entity of the federal government, must be filed in the Code records.

The security interest granted in this Paragraph A.8 shall secure the payment of the Indebtedness and performance of the Loan Documents in accordance with the provisions of the Loan Documents and the payment and performance of all other sums and obligations owed by Mortgagor to Mortgagee and the Lenders and all other covenants and agreements by Mortgagor in favor of Mortgagee the payment and performance of which are secured by the Mortgaged Property. This Mortgage shall be self-operative with respect to such property, but Mortgagor agrees to execute and deliver on demand such security agreements, financing statements and

other instruments as Mortgagee may request in order to impose the lien hereof more specifically upon any of such property. If the lien of this Mortgage on any property shall be subject to a prior security agreement covering such property, then in the event of any Default hereunder, all the right, title and interest of Mortgagor in and to any and all deposits made in connection with the transaction whereby such prior security agreement was made is hereby assigned to Mortgagee, together with the benefit of any payments now or hereafter made in connection with such transaction.

A.9 Loan Documents. Mortgagor covenants that it will perform or cause to be performed all of the terms, covenants and conditions of the Loan Documents to be kept and performed by it. In the event of any inconsistency between the provisions hereof and those of the Loan Agreement, it is intended that the Loan Agreement shall be controlling, with the exception that the controlling law for purposes of this Mortgage, as stated in Paragraph B.6 hereof, shall control the corresponding provision in the Loan Agreement.

A.10 Hazardous Substances. As used below, and in any of the other Loan Documents, "Hazardous Substances" shall mean and include all hazardous and toxic substances, wastes or materials, hydrocarbons (including naturally occurring or man-made petroleum and hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, biological substances and any other kind and/or type of pollutants or contaminants (including, without limitation, raw materials which include hazardous constituents), sewage sludge, industrial slag, solvents and/or any other similar substances or materials, which are included under or regulated by any local, state or federal law, rule, regulation or order relating to the manufacture, storage, use, handling, discharge, transport, disposal, treatment or clean-up of hazardous or toxic substances or materials, including, without limitation, "CERCLA", "RCRA", or state superlien or environmental clean-up statutes (all such laws, rules and regulations being referred to collectively as "Environmental Laws"). Mortgagor warrants, represents and covenants as follows:

(a) Mortgagor has had performed the "Environmental Reports" (as hereinafter defined), which are investigations, studies and tests as to any environmental contamination, liabilities or problems with respect to the Mortgaged Property, including without limitation, the storage, disposal, presence, discharge or release of any Hazardous Substances at or with respect to the Mortgaged Property, and that such investigations, studies, and tests have disclosed no Hazardous Substances or violations of any Environmental Laws and no evidence that the Mortgaged Property, or any portion thereof, ever has been used as a landfill or other waste disposal site, except as disclosed in the Environmental Reports (as defined in Paragraph E.22(a) of the Loan Agreement).

(b) Except as disclosed in the Environmental Reports, to the best knowledge of the Mortgagee, the Mortgaged Property is not subject to any private or governmental lien or judicial or administrative notice or action, threatened or pending, relating to Hazardous Substances or environmental problems, impairments or liabilities with respect to the Mortgaged Property, or the violation of any Environmental Laws or other laws relating to environmental matters.

(c) Except as disclosed in the Environmental Reports, to the best knowledge of the Mortgagor, no Hazardous Substances are located on or have been stored, processed or disposed of on or released or discharged from (including ground water contamination) the Mortgaged Property and no above or underground storage tanks exist on the Mortgaged Property. During the period it is owner of the Mortgaged Property, Mortgagor shall not allow any Hazardous Substances to be stored, located, discharged, possessed, managed, processed or otherwise handled on the Mortgaged Property and shall comply with all Environmental Laws and other laws relating to environmental matters affecting the Mortgaged Property.

(d) Mortgagor shall immediately notify Mortgagee should Mortgagor become aware of (i) any Hazardous Substance or other environmental problem or liability with respect to the Mortgaged Property, or (ii) any lien, action, or notice of the nature described in subparagraph (b) above which is not disclosed in the Environmental Reports. Mortgagor shall, during the period it is owner of the Mortgaged Property, at its own cost and expense, take all actions as shall be necessary or advisable for the clean-up of the Mortgaged Property, including all removal, containment and remedial actions in accordance with all applicable Environmental Laws (and in all events in a manner satisfactory to Mortgagee). Mortgagee shall further pay or cause to be paid at no expense to Mortgagee all clean-up, administrative, and enforcement costs of applicable government agencies which may be asserted against the Mortgaged Property or the owner thereof, by reason of any Hazardous Substances now existing on the Mortgaged Property or placed on the Mortgaged Property during the period Mortgagor holds title to the Mortgaged Property. All costs, including, without limitation, those costs set forth above, damages, liabilities, losses, claims, expenses (including attorneys' fees and disbursements) which are incurred by Mortgagee, without requirement of waiting for the ultimate outcome of any litigation, claim or other proceeding, shall be paid by Mortgagor to Mortgagee as incurred within ten (10) days after notice from Mortgagee itemizing the amounts incurred to the date of such notice.

All warranties and representations above shall be deemed to be continuing and shall remain true and correct in all material respects until the Loan has been paid in full. Mortgagor's representations, warranties, and covenants above shall survive any exercise of any remedy by Mortgagee under the Loan Documents, including foreclosure of the Loan or any security therefor (or deed in lieu thereof), even if, as a part of such foreclosure or deed in lieu of foreclosure, the Indebtedness is satisfied in full; provided, however, that Mortgagor's liability hereunder shall expire and be of no further force or effect as of the Termination Date (as defined in that certain Indemnity Agreement in favor of Mortgagee and Lenders of even date herewith) except as to Indemnified Matters (as defined therein), if any, as to which a claim has been asserted or as to which Mortgagee or any Lender has delivered written notice to Mortgagor on or before the Termination Date. It shall, at the option of Mortgagee, be a Default hereunder should any of the representations or warranties contained in this Paragraph A.10 be or become untrue or misleading in any material respect or should the Mortgaged Property become subject to any claim, notice or action of a nature described in subparagraph (b) above for which remedial action is not commenced by Mortgagor within thirty (30) days following notice by Mortgagee to Mortgagor of such claim, notice or action and diligently prosecuted to completion by Mortgagor.



In addition to all other remedies that Mortgagee may have as a result of a Default, Mortgagee may accelerate payment of the Loan as provided in Paragraph C.2 hereof. Mortgagor shall be subrogated to the rights of Mortgagee and Lenders against third parties if and to the extent that Mortgagor provides indemnity to Mortgagee and Lenders with respect to matters relating to Hazardous Substances.

A.11 Taxes and Insurance Escrow. Upon Mortgagee's request at any time following a Default, Mortgagor shall pay monthly, annually or as otherwise directed by Mortgagee, an amount ("Escrowed Sums") equal to the sum of (a) the annual taxes, charges or assessments (estimated by Mortgagee, wherever necessary) to become due for the tax year during which such payment is so directed and (b) the insurance premiums for the same year for those insurance policies as are required hereunder. If Mortgagee determines that any amounts theretofore paid by Mortgagor are insufficient for the payment in full of such taxes, charges or assessments and insurance premiums, Mortgagee shall notify Mortgagor of the increased amounts required to provide a sufficient fund, whereupon Mortgagor shall pay to Mortgagee within thirty (30) days thereafter the additional amount as stated by Mortgagee's notice. The Escrowed Sums may be held by Mortgagee in an interest bearing account (and any interest accrued thereon shall be credited to Mortgagor) and may be commingled with Mortgagee's other funds. Upon assignment of this Mortgage, Mortgagee shall have the right to pay over the balance of the Escrowed Sums and interest accrued thereon then in its possession to its assignee whereupon the Mortgagee shall then become completely released from all liability with respect thereto. Within ninety-five (95) days following the full payment of the Indebtedness (other than a full payment of the Indebtedness as a consequence of a foreclosure or conveyance in lieu of foreclosure of the liens and security interests securing the Indebtedness) or at such earlier time as Mortgagee may elect, the balance of the Escrowed Sums in its possession shall be paid over to Mortgagor and no other party shall have any right or claim thereto. If no Default shall have occurred and be continuing hereunder, the Escrowed Sums shall, at the option of Mortgagee, be repaid to Mortgagor in sufficient time to allow Mortgagor to satisfy Mortgagor's obligations under the Loan Documents to pay the taxes, charges or assessments and the required insurance premiums or be paid directly to the governmental authority and the insurance company entitled thereto. If a Default shall have occurred and be continuing hereunder, however, Mortgagee shall have the additional option of crediting the full amount of the Escrowed Sums against the Indebtedness. Notwithstanding anything to the contrary contained in this Paragraph A.11 or elsewhere in this Mortgage, Mortgagee hereby reserves the right to waive the payment by Mortgagor to Mortgagee of the Escrowed Sums, and, in the event Mortgagee does waive such payment, it shall be without prejudice to Mortgagee's rights to insist, at any subsequent time or times, that such payments be made in accordance herewith.

## B. GENERAL PROVISIONS

B.1 Non-Waiver; Amendment. No waiver of any Default or breach by Mortgagor hereunder or under any of the other Loan Documents shall be implied from any omission by Mortgagee to take action on account of such Default or breach, and no express waiver shall affect any Default or breach other than the Default or breach specified in the waiver and the waiver shall be operative only for the time and to the extent therein stated. A waiver of

any covenant, term or condition contained herein or in any of the other Loan Documents shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The acceptance by Mortgagee of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Mortgagor to pay the entire sum then due, and Mortgagor's failure to pay said entire sum then due shall be and continue to be a Default notwithstanding such acceptance of such amount on account, as aforesaid, and Mortgagee shall be at all times thereafter and until the entire sum then due shall have been paid, and notwithstanding the acceptance by Mortgagee thereafter of further sums on account, or otherwise, entitled to exercise all rights in this Mortgage conferred upon Mortgagee upon the occurrence of a Default. Consent by Mortgagee to any transaction or action that is subject to consent or approval of Mortgagee hereunder or under any of the other Loan Documents shall not be deemed a waiver of the right to require such consent or approval to future or successive transactions or actions. No amendment or other modification of this Mortgage shall be effective unless made in writing signed by Mortgagor and Mortgagee.

**B.2 Statute of Limitations.** The pleading of any statute of limitations as a defense to any obligation secured by this Mortgage is hereby waived to the full extent permitted by law.

**B.3 Definitions.** The term "Mortgagee" means the original Mortgagee hereunder, or any successor "Agent" (as such term is defined in the Loan Agreement) and the term "Mortgagor" means the original Mortgagor hereunder and/or any subsequent owner or owners of the Mortgaged Property. All obligations of each Mortgagor hereunder are joint and several, and this Mortgage in all its parts applies to and binds the heirs, administrators, executors, successors and assigns of all and each of the parties hereto. If Mortgagor is two or more entities or persons, the term "Mortgagor" as used herein shall refer to them collectively as well as individually unless the context clearly indicates a contrary intent.

**B.4 Financial Statements and Other Disclosures.** Within one hundred fifty (150) days after the close of its fiscal year, Mortgagor shall deliver to Mortgagee financial statements (together with all supporting schedules and other supporting documentation) for Mortgagor prepared in accordance with GAAP (except as noted therein) and an audit opinion, all in a form consistent with the financial statements and audit opinion of Mortgagor dated December 31, 1996 and previously delivered to Mortgagee and, at the request of the "Majority Lenders" (as such term is defined in the Loan Agreement), audited by Deloitte & Touche or such other accounting firm as is acceptable to the Majority Lenders, and including the balance sheet and income statement as of the end of such period, the related statements of operations, cash flow for such fiscal year and such additional documentation as is reasonably requested by the Majority Lenders. Mortgagor shall, at its expense, furnish Mortgagee within twenty-one (21) days after the end of each calendar quarter, a statement for such calendar quarter setting forth a rent roll and cash flow statement for such quarter, all in such detail as Mortgagee may reasonably request. Upon Mortgagee's request, Mortgagor also shall furnish to Mortgagee, at Mortgagor's expense, such interim balance sheets and profit and loss statements as reasonably may be required by Mortgagee. Upon Mortgagee's request, Mortgagor shall furnish Mortgagee with convenient facilities at the Property or Mortgagor's offices, and all books and records necessary for an audit of such statements. At any time and from time to time, Mortgagor shall deliver to Mortgagee

such other financial data as Mortgagee reasonably shall request with respect to ownership, maintenance, use and operation of the Mortgaged Property and/or a written statement identifying all Leases by the Lessees, the term, the space occupied, the rental or other payment required thereunder and any security deposit paid as to each such Lease. Mortgagor shall deliver to Mortgagee promptly any amendments to its governing documents if Mortgagor is a corporation, partnership, limited liability company, joint venture or trust. Mortgagor shall notify Mortgagee immediately of any material adverse change in its financial condition or business prospects, to the extent not reflected in its financial statements. If Mortgagor is a partnership or limited liability company, Mortgagor shall provide Mortgagee with any and all financial statements and other documents and make any and all disclosures to Mortgagee with respect to its Designated Persons (as defined in the Note) as Mortgagor is required to provide and make, and in the manner required to be provided and made, with respect to itself pursuant to this Paragraph B.4.

**B.5 Amendment.** No alteration or amendment of this Mortgage, the Note or any of the other Loan Documents shall be effective unless in writing and signed by the parties sought to be charged or bound thereby.

**B.6 GOVERNING LAW.** THIS MORTGAGE, THE DEBTS AND OBLIGATIONS SECURED HEREUNDER, AND ALL OTHER OBLIGATIONS AND AGREEMENTS OF THE PARTIES HEREUNDER, INCLUDING, WITHOUT LIMITATION, THE RIGHT OF MORTGAGEE TO HOLD MORTGAGOR LIABLE FOR ANY DEFICIENCY REMAINING AFTER FORECLOSURE OR TRANSFER (WITH RESPECT TO ANY PERSON OTHER THAN MORTGAGOR, SUBJECT, IN ANY EVENT, HOWEVER TO THE LIMITATIONS CONTAINED IN PARAGRAPH B.25), SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS, SUBJECT ONLY TO THOSE LAWS OF THE STATE OF INDIANA THAT OF NECESSITY MUST APPLY TO METHODS OF JUDICIAL OR NON-JUDICIAL FORECLOSURE DIRECTLY AFFECTING INTERESTS IN, OR MORTGAGEE'S RIGHTS AGAINST, THE MORTGAGED PROPERTY, AND THE LAWS OF THE STATE OF INDIANA WHICH SHALL APPLY TO THE MORTGAGEE'S RIGHTS AGAINST PERSONAL PROPERTY COVERED BY THE SECURITY INTEREST GRANTED HEREIN.

**B.7 Statements and Statement Fees.** Mortgagor and Mortgagee each agree to furnish to the other party from time to time upon request, an estoppel certificate or statement regarding the obligations secured hereby, in such form as the requesting party may reasonably request. For any statement requested by Mortgagor regarding the obligations secured hereby, or regarding the amounts held in any trust or reserve fund established hereunder, Mortgagee may charge a reasonable fee, not to exceed the maximum amount permitted by law at the time of the request therefor.

**B.8 Notices.** All notices or other communications required or permitted to be given pursuant to the provisions of this Mortgage shall be in writing and shall be deemed to have been made or given when personally served, three (3) days after being placed in the United States mail, postage prepaid, registered or certified and properly addressed, or one (1) business day after prepaid deposit for overnight delivery with a nationally recognized courier service. Notice given

in any other manner shall be effective only if and when received by the addressee. For purposes of notice, the addresses of the parties shall be:

Mortgagor:	Gary Joint Venture c/o The Richard E. Jacobs Group, Inc. 25425 Center Ridge Road Cleveland, Ohio 44145-4122 Attention: President
With a required copy to:	Its General Counsel, at the same address
And with a required copy to:	JG Lakehurst Ltd. c/o The Richard E. Jacobs Group, Inc 25425 Center Ridge Road Cleveland, Ohio 44145-4122 Attention: President
Mortgagee:	Wells Fargo Bank, National Association 225 West Wacker Drive, Suite 2550 Chicago, Illinois 60606 Attention: Senior Loan Officer
With a required copy to:	Wells Fargo Real Estate Group 420 Montgomery Street, Floor 6 San Francisco, California 94163 Attention: Chief Credit Officer
And with a required copy to:	GoodSmith, Gregg & Unruh 300 S. Wacker, Suite 3100 Chicago, Illinois 60606 Attn: David D. Gregg Telephone: (312) 322-1987 Facsimile: (312) 322-0056

provided, however, that either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth hereinabove.

**B.9 Usury Limitation.** All agreements between Mortgagor and Mortgagee are expressly limited so that in no contingency or event whatsoever, whether by reason of error of fact or law, payment, prepayment or advancement of the proceeds of the Indebtedness, acceleration of maturity of the unpaid principal balance of the Note, or otherwise, shall the amount paid or agreed to be paid to Mortgagee for the use, forbearance, or retention of money,

including any fees or charges collected or made in connection with the Indebtedness which may be treated as interest under applicable law, if any, exceed the maximum legal limit (if any such limit is applicable) under United States federal law or state law (to the extent not preempted by federal law, if any), now or hereafter governing the interest payable under such agreements. If, from any circumstances whatsoever, fulfillment of any provision hereof or any of the other Loan Documents at the time performance of such provision shall be due, shall involve transcending the limit of validity (if any) prescribed by law which a court of competent jurisdiction may deem applicable hereto, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any circumstances Mortgagee shall ever receive as interest an amount which would exceed the maximum legal limit (if any such limit is applicable), such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Note and not to the payment of interest or, if necessary, to Mortgageor. Notwithstanding any other provision of this Mortgage, or any of the other Loan Documents, this provision shall control every other provision of all agreements between Mortgageor and Mortgagee.

**B.10 Extensions and Modifications.** From time to time, without affecting the obligation of Mortgageor or Mortgageor's successors or assigns to pay the sums secured by this Mortgage and to observe the covenants of Mortgageor contained herein, without affecting the guaranty of any "Guarantor" (as such term is defined in the Loan Agreement), and without affecting the lien or priority of the lien hereof on the Mortgaged Property, Mortgagee may, at Mortgagee's option, without giving notice to or obtaining the consent of Mortgageor, Mortgageor's successors or assigns or of any other lienholder or Guarantor, and without liability on Mortgagee's part, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, release from this Mortgage any part of the Mortgaged Property, take or release other or additional security, reconvey any part of the Mortgaged Property, consent to the granting of any easement or dedication, join in any extension or subordination agreement, and agree in writing with Mortgageor to modify the rate of interest or period of amortization of the Note or change the amount of the installments payable thereunder. Mortgageor shall pay Mortgagee all fees, charges, costs, expenses and a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Mortgagee's option, for any such action if taken at Mortgageor's request.

**B.11 Waiver by Mortgageor.** Mortgageor waives any requirements of presentment, demands for payment, notices of nonpayment or late payment, protest, notices of protest, notices of dishonor, and all other formalities or notices of any kind not otherwise required hereby or by any of the other Loan Documents. Mortgageor waives all rights and/or privileges it might otherwise have to require Mortgagee to proceed against or exhaust the assets encumbered hereby or by any other Loan Document or to proceed against any Guarantor or to pursue any other remedy available to Mortgagee in any particular manner or order under the legal or equitable doctrine or principle of marshalling and/or suretyship and further agrees that Mortgagee may proceed against any or all of the assets encumbered hereby or by any other Loan Document in the event of Default in such order and manner as Mortgagee in its sole discretion may determine.

Any Mortgagor that has signed this Mortgage as a surety or accommodation party, or that has subjected its property to this Mortgage to secure the indebtedness of another party hereby expressly waives any defense arising by reason of any disability or other defense of such other party or Mortgagor or by reason of the cessation from any cause whatsoever of the liability of such other party or Mortgagor. To the extent permitted by law, Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure pursuant to rights herein granted, on behalf of Mortgagor and each and every person acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage. To the full extent permitted by law, Mortgagor hereby agrees that it shall not apply for or avail itself of any appraisal, valuation, stay, extension, "one-action rule," or exemption laws, or any so-called "Moratorium Laws" now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. I.C. 32-8-16-1.5 to the contrary notwithstanding, no waiver made by Mortgagor in this Paragraph B.11 or anywhere else in this Mortgage or in any of the other terms and provisions of the Loan Documents shall constitute the consideration for or be deemed to be a waiver or release by Mortgagee or any judgment holder of the Indebtedness hereby secured or the right to seek a deficiency judgment against the Mortgagor or any other person or entity who may be personally liable for the Indebtedness hereby secured, which right to seek a deficiency judgment is hereby reserved, preserved and retained by Mortgagee for its own behalf and its successors and assigns, and to the extent necessary to give effect to the foregoing, nothing herein shall constitute a waiver of the stay contained in I.C. 32-8-16.

B.12 No Offset. No offset or claim that Mortgagor now or may in the future have against Mortgagee shall relieve Mortgagor from paying installments or performing any other obligation herein or secured hereby.

B.13 Corrections. Mortgagor will, upon request of Mortgagee, promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in the execution or acknowledgment hereof, and will execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or as may be reasonably requested by Mortgagee to carry out more effectively the purposes of this Mortgage, to subject to the lien and security interest hereby created any of Mortgagor's properties, rights or interest covered or intended to be covered hereby, and to perfect and maintain such lien and security interest.

B.14 Indemnity. Mortgagor shall indemnify and defend Mortgagee and each Lender against, and shall hold Mortgagee and each Lender harmless from (collectively, the "Indemnified Matters"), any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including attorneys' fees) which Mortgagee or such Lender may suffer or incur as a direct or indirect consequence of: (i) Mortgagee's performance of this Mortgage or any of the other Loan Documents, including without limitation Mortgagee's exercise or failure to exercise any rights, remedies or powers in connection with this Mortgage or any of the other Loan Documents (other than matters resulting from Mortgagee's breach of any of the Loan Documents or Mortgagee's internal administrative costs not related to any third party claims or any Default or an event which with notice or the passage of time or both would become

a Default); (ii) Mortgagor's failure to perform any of Mortgagor's obligations as and when required by this Mortgage or any of the other Loan Documents, including without limitation any failure of any representation or warranty of Mortgagor to be true and correct and any failure by Mortgagor to satisfy any condition; (iii) any claim or cause of action of any kind by any person or entity to the effect that Mortgagee is in any way responsible or liable for any act or omission by Mortgagor, whether on account of any theory of derivative liability or otherwise; (iv) any act or omission by Mortgagor, any contractor, subcontractor or material supplier, engineer, architect or other person or entity, except Mortgagee, with respect to any of the Mortgaged Property; or (v) any claim or cause of action of any kind by any person or entity which would have the effect of denying Mortgagee or any Lender the full benefit or protection of any provision of this Mortgage or any of the other Loan Documents. Mortgagee's and each Lender's rights of indemnity shall not be directly or indirectly limited, prejudiced, impaired or eliminated in any way by any finding or allegation that Mortgagee's conduct is active, passive or subject to any other classification or that Mortgagee or such Lender is directly, or indirectly responsible under any theory of any kind, character or nature for any act of omission by Mortgagor or any other person or entity except Mortgagee or such Lender. Notwithstanding the foregoing, (a) Mortgagor shall not be obligated to indemnify Mortgagee or any Lender with respect to any intentional tort or act of gross negligence which Mortgagee or such Lender is personally determined by the judgment of a court of competent jurisdiction (sustained on appeal, if any) to have committed and (b) after the date on which Mortgagee receives possession of the Mortgaged Property, Mortgagor shall not be obligated to indemnify Mortgagee or any Lender for the intentional or negligent act of Mortgagee or such Lender occurring after such date. Mortgagor shall pay any Indebtedness arising under said indemnity to Mortgagee or such Lender immediately upon demand by Mortgagee. This indemnity shall survive the payment of all amounts payable pursuant to, and secured by, the Loan Documents and shall terminate on the Termination Date (as defined in the Indemnity Agreement) with respect to Indemnified Matters covered by the Indemnity Agreement and on the Outside Date (as defined in the Loan Agreement) with respect to all other Indemnified Matters. Payment by Mortgagee or any Lender shall not be a condition precedent to the obligations of Mortgagor under this indemnity.

**B.15 No Third Parties Benefited.** This Mortgage is made and entered into for the sole protection and benefit of Mortgagee, Mortgagor and Lenders and their respective successors and assigns, and no other person or persons shall have any right to action hereon or rights to any funds secured hereby at any time.

**B.16 Expenses.** Mortgagor shall pay to Mortgagee immediately upon demand all costs and expenses incurred by Mortgagee (other than as a result of Mortgagee's gross negligence or intentional misconduct) in connection with: (1) the preparation of this Mortgage and any and all other Loan Documents contemplated hereby (including any amendments hereto or thereto or consents, releases or waivers hereunder or thereunder); (2) the administration of this Mortgage and the other Loan Documents; and (3) the enforcement or satisfaction by Mortgagee of any of Mortgagor's obligations under this Mortgage by Mortgagee or under the Loan Documents (and following a Default, reasonable attorneys' fees of up to \$20,000 for each Lender). For all purposes of this Mortgage, Mortgagee's costs and expenses shall include, without limitation, all appraisal fees, cost engineering and inspection fees, architectural fees, legal fees (including,

without limitation, fees for trial, appeal or other proceedings), accounting fees, environmental consultant fees (if any), auditor fees, and the cost to Mortgagee of any documentary taxes, recording fees, brokerage fees, title insurance premiums and title surveys. In addition, Mortgagor recognizes and agrees that formal written appraisals of the Mortgaged Property by a licensed independent appraiser may be required by Mortgagee's internal procedures and/or federal regulatory reporting requirements on an annual and/or specialized basis. Except to the extent that certain of these costs and expenses are included within the definition of Indebtedness, the payment by Mortgagor of any of these costs and expenses shall not be credited, in any way or to any extent, against any portion of the Indebtedness. If any of the services described in this paragraph are provided by an employee of Mortgagee, Mortgagor shall reimburse Mortgagee its standard charge for such services. In furtherance of Mortgagee's rights, Mortgagee may, at its option, require an inspection of the Mortgaged Property, by an agent of Mortgagee or any other party contracted by Mortgagee at least semi-annually. Mortgagor shall pay all fees incurred by Mortgagee for inspections of the Mortgaged Property. Furthermore, if Mortgagee determines in connection with any such inspection that extra services will be required, Mortgagor shall pay, in addition to the fees for such inspection, the cost of all such extra services. Such costs, charges and expenses shall bear interest at the default rate of interest provided for in the Note if not paid when due.

**B.17 Commissions and Brokerage Fees.** Mortgagor shall indemnify Mortgagee from any responsibility and/or liability for the payment of any commission, charge or brokerage fees to anyone which may be payable in connection with the purchase or refinance of the Indebtedness (except for Mortgagee's participations), it being understood that any such commission, charge, or brokerage fees will be paid by Mortgagor directly to the party or parties entitled thereto.

**B.18 Heirs, Successors and Assigns.** This Mortgage shall be binding upon and inure to the benefit of the heirs, successors, permitted assigns and personal representatives of the parties hereto.

**B.19 Time.** Time is of the essence of this Mortgage and each provision hereof of which time is an element.

**B.20 Severability.** If any provision of this Mortgage or the application hereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Mortgage, and the application of such provision to persons or situations other than those to which it shall have been held invalid or unenforceable, shall not be affected thereby, but shall continue to be valid and enforceable to the fullest extent permitted by law unless the invalid or unenforceable provision is of such a material nature to any or all of the parties that such party or parties would not have entered into this Mortgage if this Mortgage had not contained such provision.

**B.21 Attorneys' Fees.** If Mortgagee finds it necessary to obtain the services of an attorney or to incur any other expenses to collect all or any portion of the principal or interest of the Note or to enforce any other rights under any of the other Loan Documents, Mortgagor shall



pay, subject to Paragraph B.16 hereof, reasonable attorneys' fees and costs to Mortgagee in connection with such collection or enforcement, whether or not a suit to collect such amounts or enforce such rights is brought or, if brought, prosecuted to judgment. Any such amounts shall be reimbursed to Mortgagee as provided in Paragraph C.3 hereof.

**B.22 Paragraph Headings.** Paragraph headings are provided herein for convenience only and shall not serve as a basis for interpretation or construction of this Mortgage, nor as evidence of the intention of the parties hereto.

**B.23** (intentionally deleted)

**B.24 Sale of Participations.** Mortgagee from time to time will notify Mortgagor and Lenders of any financial institution to which a participation or assignment is proposed to be sold if, with respect to Mortgagor's notice, such financial institution is not directly or indirectly affiliated with Mortgagee or Mortgagee's parent companies, and, with respect to Lenders' notice, if such financial institution is not a Lender or directly or indirectly affiliated with a Lender. Subject to the terms of the Loan Agreement, at any time and from time to time, Mortgagee may sell, transfer, assign or grant participations in the Loan and in any of the Loan Documents in accordance with the terms of the Loan Agreement. Mortgagor authorizes Mortgagee and each Lender to forward to each assignee and prospective assignee and each participant and prospective participant as permitted hereunder all documents and information, including, without limitation, financial information relating to the Loan as Mortgagee or Lenders determine to be necessary or desirable, whether furnished by Mortgagor, any guarantor, any partner, member or joint venturer of Mortgagor or otherwise.

**B.25 Limited Recourse.** Subject to the exceptions and qualifications described below, the undersigned shall not be personally liable for the payment of the Indebtedness evidenced by or created or arising under this Mortgage and any judgment or decree in any action brought to enforce the obligation of the undersigned to pay such Indebtedness shall be enforceable against the undersigned only to the extent of its interest in the property encumbered by this Mortgage and the other Loan Documents and any such judgment or decree shall not be subject to execution upon or be a lien upon the assets of the undersigned other than its interest in such property. The liability of JG Lakehurst Ltd. under the "Second Lakehurst Mortgage" shall be subject to the limits on liability set forth in Section E.23 of the "Lakehurst Loan Agreement" (as such terms are defined in the Loan Agreement). The foregoing limitation of personal liability shall be subject to the following exceptions and qualifications:

- (a) The undersigned shall be fully and personally liable for the following:
  - (i) Failure to pay taxes, assessments and any other charges which could result in liens against any portion of the property covered by this Mortgage or the other Loan Documents (provided that liability and payment pursuant to this clause (i) shall be without prejudice to the right to contest such taxes, assessments, and other charges);

- (ii) Fraud, misrepresentation or waste;
- (iii) Retention by the undersigned of any rental income or other income arising with respect to any property covered by this Mortgage or the other Loan Documents after any Default thereunder which, under the terms thereof, should have been paid to Mortgagee;
- (iv) All insurance proceeds, condemnation awards or other similar funds or payments, paid to the undersigned or its affiliates, attributable to any property covered by this Mortgage or the other Loan Documents which, under the terms thereof, should have been paid to Mortgagee; and
- (v) The removal, demolition, damage or destruction of any property covered by this Mortgage or the other Loan Documents, unless such removal, demolition, damage or destruction is (A) consented to in writing by Mortgagee, (B) is fully compensated for by insurance proceeds or condemnation awards, or (C) promptly replaced with collateral in which Mortgagee has a first priority security interest and which has a value equal to or greater than the value of the property removed, demolished, damaged or destroyed.

(b) Nothing contained in this Paragraph B.25 shall affect or limit the ability of Mortgagee to enforce any of its rights or remedies with respect to any property encumbered by this Mortgage and the other Loan Documents.

(c) Nothing contained in this Paragraph B.25 shall affect or limit the rights of Mortgagee to proceed against any person or entity, including the undersigned, "Guarantors" (as such term is defined in the Loan Agreement), JG Lakehurst Ltd. (subject to Paragraph E.23 of the Lakehurst Loan Agreement), or "Guarantors" (as such term is defined in the Lakehurst Loan Agreement) with respect to the enforcement of any guarantees of payment, guarantees of performance and completion, mortgages or the other Loan Documents or other similar rights against the parties to such guarantees, mortgages and other Loan Documents.

(d) The limitations contained in this Paragraph B.25 shall be void and completely ineffective in the event that the undersigned, "Guarantors" (as such term is defined the Loan Agreement), JG Lakehurst Ltd. or "Guarantors" (as such term is defined in the Lakehurst Loan Agreement) shall voluntarily file any petition or commence any case or proceeding under any provision or chapter of the Federal Bankruptcy Act, the Federal Bankruptcy Code, or any other federal or state law relating to insolvency, bankruptcy or reorganization, or the entry of any order of relief under the Federal Bankruptcy Code with respect to the undersigned, "Guarantors" (as such term is defined the Loan Agreement), JG Lakehurst Ltd. or "Guarantors" (as such term is defined in the Lakehurst Loan Agreement).

**B.26 Release of Parcel.** Provided that there is no Default hereunder, each parcel of land generally outlined on Exhibit D (a "Release Parcel") shall be released, from the lien of this Mortgage when the following conditions have been met to Mortgagee's satisfaction:

(a) Mortgagee must approve the legal description of the Release Parcel and the size of the building to be built on the Release Parcel, which approval will not unreasonably be withheld, and Mortgagee must approve the terms and conditions of the sale of the Release Parcel, which approval will not be unreasonably withheld, and such terms and conditions are consistent with pro forma statements for the Mortgaged Property delivered by Mortgagor to Mortgagee;

(b) Mortgagee must approve the architectural design of any buildings or improvements to be erected on the Release Parcel, which approval will not unreasonably be withheld;

(c) Mortgagee must be satisfied that the proposed use of the Release Parcel will not violate the provisions of any existing leases or other agreements affecting the remaining portion of the Mortgaged Property;

(d) Evidence, satisfactory to Mortgagee, must be submitted to Mortgagee showing that the Release Parcel has been legally subdivided. Within twelve (12) months following the release of the Release Parcel from the lien hereof, Mortgagor shall submit to Mortgagee evidence satisfactory to Mortgagee that the Release Parcel constitutes a separate parcel for tax purposes;

(e) Mortgagor will furnish a satisfactory current survey, certified to be correct by a registered surveyor, designating the Release Parcel and the remaining portion of the Premises and including the location of all buildings on all the Premises;

(f) Mortgagor shall furnish a certification from the Mortgagor and the new owner or owners of the Release Parcel indicating that the existing Easement, Restriction and Operating Agreement is in full force and effect, that there is no default in existence, and that each party agrees to notify Mortgagee in writing in the event of a default on Mortgagor's part thereunder. Mortgagor must also obtain from the owner or owners of the Release Parcel a certification that such Agreement will not be canceled, amended in any material respect, assigned or transferred (other than as permitted by such Agreement and provided any assignee or transferee of Mortgagor's interest in such Agreement complies with the applicable terms of such Agreement) without Mortgagee's prior written consent, which consent will not unreasonably be withheld by Mortgagee;

(g) This Mortgage and all other documents securing the Note must be modified and supplemented in form satisfactory to Mortgagee in order to include Mortgagor's additional rights, privileges, easements and benefits created by such Easement, Restriction, and Operating Agreement;

(h) Mortgagee's policy of title insurance must be endorsed to insure the modification and supplement to this Mortgage as referred to in (g) above, and the effective date of such policy must be extended through the date and time of the recording of any such instrument modifying and supplementing this Mortgage and all other instruments securing the Note;

(i) All documents and transactions relating to the partial release, such Easement, Restriction, and Operating Agreement and the modification and supplement to this Mortgage and all other instruments securing the Note will be subject to Mortgagee's approval. Mortgagor will pay all expenses, including Mortgagee's attorneys' fees and all title company charges, in connection with the partial release;

(j) Mortgagee shall have been granted a first priority, perfected lien on any property acquired by Mortgagor in connection with the transfer of any Release Parcel, subject only to Permitted Encumbrances; and

(k) Mortgagee shall have approved the terms of the sale of the Release Parcel and shall have received the net proceeds from such sale as repayment of the principal of the Note.

**B.27. Future Advances.** This Mortgage secures not only present indebtedness, but also future advances, if any, made pursuant to the terms of the Loan Agreement, up to two hundred percent (200%) of the face amount of the Note (whether made as an obligation, made at the option of Mortgagee, made after reduction to a zero (0) or other balance, or made otherwise) to the same extent as if the future obligations and advances were made on the date of the execution of this Mortgage, and future modification, extensions and renewals of any indebtedness or obligations secured by this Mortgage. The lien of this Mortgage with respect to such future obligations, advances, modifications, extensions and renewals shall have the same priority to which this Mortgage otherwise would be entitled under I.C. 32-1-2-16 without regard to the fact that such future obligations, advances, modifications, extensions, or renewals may occur after this Mortgage is executed. All terms of the Loan Documents are incorporated herein by this reference.

**B.28 Variable Rate.** This is a variable rate mortgage.

### **C. Defaults and Remedies**

**C.1 Defaults.** Any of the following shall constitute a "Default" hereunder:

(a) The failure of Mortgagor to make any payment required hereunder within five (5) days after written notice thereof; provided that if Mortgagor shall have failed to make any such payment within five (5) days after such written notice more than two times, thereafter such payments shall be payable within five (5) days after the due date thereof whether or not written notice shall have been given;

(b) The failure of Mortgagor otherwise to perform as required hereunder following expiration of any applicable notice or grace periods; and

(c) The occurrence of a Default (and the expiration of any applicable notice or grace periods) under any of the other Loan Documents.

**C.2 Remedies Upon Default.** At any time after a Default hereunder Mortgagee, at its option, and without further notice or demand, may declare all amounts secured hereby immediately due and payable (provided, however, that such amounts shall become immediately due and payable automatically and without notice to Mortgagor upon the occurrence of a Default under Paragraph D.1(b), (c), (d), and (e) of the Loan Agreement), and irrespective of whether Mortgagee exercises such option, and regardless of (i) Mortgagee's delay in exercising such option, (ii) Mortgagee's failure to exercise such option on the occasion of any prior Default or abandonment, or (iii) the adequacy of Mortgagee's security, it may, at its option and in its sole discretion, without any additional notice or demand to or upon Mortgagor, do one or more of the following:

(a) Mortgagee may in person or by agent enter upon, take possession of, manage and operate the Mortgaged Property or any part thereof; make repairs and alterations, and do any acts which Mortgagee deems proper to protect the security hereof or to operate and maintain the Mortgaged Property; and sue for or otherwise collect and receive said Rents, including those past due and unpaid, and apply the same as provided below in this subparagraph (a). Without limiting the generality of the foregoing, Mortgagee may make, modify, enforce, cancel or accept surrender of any Lease, remove and evict any Lessee, increase or decrease Rents under any Lease, appear in and defend any action or proceeding purporting to affect the Mortgaged Property, and perform and discharge each and every obligation, covenant and agreement of Mortgagor contained in any Lease. Upon request of Mortgagee, Mortgagor shall assemble and make available to Mortgagee at the Premises any of the Mortgaged Property which is not located thereat or has been removed therefrom. The entering upon and taking possession of the Mortgaged Property, the collection of any Rents and the application thereof as aforesaid, shall not cure or waive any Default theretofore or thereafter occurring, or affect any notice of Default hereunder or invalidate any act done pursuant to any such notice. Mortgagee or Mortgagee's agent shall have access to the books and records used in the operation and maintenance of the Mortgaged Property and shall be liable to account only for those Rents actually received. Mortgagee shall not be liable to Mortgagor, anyone claiming under or through Mortgagor or anyone having an interest in the Mortgaged Property by reason of anything done or left undone by Mortgagee. Nothing contained in this Paragraph C.2 shall require Mortgagee to incur any expense or do any act. If the Rents are not sufficient to meet the costs of taking control of and managing the Mortgaged Property and collecting the Rents, any funds expended by Mortgagee for such purposes shall become Indebtedness of Mortgagor to Mortgagee secured by this Mortgage. Such amounts, together with interest and attorneys' fees if applicable as provided in Paragraph C.3 hereof, shall be immediately due and payable in accordance with the provisions of Paragraph C.3 hereof. Notwithstanding Mortgagee's continuance in possession or receipt and application of Rents, Mortgagee shall be entitled to exercise every right provided for in this Mortgage or by law upon or after the occurrence of a Default, including the right to exercise the

power of sale. (Notwithstanding anything to the contrary herein contained, Mortgagee's powers of sale shall not be applicable with respect to enforcement proceedings brought in Indiana.) Any of the actions referred to in this Paragraph C.2 may be taken by Mortgagee at such time as Mortgagee is so entitled, without regard to the adequacy of any security for the obligations hereby secured. All Rents collected by or on behalf of Mortgagee shall be applied as required by applicable law and to the extent consistent with applicable law, as follows: (i) first, to payment of all reasonable fees of the receiver approved by the court; (ii) second, to payment of all prior or current real estate taxes and special assessments with respect to the Mortgaged Property; (iii) third, to payment of all premiums then due for the insurance required by the provisions of this Mortgage; (iv) fourth, to payment of expenses incurred for normal maintenance of the Mortgaged Property in such order of priority as Mortgagee shall deem proper, including the payment of reasonable management, brokerage and attorneys' fees and the disbursement and maintenance without interest of a reserve for replacement; (v) fifth (1) if received prior to any foreclosure sale of the Mortgaged Property then to Mortgagee for payment of the Indebtedness secured by this Mortgage then due and payable, but no such payment made after acceleration of the Indebtedness secured hereby shall affect such acceleration, and (2) if received during or with respect to the period of redemption after a foreclosure sale of the Mortgaged Property, then:

(aa) If the purchaser at the foreclosure sale is not Mortgagee, first to Mortgagee to the extent of any deficiency of the sale proceeds to repay the Indebtedness secured hereby, second to the purchaser as a credit to the redemption price; and

(bb) If the purchaser at the foreclosure sale is Mortgagee, to Mortgagee to the extent of any deficiency of the sale proceeds to repay the Indebtedness secured hereby and the balance to be retained by Mortgagee as a credit to the redemption price, but if the Mortgaged Property is not redeemed, then to Mortgagee, whether or not such deficiency exists;

The rights and powers of Mortgagee under this Mortgage and the application of Rents as provided above shall continue until expiration of the redemption period from any foreclosure sale, whether or not any deficiency remains after a foreclosure sale.

(b) Mortgagee, without regard to the adequacy of any security for the obligations hereby secured and whether or not waste has occurred, without notice to Mortgagor, shall be entitled to the appointment of a receiver by any court having jurisdiction to take possession of and protect the Mortgaged Property, operate the same, collect the Rents therefrom and perform any and all other acts which Paragraph C.2(a) hereof states that Mortgagee may perform.

(c) Mortgagee may bring an action in any court of competent jurisdiction to foreclose this Mortgage or to enforce any of the covenants hereof. The court, either in any independent action for a receiver or in any proceeding for the purpose of foreclosure of this Mortgage may, at once or at any time thereafter, either before or after sale, without notice and without requiring bond, and without regard to the solvency or insolvency of any person liable for payment of the indebtedness secured hereby, and without regard to the then value of the Mortgaged Property or the occupancy thereof as a homestead, appoint a receiver (the provisions

for the appointment of a receiver and assignment of rents being an express condition upon which the indebtedness hereby secured is made) for the benefit of the Mortgagee, with power to collect the rents, issues and profits of the Mortgaged Property, due and to become due, during such foreclosure suit and the full statutory period of redemption notwithstanding any redemption. The receiver, out of such rents, issues and profits when collected, may pay costs incurred in the management and operation of the Mortgaged Property, prior and coordinate or subordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then necessary repairs to the Mortgaged Property, and may pay all or any part of the indebtedness secured hereby or any deficiency decree entered in such foreclosure proceedings. Upon or at any time after the filing of a suit to foreclose this Mortgage, the court in which such suit is filed shall have full power to enter an order placing the Mortgagee in possession of the Mortgaged Property with the same power granted to a receiver pursuant to this Section of the Mortgage and with all other rights and privileges of a mortgagee-in-possession under applicable law.

(d) Mortgagee may elect to cause the Mortgaged Property or any part thereof to be sold as follows:

- (i) Mortgagee may elect to treat any of the Mortgaged Property which consists of a right in action or which is property that can be severed from the Premises without causing structural damage thereto as if the same were personal property, and dispose of the same in accordance with subparagraph (iii) below, the remainder of the Mortgaged Property being treated as real property;
- (ii) Mortgagee may cause any such sale or other disposition to be conducted immediately following the expiration of any grace period, if any, herein provided or Mortgagee may delay any such sale or other disposition for such period of time as Mortgagee deems to be in its best interest. Should Mortgagee desire that more than one such sale or other disposition be conducted, Mortgagee may, at its option, cause the same to be conducted simultaneously, or successively on the same day, or at such different days or times and in such order as Mortgagee may deem to be in its best interest;
- (iii) Should Mortgagee elect to cause any of the Mortgaged Property to be disposed of as personal property as permitted by subparagraph (i) above, it may dispose of any part thereof in any manner now or hereafter permitted by Article 9 of the Indiana Uniform Commercial Code or in accordance with any other remedy provided by law. Both Mortgagor and Mortgagee shall be eligible to purchase any part or all of such property at any such disposition. Any such disposition may be either public or private as Mortgagee may so elect, subject to the provisions of the Indiana Uniform Commercial Code. Mortgagee shall give Mortgagor at least five (5) days' prior written notice of the time and place of any public sale or other disposition of such property or of the day on or after which any private

sale or any other intended disposition is to be made, and if such notice is sent to Mortgagor as provided in Paragraph B.8 hereof, it shall constitute reasonable notice to Mortgagor;

- (iv) In the event of a sale or other disposition of any such property, or any part thereof, and the execution of a deed or other conveyance pursuant thereto, the recitals therein of facts, such as a Default, the giving of notice of Default and notice of sale, demand that such sale should be made, postponement of sale, terms of sale, sale, purchase, payments of purchase money, and any other fact affecting the regularity or validity of such sale or disposition shall be conclusive proof of the truth of such facts; and any such deed or conveyance shall be conclusive against all persons as to such facts recited therein;
- (v) Mortgagee shall apply the proceeds of any sale or disposition hereunder to payment of the following: (1) the expenses of such sale or disposition and the actual cost of publishing, recording, mailing and posting notice; (2) the cost of any search and/or other evidence of title procured in connection therewith and the transfer tax on any deed or conveyance; (3) all sums expended under the terms hereof, not then repaid, with accrued interest in the amount provided herein; (4) all other sums secured hereby; and (5) the remainder if any to the person or persons legally entitled thereto; and
- (vi) Should Mortgagee elect to sell the Mortgaged Property which is real property or which Mortgagee has elected to treat as real property, upon such election, Mortgagee shall give such notice of default and election to sell as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, Mortgagee, at the time and place specified by the notice of sale, shall sell such Mortgaged Property, or any portion thereof specified by Mortgagee, at public auction to the highest bidder for cash in lawful money of the United States, subject, however, to the provisions of Paragraph C.6 hereof. Mortgagee may, from time to time, postpone the sale by public announcement thereof at the time and place noticed therefor. If the Mortgaged Property consists of several lots or parcels, Mortgagee may elect to sell the Property either as a whole or in separate lots or parcels. If Mortgagee elects to sell in separate lots or parcels, Mortgagee may designate the order in which such lots or parcels shall be offered for sale or sold. Any person, including Mortgagor or Mortgagee, may purchase at the sale. Upon any sale, Mortgagee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the property so sold, but without any covenant or warranty whatsoever, express or implied, whereupon such purchaser or purchasers shall be let into immediate possession.



**C.3 Substitute Performance by Mortgagee and Protection of Mortgagee's Security.** Mortgagee, whether or not a Default has occurred hereunder, may, but shall not be obligated to, without regard to the adequacy of its security and without prejudice to its right to declare a Default hereunder, make such appearances, disburse such sums or take such actions as Mortgagee reasonably deems necessary to protect Mortgagee's interest, including but not limited to disbursement of attorneys' fees and entry upon the Mortgaged Property to make repairs and to maintain the Mortgaged Property without notice or demand to or upon Mortgagor; provided, however, that Mortgagee shall give concurrent notice of any such action if reasonably possible or subsequent notice as soon as reasonably possible thereafter. The payment by Mortgagee of any delinquent tax, assessment or governmental charge, or any lien or encumbrance that Mortgagee in good faith believes might be prior hereto, or any insurance premium for insurance which Mortgagor is obligated to provide hereunder but that Mortgagee in good faith believes has not been supplied, shall be conclusive between the parties as to the legality and amount so paid. Mortgagee shall be subrogated to all rights, equities and liens discharged by any such expenditure. Any amounts so paid pursuant to this Paragraph C.3, or the cost of such performance, together with all costs and expenses incurred by Mortgagee in connection with such payment or performance, and any amounts for which Mortgagor is specifically obligated to reimburse Mortgagee pursuant to any other provisions hereof, including without limitation reasonable attorneys' fees, and interest on all such amounts at the lesser of the default rate provided in the Note or the maximum rate then permitted by law (if any such maximum is applicable) from the date paid by Mortgagee until repaid to Mortgagee, shall be payable by Mortgagor to Mortgagee immediately upon notice to Mortgagor of the amount owing, without further demand, shall be secured by this Mortgage, and shall be added to the judgment in any suit brought by Mortgagee against Mortgagor.

**C.4 Right of Setoff.** In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, Mortgagee and each Lender is hereby authorized by Mortgagor at any time after a Default or from time to time after a Default, without notice to Mortgagor, any Guarantor or any endorser of the Note or any other person, any such notice being hereby expressly waived, to set off any obligations or liabilities at any time held or owing by Mortgagee or such Lender to or for the credit or the account of Mortgagor or any endorser of the Note against the obligations and liabilities of Mortgagor to Mortgagee or such Lender, including, but not limited to, all claims of any nature or description arising out of or connected with this Mortgage, the Note or any of the other Loan Documents, irrespective of whether or not (a) Mortgagee shall have made any demand hereunder or (b) Mortgagee shall have declared the principal of and interest on the Note to be due and owing and although said obligations and liabilities, or any of them, shall be contingent or unmatured.

**C.5 Foreclosure Procedure.** Mortgagor hereby expressly waives any right which it may have to direct the order in which any of the Mortgaged Property shall be sold in the event of any sale or sales pursuant hereto.

**C.6 Foreclosure Purchase.** Upon any sale of the Mortgaged Property, whether made under a power of sale herein granted or pursuant to judicial proceedings, if the holder of the Note is a purchaser at such sale, it shall be entitled to use and apply all or any portion of the

amounts then secured hereby for or in settlement or payment of all or any portion of the purchase price of the property purchased, and in such case, this Mortgage, the Note and documents evidencing expenditures secured hereby shall be presented to the person conducting the sale in order that the amount of said Indebtedness so used or applied may be credited thereon as having been paid.

**C.7 Cumulative Remedies.** No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by this instrument to Mortgagee, or to which Mortgagee may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by Mortgagee, and Mortgagee may pursue inconsistent remedies. If there exists additional security for the performance of the obligations secured hereby, the holder of the Note, at its sole option and without limiting or affecting any rights or remedies hereunder, may exercise any of the rights and remedies to which it may be entitled hereunder either concurrently with whatever other rights it may have in connection with such other security or in such order as it may determine.

**C.8 Fees and Expenses, Application of Proceeds of Sale.** In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness secured hereby in the decree for sale all costs and expenses which may be paid or incurred by or on behalf of Mortgagee or subsequent holders of the Note for attorneys' fees, appraiser's fees, receiver's costs and expenses, insurance, taxes, outlays for documentary and expert evidence, costs for preservation of the Mortgaged Property, stenographer's charges, publication cost and costs of procuring all abstracts of title, title searches and examinations, guarantee policies, Certificates of Title issued by the Registrar of Titles (Torrens certificates), and similar data and assurances with respect to title as Mortgagee or subsequent holders of the Note may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or value of the Mortgaged Property or for any other reasonable purpose. The amount of any such costs and expenses which may be paid or incurred after the decree for sale is entered may be estimated and the amount of such estimate may be allowed and included as additional indebtedness secured hereby in the decree for sale. In the event of a foreclosure sale or other disposition of the Mortgaged Property or any portion thereof, the proceeds of said sale or other disposition shall be applied, first, to such costs and expenses, second to payment of the indebtedness secured hereby whether or not then due, third to the payment of the indebtedness secured by the Additional Mortgages in such order as Mortgagee shall elect, whether or not then due, and finally the remainder, if any, shall be paid to Mortgagor. Before such sale at public auction is made, there shall first be advertised the time, place and terms of sale in accordance with the laws of the State of Indiana. The Mortgagee may become the purchaser of the property so sold, and, except as required by the laws of the State of Indiana, as amended, no purchaser shall be required to see to the proper application of the purchase money.

**C.9 Trusts.** The Mortgagee shall, in all circumstances (including, but not limited to, an action for breach of warranty) look solely to the trust estate of any trust which is a partner

of Mortgagor for redress in the event of any action or claim against such trust arising under this Mortgage.

**C.10 JURY TRIAL WAIVER.** THE UNDERSIGNED HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER THIS MORTGAGE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION THEREWITH, OR (2) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS MORTGAGE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS MORTGAGE MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

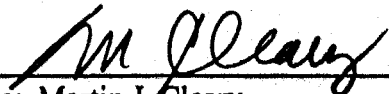
**C.11 Remedies Enforceable at Time of Enforcement.** Mortgagee shall be entitled to all rights and remedies that a mortgagee would have under Indiana law or in equity in addition to all rights and remedies it may have hereunder. Notwithstanding any provision in this Mortgage relating to a power of sale or other provision for sale of the Mortgaged Property upon default other than under a judicial proceeding, any sale of the Mortgaged Property pursuant to this Mortgage will be made through a judicial proceeding. Where any provision of this Mortgage is inconsistent with any provision of the laws of the State of Indiana regulating the creation or enforcement of a lien or security interest in real or personal property including, but not by way of limitation, I.C. 34-1-53-1 Foreclosure of Mortgages, the provisions of Indiana law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provisions of this Mortgage that can be construed in a manner consistent with Indiana law. Should applicable Indiana law confer any rights or impose any duties inconsistent with or in addition to any of the provisions of this Mortgage, the affected provisions of this Mortgage shall be considered amended to conform to such applicable law, but all other provisions hereof shall remain in full force and effect without modification. Any provision in this Mortgage to the contrary notwithstanding, to the extent applicable laws may limit (i) the availability of the exercise of any remedies set forth in this Mortgage, including, without limitation, the remedies involving a power of sale on the part of Mortgagee to exercise self-help in connection with the enforcement of the terms of this Mortgage, and (ii) the enforcement of waivers and indemnities made by Mortgagor, such remedies, waivers, or indemnities shall be exercisable or enforceable if, and to the extent, permitted by the laws in force at the time of exercise of such remedies or the enforcement of such waivers or indemnities without regard to the enforceability of such remedies, waivers or indemnities at the time of the execution and delivery of this Mortgage.

IN WITNESS WHEREOF, Mortgagor has duly executed and delivered this Mortgage as of the day and year first above written.

GARY JOINT VENTURE  
an Ohio general partnership

By: Jacobs Realty Investors Limited Partnership, a  
Delaware limited partnership, a general partner in  
Gary Joint Venture

In turn by: JG Realty Investors Corp., an Ohio corporation,  
a general partner in Jacobs Realty Investors Limited  
Partnership

By:   
Name: Martin J. Cleary  
Title: President

Recording at the Request of and  
when Recorded Mail Original to:

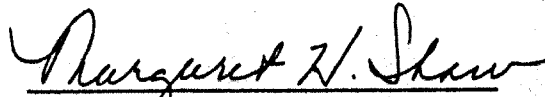
Wells Fargo Bank, National Association  
225 West Wacker Drive, Suite 2550  
Chicago, Illinois 6060

This instrument prepared by:  
Laurence W. Levi  
GoodSmith, Gregg & Unruh  
300 South Wacker Drive  
Suite 3100  
Chicago, Illinois 60606

STATE OF OHIO            )  
                                  ) ss.  
COUNTY OF CUYAHOGA )

BEFORE ME, a Notary Public, in and for said County and State, personally appeared Martin J. Cleary, the President of JG Realty Investors Corp., an Ohio corporation and general partner in Jacobs Realty Investors Limited Partnership, a Delaware limited partnership and general partner in Gary Joint Venture, an Ohio general partnership, who acknowledged that he did sign the foregoing instrument on behalf of said corporation, and that the same is the free act and deed of said corporation, and his free act and deed individually and as such officer, for the uses and purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 30<sup>th</sup> day of Sept., 1997.



Notary Public

**MARGARET H. SHAW**  
Notary Public - State of Ohio  
Recorded in Lorain County  
My Commission Expires May 22, 2000

**EXHIBIT A  
LEGAL DESCRIPTION**

(attached hereto)

PARCEL 1: PART OF THE SOUTHWEST QUARTER AND THE SOUTHWEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, ALONG THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET, 376.01 FEET; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 904.18 FEET TO THE POINT OF BEGINNING; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 71.31 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 58 DEGREES 57 MINUTES 55

SCHEDULE A CONTINUED

SECONDS WEST, 188.62 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 251.51 FEET; THENCE NORTH 43 DEGREES 20 MINUTES 00 SECONDS WEST, 334.48 FEET; THENCE NORTH 46 DEGREES 40 MINUTES 00 SECONDS EAST, 255.69 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 26 DEGREES 43 MINUTES 53 SECONDS WEST, A CHORD DISTANCE OF 94.17 FEET; THENCE NORTH 19 DEGREES 00 MINUTES 00 SECONDS WEST, 78.00 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS NORTH 4 DEGREES 42 MINUTES 06 SECONDS WEST, A CHORD DISTANCE OF 172.88 FEET; THENCE NORTH 9 DEGREES 35 MINUTES 46 SECONDS EAST, 177.00 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, WHOSE CHORD BEARS NORTH 35 DEGREES 24 MINUTES 14 SECONDS WEST, A CHORD DISTANCE OF 49.50 FEET; THENCE NORTH 80 DEGREES 24 MINUTES 14 SECONDS WEST, 103.84 FEET; THENCE ALONG THE ARC OF A 370 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 86 DEGREES 33 MINUTES 07 SECONDS WEST, A CHORD DISTANCE OF 79.25 FEET; THENCE SOUTH 87 DEGREES 18 MINUTES 00 SECONDS WEST, 225.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 80.00 FEET; THENCE NORTH 87 DEGREES 18 MINUTES 00 SECONDS EAST, 225.00 FEET; THENCE ALONG THE ARC OF A 450 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS SOUTH 86 DEGREES 33 MINUTES 07 SECONDS EAST, A CHORD DISTANCE OF 96.39 FEET; THENCE SOUTH 80 DEGREES 24 MINUTES 14 SECONDS EAST, 103.84 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 57 DEGREES 16 MINUTES 30 SECONDS EAST, A CHORD DISTANCE OF 47.13 FEET; THENCE ALONG THE ARC OF A 340 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST, WHOSE CHORD BEARS NORTH 32 DEGREES 13 MINUTES 26 SECONDS EAST, A CHORD DISTANCE OF 201.90 FEET; THENCE ALONG THE ARC OF A 450 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS NORTH 39 DEGREES 44 MINUTES 54 SECONDS EAST, A CHORD DISTANCE OF 152.39 FEET; THENCE NORTH 60 DEGREES 00 MINUTES 00 SECONDS WEST, 185.00 FEET; THENCE NORTH 30 DEGREES 00 MINUTES 00 SECONDS EAST, 552.88 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03 FEET; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 29.84 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A 300.68 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS SOUTH 19 DEGREES 45 MINUTES 47 SECONDS EAST, A CHORD DISTANCE OF 189.82 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE WEST, WHOSE CHORD BEARS SOUTH 4 DEGREES 04 MINUTES 54 SECONDS EAST, A CHORD DISTANCE OF 39.23 FEET; THENCE SOUTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, 154.98 FEET; THENCE SOUTH 17 DEGREES 52 MINUTES 00 SECONDS EAST, 416.47 FEET; THENCE NORTH 72 DEGREES 08 MINUTES 00 SECONDS EAST, 292.00 FEET; THENCE SOUTH 62

SCHEDULE A CONTINUED

DEGREES 52 MINUTES 00 SECONDS EAST, 105.36 FEET; THENCE NORTH 72  
DEGREES 08 MINUTES 00 SECONDS EAST, 355.70 FEET; THENCE NORTH 17  
DEGREES 52 MINUTES 00 SECONDS WEST, 95.71 FEET; THENCE NORTH 72  
DEGREES 08 MINUTES 00 SECONDS EAST, 222.80 FEET; THENCE NORTH 17  
DEGREES 52 MINUTES 00 SECONDS WEST, 312.59 FEET; THENCE SOUTH 88  
DEGREES 38 MINUTES 13 SECONDS WEST, 179.55 FEET; THENCE NORTH 1  
DEGREE 21 MINUTES 47 SECONDS WEST, 48.50 FEET; THENCE NORTH 88  
DEGREES 38 MINUTES 13 SECONDS EAST, 105.80 FEET; THENCE ALONG THE ARC  
OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS  
NORTH 43 DEGREES 38 MINUTES 13 SECONDS EAST, A CHORD DISTANCE OF 49.50  
FEET; THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 78.93 FEET;  
THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 100.00 FEET;  
THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 30.00 FEET TO THE  
SOUTH RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE NORTH 88 DEGREES  
38 MINUTES 13 SECONDS EAST, 180.00 FEET ALONG THE SOUTHERLY  
RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE SOUTH 1 DEGREE 21  
MINUTES 47 SECONDS EAST, 108.93 FEET; THENCE ALONG THE ARC OF A 35  
FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS SOUTH  
46 DEGREES 21 MINUTES 47 SECONDS EAST, A CHORD DISTANCE OF 49.50 FEET;  
THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 196.21 FEET;  
THENCE SOUTH 17 DEGREES 52 MINUTES 00 SECONDS EAST, 392.71 FEET;  
THENCE SOUTH 72 DEGREES 08 MINUTES 00 SECONDS WEST, 254.00 FEET;  
THENCE SOUTH 17 DEGREES 52 MINUTES 00 SECONDS EAST, 666.70 FEET;  
THENCE NORTH 72 DEGREES 08 MINUTES 00 SECONDS EAST, 736.50 FEET;  
THENCE ALONG THE ARC OF A 712 FOOT RADIUS CURVE, CONCAVE TO THE WEST,  
WHOSE CHORD BEARS NORTH 6 DEGREES 49 MINUTES 08 SECONDS WEST, A CHORD  
DISTANCE OF 322.07 FEET; THENCE NORTH 87 DEGREES 14 MINUTES 16  
SECONDS EAST, 83.44 FEET; THENCE DUE SOUTH 353.91 FEET; THENCE SOUTH  
9 DEGREES 47 MINUTES 44 SECONDS WEST, 174.01 FEET; THENCE SOUTH 68  
DEGREES 21 MINUTES 41 SECONDS WEST, 700.00 FEET; THENCE SOUTH 21  
DEGREES 38 MINUTES 19 SECONDS EAST, 210.00 FEET; THENCE SOUTH 68  
DEGREES 21 MINUTES 41 SECONDS WEST, 130.00 FEET; THENCE NORTH 21  
DEGREES 38 MINUTES 19 SECONDS WEST, 210.00 FEET; THENCE SOUTH 68  
DEGREES 21 MINUTES 41 SECONDS WEST, 48.58 FEET; THENCE NORTH 17  
DEGREES 52 MINUTES 00 SECONDS WEST, 479.41 FEET; THENCE SOUTH 72  
DEGREES 08 MINUTES 00 SECONDS WEST, 73.73 FEET; THENCE NORTH 17  
DEGREES 52 MINUTES 00 SECONDS WEST, 120.00 FEET; THENCE SOUTH 72  
DEGREES 08 MINUTES 00 SECONDS WEST, 270.00 FEET; THENCE SOUTH 17  
DEGREES 52 MINUTES 00 SECONDS EAST, 116.00 FEET; THENCE SOUTH 72  
DEGREES 08 MINUTES 00 SECONDS WEST, 87.86 FEET; THENCE SOUTH 20  
DEGREES 19 MINUTES 09 SECONDS WEST, 100.51 FEET; THENCE SOUTH 72  
DEGREES 08 MINUTES 00 SECONDS WEST, 451.23 FEET; THENCE SOUTH 17  
DEGREES 52 MINUTES 00 SECONDS EAST, 466.71 FEET; THENCE SOUTH 68  
DEGREES 21 MINUTES 41 SECONDS WEST, 183.84 FEET TO THE POINT OF  
BEGINNING.



SCHEDULE A CONTINUED

ALSO COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 2402.02 FEET ALONG THE WEST LINE OF SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 28 SECONDS EAST, 330.00 FEET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 200.93 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 11 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 510.01 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH WHOSE CHORD BEARS NORTH 88 DEGREES 28 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 24.63 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 32 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING, BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 36 MINUTES 33 SECONDS EAST, A CHORD DISTANCE OF 50.24 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 49.76 FEET; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 30.00 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 100.00 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 47 SECONDS WEST, 29.98 FEET TO THE POINT OF BEGINNING.

PARCEL 2: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 361.86 FEET ALONG THE WEST LINE OF SECTION 23; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 1,425.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 700.00 FEET; THENCE SOUTH 21 DEGREES 38 MINUTES 19 SECONDS EAST, 210.00 FEET; THENCE SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 700.00 FEET; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 210.00 FEET TO THE POINT OF BEGINNING.

PARCEL 3: PART OF THE SOUTHWEST QUARTER AND THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 361.86 FEET ALONG THE WEST LINE OF

SCHEDULE A CONTINUED

SECTION 23; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 2,255.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 670.00 FEET; THENCE SOUTH 21 DEGREES 38 MINUTES 19 SECONDS EAST, 210.00 FEET; THENCE SOUTH 68 DEGREES 21 MINUTES 41 SECONDS WEST, 670.00 FEET; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 210.00 FEET TO THE POINT OF BEGINNING.

PARCEL 4: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET, 376.01 FEET; THENCE NORTH 68 DEGREES 21 MINUTES 41 SECONDS EAST, 904.18 FEET; THENCE NORTH 21 DEGREES 38 MINUTES 19 SECONDS WEST, 71.31 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 58 DEGREES 57 MINUTES 55 SECONDS WEST, A CHORD DISTANCE OF 188.62 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 251.51 FEET; THENCE NORTH 43 DEGREES 20 MINUTES 00 SECONDS WEST, 334.48 FEET TO THE PLACE OF BEGINNING; THENCE NORTH 46 DEGREES 40 MINUTES 00 SECONDS EAST, 255.69 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS NORTH 26 DEGREES 43 MINUTES 53 SECONDS WEST, A CHORD DISTANCE OF 94.17 FEET; THENCE NORTH 19 DEGREES 00 MINUTES 00 SECONDS WEST, 78.00 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS NORTH 11 DEGREES 32 MINUTES 20 SECONDS WEST, A CHORD DISTANCE OF 90.90 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 362.64 FEET; THENCE SOUTH 43 DEGREES 20 MINUTES 00 SECONDS EAST, 238.58 FEET TO THE PLACE OF BEGINNING.

PARCEL 5: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 2,402.02 FEET ALONG THE WEST LINE OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 28 SECONDS EAST, 330.00 FEET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 200.93 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 11 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 510.01 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH WHOSE CHORD BEARS NORTH 88.

SCHEDULE A CONTINUED

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

PARCEL 6: PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 2,402.02 FEET ALONG THE WEST LINE OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 28 SECONDS EAST 330.00 FEET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 200.93 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 11 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 510.01 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 28 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 24.63 FEET; THENCE

SCHEDULE A CONTINUED

CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG AN ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 32 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 80.00 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 36 MINUTES 33 SECONDS EAST, A CHORD DISTANCE OF 50.24 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 821.69 FEET TO THE POINT OF BEGINNING BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 108.93 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, WHOSE CHORD BEARS SOUTH 46 DEGREES 21 MINUTES 47 SECONDS EAST, A CHORD DISTANCE OF 49.50 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 573.00 FEET; THENCE ALONG THE ARC OF A 400 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS SOUTH 82 DEGREES 56 MINUTES 47 SECONDS EAST, A CHORD DISTANCE OF 117.10 FEET; THENCE ALONG THE ARC OF A 35.0 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS NORTH 62 DEGREES 43 MINUTES 12 SECONDS EAST, A CHORD DISTANCE OF 47.52 FEET; THENCE ALONG THE ARC OF A 385.68 FOOT RADIUS CURVE, CONCAVE TO THE WEST, WHOSE CHORD BEARS NORTH 9 DEGREES 18 MINUTES 10 SECONDS EAST, A CHORD DISTANCE OF 142.77 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 793.00 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30 TO THE POINT OF BEGINNING.

PARCEL 7: PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 2,402.02 FEET ALONG THE WEST LINE OF SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 28 SECONDS EAST, 330.00 FEET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 200.93 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 11 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 510.01 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH WHOSE CHORD BEARS NORTH 88 DEGREES 28 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 24.63 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG AN ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 30 MINUTES 23 SECONDS EAST, A CHORD DISTANCE OF 3.03

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FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 32 MINUTES 52 SECONDS EAST, A CHORD DISTANCE OF 80.00 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 36 MINUTES 33 SECONDS EAST, A CHORD DISTANCE OF 50.24 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 1,694.69 FEET TO THE PLACE OF BEGINNING BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 160.00 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE SOUTH 1 DEGREE 21 MINUTES 47 SECONDS EAST, 296.44 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 87.90 FEET; THENCE NORTH 54 DEGREES 36 MINUTES 32 SECONDS WEST, 122.00 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS NORTH 16 DEGREES 30 MINUTES 01 SECOND WEST, A CHORD DISTANCE OF 43.20 FEET; THENCE ALONG THE ARC OF A 465.68 FOOT RADIUS CURVE, CONCAVE TO THE WEST, WHOSE CHORD BEARS NORTH 10 DEGREES 07 MINUTES 22 SECONDS EAST, A CHORD DISTANCE OF 185.45 FEET TO THE PLACE OF BEGINNING.

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

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PARCEL 9: PART OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 3,323.36 FEET ALONG THE SOUTH LINE OF SECTION 23; THENCE NORTH 2 DEGREES 45 MINUTES 44 SECONDS WEST, 2,554.45 FEET ALONG THE EAST LINE OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 23 TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF THE CHESAPEAKE & OHIO RAILROAD AND THE POINT OF BEGINNING; THENCE NORTH 62 DEGREES 41 MINUTES 15 SECONDS WEST, 30.34 FEET ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE CHESAPEAKE & OHIO RAILROAD TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE SOUTH 88 DEGREES 38 MINUTES 13 SECONDS WEST, 312.27 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE #30; THENCE SOUTH 01 DEGREE 21 MINUTES 47 SECONDS EAST, 53.02 FEET; THENCE SOUTH 61 DEGREES 21 MINUTES 47 SECONDS EAST, 98.97 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 13 SECONDS EAST, 255.33 FEET TO THE EASTERLY LINE OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 23; THENCE NORTH 02 DEGREES 45 MINUTES 44 SECONDS WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 23, 87.97 FEET TO THE POINT OF BEGINNING.

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

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PARCEL 11: EXCLUDED.

PARCEL 12: PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET; THENCE ALONG SAID RIGHT-OF-WAY OF MISSISSIPPI STREET, NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 1,050.72 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, 448.35 FEET; THENCE NORTH 44 DEGREES 10 MINUTES 00 SECONDS EAST, 260.33 FEET; THENCE NORTH 87 DEGREES 18 MINUTES 00 SECONDS EAST, 35.02 FEET; THENCE ALONG THE ARC OF A 370 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS SOUTH 86 DEGREES 33 MINUTES 07 SECONDS EAST, A CHORD DISTANCE OF 79.25 FEET; THENCE SOUTH 80 DEGREES 24 MINUTES 14 SECONDS EAST, 103.84 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, WHOSE CHORD BEARS SOUTH 35 DEGREES 24 MINUTES 14 SECONDS EAST, A CHORD DISTANCE OF 49.50 FEET; THENCE SOUTH 9 DEGREES 35 MINUTES 46 SECONDS WEST, 177.00 FEET; THENCE ALONG THE ARC OF A 350 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS SOUTH 2 DEGREES 45 MINUTES 34 SECONDS WEST, A CHORD DISTANCE OF 83.33 FEET; THENCE SOUTH 46 DEGREES 40 MINUTES 00 SECONDS WEST, 457.91 FEET; THENCE SOUTH 87 DEGREES 18 MINUTES 00 SECONDS WEST, 38.88 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET AND THE POINT OF BEGINNING.

PARCEL 13: PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET; THENCE NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET, 1,757.06 FEET; THENCE NORTH 87 DEGREES 18 MINUTES 00 SECONDS EAST, 225.00 FEET; THENCE ALONG THE ARC OF A 450 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS SOUTH 86 DEGREES 33 MINUTES 07 SECONDS EAST, A CHORD DISTANCE OF 96.39 FEET; THENCE SOUTH 80 DEGREES 24 MINUTES 14 SECONDS EAST, 41.83 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE ALONG THE ARC OF A 235.52 FOOT RADIUS CURVE, CONCAVE TO THE EAST, WHOSE CHORD BEARS NORTH 20 DEGREES 15 MINUTES 39 SECONDS EAST, A CHORD DISTANCE OF 349.78 FEET; THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS EAST, 167.50 FEET; THENCE ALONG THE ARC OF A 450 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS SOUTH 44 DEGREES 13 MINUTES 15

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SECONDS WEST, A CHORD DISTANCE OF 82.74 FEET; THENCE ALONG THE ARC OF A 340 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST, WHOSE CHORD BEARS SOUTH 32 DEGREES 13 MINUTES 26 SECONDS WEST, A CHORD DISTANCE OF 201.90 FEET; THENCE ALONG THE ARC OF A 35 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS SOUTH 57 DEGREES 16 MINUTES 30 SECONDS WEST, A CHORD DISTANCE OF 47.13 FEET; THENCE NORTH 80 DEGREES 24 MINUTES 14 SECONDS WEST, 62.01 FEET TO THE POINT OF BEGINNING.

PARCEL 14: EXCLUDED.

PARCEL 15: PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, A DISTANCE OF 40.00 FEET; THENCE NORTH 02 DEGREES 42 MINUTES 00 SECONDS WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET 1,935.70 FEET; THENCE NORTH 06 DEGREES 45 MINUTES 44 SECONDS EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET, A DISTANCE OF 13.26 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 06 DEGREES 45 MINUTES 44 SECONDS EAST ALONG SAID EASTERLY RIGHT-OF-WAY OF MISSISSIPPI STREET A DISTANCE OF 77.98 FEET TO A POINT; THENCE NORTH 02 DEGREES 42 MINUTES 00 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET PARALLEL WITH THE WEST LINE OF SECTION 23, A DISTANCE OF 115.65 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY NORTH 44 DEGREES 39 MINUTES 48 SECONDS EAST, 25.61 FEET; THENCE NORTH 88 DEGREES 03 MINUTES 13 SECONDS EAST, A DISTANCE OF 211.59 FEET TO A POINT OF CURVE; THENCE, ALONG A 500.00 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST, WHOSE CHORD BEARS SOUTH 75 DEGREES 58 MINUTES 23 SECONDS EAST, A DISTANCE OF 275.19 FEET; THENCE SOUTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 20.00 FEET TO A POINT OF CURVE; THENCE ALONG A 235.52 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST, WHOSE CHORD BEARS SOUTH 46 DEGREES 13 MINUTES 11 SECONDS WEST, A DISTANCE OF 176.39 FEET; THENCE SOUTH 88 DEGREES 03 MINUTES 13 SECONDS WEST, 363.05 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MISSISSIPPI STREET AND THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL 16: (KOHL'S PARCEL), PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN HOBART-ROSS TOWNSHIP, LAKE COUNTY, INDIANA, BOUNDED AND DESCRIBED AS FOLLOWS:



## SCHEDULE A CONTINUED

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 87 DEGREES 54 MINUTES 24 SECONDS EAST, 40.0 FEET TO THE EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET; THENCE, NORTH 2 DEGREES 42 MINUTES 00 SECONDS WEST, ALONG SAID EAST RIGHT-OF-WAY LINE PARALLEL WITH THE WEST LINE OF SAID SECTION 23, A DISTANCE OF 1935.70 FEET TO A POINT; THENCE NORTH 06 DEGREES 45 MINUTES 44 SECONDS EAST ALONG SAID EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET, A DISTANCE OF 91.24 FEET; THENCE NORTH 02 DEGREES 42 MINUTES 00 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET PARALLEL WITH SAID WEST LINE OF SECTION 23, A DISTANCE OF 115.65 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 02 DEGREES 42 MINUTES 00 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET PARALLEL WITH WEST LINE OF SECTION 23, A DISTANCE OF 369.35 FEET; THENCE NORTH 10 DEGREES 46 MINUTES 07 SECONDS EAST ALONG SAID EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET, A DISTANCE OF 72.53 FEET; THENCE NORTH 65 DEGREES 48 MINUTES 32 SECONDS EAST ALONG SAID EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET, A DISTANCE OF 53.76 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. ROUTE 30 (LINCOLN HIGHWAY); THENCE EASTERLY 742.70 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID U. S. ROUTE 30, BEING A 53,617.23 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 88 DEGREES 05 MINUTES 59 SECONDS EAST, A DISTANCE OF 742.70 FEET; THENCE, SOUTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 552.88 FEET; THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 185.00 FEET TO A POINT OF CURVE; THENCE 70.28 FEET ALONG A 450.00 FOOT RADIUS CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD BEARS SOUTH 34 DEGREES 28 MINUTES 27 SECONDS WEST, A DISTANCE OF 70.21 FEET; THENCE NORTH 60 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 167.50 FEET; THENCE NORTH 30 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 20.00 FEET; THENCE 278.79 FEET ALONG A 500.00 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, WHOSE CHORD BEARS NORTH 75 DEGREES 58 MINUTES 23 SECONDS WEST, A DISTANCE OF 275.19 FEET; THENCE SOUTH 88 DEGREES 03 MINUTES 13 SECONDS WEST, A DISTANCE OF 211.59 FEET; THENCE SOUTH 44 DEGREES 39 MINUTES 48 SECONDS WEST, A DISTANCE OF 25.61 FEET TO THE EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET AND THE POINT OF BEGINNING.

PARCEL 17: THE RECIPROCAL AND NON-EXCLUSIVE EASEMENTS AND RELATED REAL ESTATE RIGHTS FOR INGRESS, EGRESS, PEDESTRIAN AND VEHICULAR ACCESS, SUPPORT, ENCROACHMENTS, PARKING, UTILITY AND OTHER PURPOSES CREATED AND GRANTED AS AN APPURTENANCE TO PARCELS HEREINABOVE DESCRIBED PURSUANT TO THE FOLLOWING DOCUMENT (HEREINAFTER COLLECTIVELY CALLED "OPERATING AGREEMENTS"):

SCHEDULE A CONTINUED

1. EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF THE 27TH DAY OF JUNE, 1972 BY AND BETWEEN GARY JOINT VENTURE, J. C. PENNEY COMPANY, INC., AND SEARS, ROEBUCK AND CO. AND RECORDED NOVEMBER 8, 1972, AS DOCUMENT NO. 174993, IN THE LAKE COUNTY RECORDS, VOLUME 1316 AT PAGE 578 WITH THE RECORDER OF DEEDS, COUNTY OF LAKE, INDIANA.

2. SUPPLEMENT TO SAID EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF THE 27TH DAY OF JUNE, 1972 BY AND AMONG LIKE PARTIES, WHICH AGREEMENT IS NOT RECORDED, BUT INCORPORATED IN THE SAID EASEMENT, RESTRICTION AND OPERATING AGREEMENT FOR ALL PURPOSES.

2 1/2. A TRANSFER OF INTEREST FROM J. C. PENNEY COMPANY TO CARSON PIRIE SCOTT AND COMPANY, A DELAWARE CORPORATION, WAS RECORDED NOVEMBER 8, 1972, AS DOCUMENT NO. 174995, IN LAKE COUNTY RECORDS.

3. A FIRST AMENDMENT TO EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF THE 16TH DAY OF APRIL, 1973 AND RECORDED AS DOCUMENT NO. 208331 IN LAKE COUNTY RECORDS.

4. DECLARATION BY GARY JOINT VENTURE DATED THE 7TH DAY OF JUNE, 1973 AND FILED AS DOCUMENT NO. 208332 IN THE LAKE COUNTY RECORDS.

5. DEED OF DECLARATION DATED JUNE 15, 1973, EXECUTED BY GARY JOINT VENTURE AND FILED AS DOCUMENT NO. 208333 IN THE LAKE COUNTY RECORDS.

6. SECOND AMENDMENT TO EASEMENT, RESTRICTION AND OPERATING AGREEMENT, DATED AS OF DECEMBER 10, 1974 AND RECORDED AS DOCUMENT NO. 289791 IN THE LAKE COUNTY RECORDS.

7. AMENDMENT TO DEED OF DECLARATION, DATED AS OF DECEMBER 19, 1974, EXECUTED BY GARY JOINT VENTURE AND FILED AS DOCUMENT NO. 289795 IN THE LAKE COUNTY RECORDS.

7 1/2. DECLARATION DATED DECEMBER 10, 1974, MADE BY AND BETWEEN GARY JOINT VENTURE, A PARTNERSHIP, SEARS, ROEBUCK AND CO., A NEW YORK CORPORATION, AND J. C. PENNEY COMPANY, INC., A DELAWARE CORPORATION, AND FILED FOR RECORD AS DOCUMENT NO. 289797.

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

9. SECOND AMENDMENT TO DEED OF DECLARATION DATED AS OF JUNE 1, 1977, EXECUTED BY GARY JOINT VENTURE AND FILED FOR RECORD AS DOCUMENT NO. 423318 IN LAKE COUNTY RECORDS.

10. EASEMENT, RESTRICTION AND OPERATING AGREEMENT DATED AS OF JUNE

SCHEDULE A CONTINUED

1, 1977, BY AND BETWEEN GARY JOINT VENTURE AND ADCOR REALTY CORPORATION AND FILED FOR RECORD AS DOCUMENT NO. 423320 IN THE LAKE COUNTY RECORDS.

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

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

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

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

SCHEDULE B

**EXHIBIT B**

**PERMITTED ENCUMBRANCES**

**Items 1-46 on that certain Chicago Title Insurance Company Pro Forma Title Policy numbered as Policy Number 0493735 (Southlake First Mortgage Loan Policy).**

## EXHIBIT C

### QUALIFIED LEASES

The minimum base rent for each unit of the Mortgaged Property shall be no less than the amount set forth in a separate written instrument signed by the Mortgagor and Mortgagee, as amended from time to time.

The Lease shall be a bona fide agreement with an unaffiliated third party. The Lease shall have a term of not less than five years. The Lease shall contain no co-tenancy requirement (except for any such requirement which may affect hours of operations for evenings, Sundays, or holidays). The Lease shall not permit the Lessee to cease business operations with the public (except as provided in the form lease for the Mortgaged Property approved by Mortgagee).

**EXHIBIT D**

**RELEASE PARCELS**

**NONE.**

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