

33

33

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

2012 061156

ARONBERG GOLDGEHN
330 North Wabash Avenue, Suite 1700
Chicago, Illinois 60611
Attention: Jacqueline M. Helmrick

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2012 SEP 11 AM 8:56

MICHELLE R. FAJMAN
RECORDER

**AMENDED AND RESTATED CONSTRUCTION MORTGAGE, FIXTURE FILING
AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS**

THIS AMENDED AND RESTATED CONSTRUCTION MORTGAGE, FIXTURE FILING AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS (this "Mortgage") is entered into effective as of July 1, 2012, by **STONEGATE COMMONS INVESTORS, LLC**, an Indiana limited liability company ("Mortgagor"), which has a mailing address of c/o Donald E. Manhard, Jr., 900 Woodlands Parkway, Vernon Hills, Illinois 60061, in favor of **FIRST MIDWEST BANK**, an Illinois banking corporation ("Mortgagee"), which has a mailing address of One Pierce Place, Suite 1500, Itasca, Illinois 60143.

WITNESSETH THAT:

WHEREAS, Mortgagor is the owner of fee simple title to certain real estate located in Winfield, Indiana, and legally described in Exhibit A attached hereto (the "Property");

WHEREAS, concurrently herewith Mortgagor has executed and delivered to Mortgagee three (3) Amended and Restated Promissory Notes (the "Stonegate Commons Notes," which term shall include any notes issued in substitution, renewal or exchange therefor, payable to Mortgagee), including (i) a note in an original principal amount not to exceed Two Million Nine Hundred Seventy-Eight Thousand Eighty and 00/100 Dollars (\$2,978,080.00) the principal balance owing under such note, prior to a Default or Event of Default, accruing interest at a rate per annum equal to the greater of, from time to time (A) the one (1) month London Interbank Offered Rate ("LIBOR") as shown in The Wall Street Journal for and in respect to the last business day of each month, plus two and three quarters percent (2.75%) per annum, and (B) four and three quarters percent (4.75%), and after a Default or Event of Default, accruing interest at a rate per annum equal to five percent plus the aforementioned interest rate, and which note matures on March 31, 2013, or, if extended pursuant to the terms thereof, March 31, 2014, (ii) a note in an original principal amount not to exceed One Million and 00/100 Dollars (\$1,000,000.00) the principal balance owing under such note, prior to a Default or Event of Default, accruing interest at a rate per annum equal to the greater of, from time to time (A) the one (1) month LIBOR as shown in The Wall Street Journal for and in respect to the last business day of each month, plus two and three quarters percent (2.75%) per annum, and (B) four and three quarters percent (4.75%), and after a Default or Event of Default, accruing interest at a rate per annum equal to five percent plus the aforementioned interest rate, and which note matures on March 31, 2013, or, if extended pursuant to the terms thereof, March 31, 2014, and (iii) a note in an original principal amount not to exceed Eight Hundred Seventy-Eight Thousand Thirteen and

790
non 25091
com
E RM

63/100 Dollars (\$878,013.63) the principal balance owing under such note, prior to a Default or Event of Default, accruing interest at a rate per annum equal to the Prime Rate (which is defined as the highest rate of interest then most recently announced in The Wall Street Journal as the Prime Rate; provided however, that if The Wall Street Journal ceases to announce the Prime Rate, then the Prime Rate shall be determined by reference to such base rate as designated by Mortgagee to Mortgagor) plus five percent (5.00%), and after a Default or Event of Default, accruing interest at a rate per annum equal to five percent plus the aforementioned interest rate, and which note matures on March 31, 2013, or, if extended pursuant to the terms thereof, March 31, 2014. Pursuant to the Stonegate Commons Notes, Mortgagor promises to pay such principal sum or so much thereof as may be outstanding when the same becomes due, together with interest on the balance of principal from time to time outstanding and unpaid thereon, at the rate and at the times specified therein;

WHEREAS, the Stonegate Commons Notes have been issued pursuant and subject to the provisions of that certain Construction Loan Agreement of even date herewith among Mortgagor, Mortgagee and affiliates of Mortgagor (the "Loan Agreement");

WHEREAS, additionally, The Stonegate Development of Winfield, LLC has executed and delivered to Mortgagee three (3) Amended and Restated Promissory Notes of even date herewith in the aggregate principal amount of Six Million One Hundred Ninety-Eight Thousand Fifty-Two and 98/100 Dollars (\$6,198,052.98) (the "Stonegate Development Notes," which term shall include any notes issued in substitution, renewal or exchange therefor, payable to Mortgagee, and which together with the Stonegate Commons Notes are sometimes referred to herein as the "Notes"), pursuant to which Mortgagor promises to pay such principal sum or so much thereof as may be outstanding when the same becomes due, together with interest on the balance of principal from time to time outstanding and unpaid thereon, at the rate and at the times specified in the Stonegate Common Notes;

WHEREAS, this Mortgage, the Notes, the Loan Agreement and all other instruments and documents evidencing or securing the indebtedness evidenced by the Note are hereinafter collectively referred to as the "Loan Documents"; and

NOW, THEREFORE, to secure: (i) the payment when and as due and payable of the principal of and interest on the Notes or so much thereof as may be advanced from time to time and evidenced by the Notes; (ii) the payment of all other indebtedness which this Mortgage by its terms secures; (iii) the performance and observance of the covenants and agreements contained in this Mortgage, the Notes and the Loan Documents; and (iv) the obligations of Mortgagor under the Loan Agreement (all of such indebtedness, obligations and liabilities identified in (i), (ii), (iii) and (iv) above being hereinafter referred to as the "Indebtedness"), Mortgagor does hereby grant, sell, convey, warrant, mortgage and assign unto Mortgagee, its successors and assigns, and does hereby grant to Mortgagee, its successors and assigns, a security interest in all and singular the properties, rights, interests and privileges described in Granting Clauses I, II, III, IV, V, VI and VII below all of same being collectively referred to herein as the "Mortgaged Premises":

GRANTING CLAUSE I

That Property, as more particularly described in Exhibit A attached hereto and made a part hereof.

GRANTING CLAUSE II

All buildings and improvements of every kind and description heretofore or hereafter erected or placed on the Property and all materials intended for construction, reconstruction, alteration and repair of the buildings and improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the premises immediately upon the delivery thereof to such real estate, and, all fixtures, machinery, apparatus, equipment, fittings and articles of personal property of every kind and nature whatsoever now or hereafter attached to or contained in or used in connection with said real estate and the buildings and improvements now or hereafter located thereon and the operation, maintenance and protection thereof, including but not limited to, all machinery, motors, fittings, radiators, awnings, shades, screens, all gas, coal, steam, electric, oil and other heating, cooking, power and lighting apparatus and fixtures, all fire prevention and extinguishing equipment and apparatus, all cooling and ventilating apparatus and systems, all plumbing, incinerating, sprinkler equipment and fixtures, all elevators and escalators, all communication and electronic monitoring equipment, all window and structural cleaning rigs and all other machinery and other equipment of every nature and fixtures and appurtenances thereto and all items of furniture, appliances, draperies, carpets, other furnishings, equipment and personal property used or useful in the operation, maintenance and protection of the said real estate and the buildings and improvements now or hereafter located thereon and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to said buildings or improvements in any manner; it being mutually agreed, intended and declared that all the aforesaid property shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and for the purpose of this Mortgage to be real estate and covered by this Mortgage; and as to the balance of the property aforesaid, this Mortgage is hereby deemed to be as well a security agreement under the provisions of the Uniform Commercial Code of the State of Illinois as from time to time in effect (the "Code"), for the purpose of creating hereby a security interest in said property, which is hereby granted by Mortgagor as debtor to Mortgagee as secured party, securing the Indebtedness. The addresses of Mortgagor (debtor) and Mortgagee (secured party) appear at the beginning hereof.

GRANTING CLAUSE III

All right, title and interest of Mortgagor now owned or hereafter acquired in and to all and singular the estates, tenements, hereditaments, privileges, easements, licenses, franchises, appurtenances and royalties, mineral, oil and water rights belonging or in any way appertaining to the property described in the preceding Granting Clause I and the buildings and improvements now or hereafter located thereon and the reversions, rents, issues, revenues and profits thereof, including all interest of Mortgagor in all rents, issues and profits of the aforementioned property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits of money as advance rent or for security) under any and all leases and renewals thereof or under any contracts or options for the sale of all or any part of said

property (including during any period allowed by law for the redemption of said property after any foreclosure or other sale), together with the right, but not the obligation, to collect, receive and receipt for all such rents and other sums and apply them to the Indebtedness and to demand, sue for and recover the same when due or payable; provided that the assignments made hereby shall not impair or diminish the obligations of Mortgagor under the provisions of such leases or other agreements nor shall such obligations be imposed upon Mortgagee. By acceptance of this Mortgage, Mortgagee agrees that until an Event of Default (as hereinafter defined) shall occur giving Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive (but not more than thirty (30) days in advance, with the exception of the first month's rent pursuant to the terms of any Lease, as hereinafter defined) and enjoy such rents.

GRANTING CLAUSE IV

To the extent provided herein, all judgments, awards of damages, settlements and other compensation hereafter made resulting from condemnation proceedings or the taking of the property described in Granting Clause I or any part thereof or any building or other improvements now or at any time hereafter located thereon or any easement or other appurtenance thereto under the power of eminent domain, or any similar power or right (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for the payment thereof), whether permanent or temporary, or for any damage (whether caused by such taking or otherwise) to said property or any part thereof or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including severance and consequential damage, and any award for change of grade of streets (collectively "Condemnation Awards").

This Document is the property of
the Lake County Recorder!

GRANTING CLAUSE V

All property and rights, if any, which are by the express provisions of this instrument required to be subjected to the lien hereof and any additional property and rights that may from time to time hereafter by installation or writing of any kind, be subjected to the lien hereof.

GRANTING CLAUSE VI

All rights in and to common areas and access roads on adjacent properties heretofore or hereafter granted to Mortgagor and any after-acquired title or reversion in and to the beds of any ways, roads, streets, avenues and alleys adjoining the property described in Granting Clause I or any part thereof.

GRANTING CLAUSE VII

All of the Mortgagor's "general intangibles" including "payment intangibles" (as defined in the Code) now owned or hereafter acquired and related to the Mortgaged Premises, including, without limitation, all right, title and interest of Mortgagor in and to: (i) all agreements, leases, licenses and contracts to which Mortgagor are or may become a party relating to the Mortgaged Premises or improvements thereon; (ii) all obligations or indebtedness owing to Mortgagor (other than accounts) or other rights to receive payments of money from whatever source arising relating to the Mortgaged Premises; (iii) all tax refunds and tax refund claims; (iv) all intellectual

property; (v) all choses in action and causes of action; and (vi) all agreements with any governmental authority specifically pertaining to the Mortgaged Premises.

All of Mortgagor's accounts (as defined in the Code) now owned or hereafter created or acquired as relates to the Mortgaged Premises, including, without limitation, all of the following now owned or hereafter created or acquired by Mortgagor: (i) accounts receivable, contract rights, book debts, notes, drafts, and other obligations or indebtedness owing to any of the Mortgagor arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Mortgagor's rights in, to and under all purchase orders for goods, services or other property; (iii) the Mortgagor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due to or to become due to Mortgagor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of Mortgagor); (v) uncertificated securities; and (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing. All warranties, guarantees, permits and licenses received by Mortgagor in respect to the Mortgaged Premises.

TO HAVE AND TO HOLD the Mortgaged Premises and the properties, rights and privileges hereby granted, bargained, sold, conveyed, mortgaged, pledged and assigned, and in which a security interest is granted, unto Mortgagee, its successors and assigns, forever; provided, however, that this instrument is upon the express condition that if the principal of and interest on the Notes shall be paid in full and all Indebtedness shall be fully paid and performed and any commitment to advance funds contained in the Loan Agreement shall have been terminated, then this instrument and the estate and rights hereby granted shall cease, determine and be void and this instrument shall be released by Mortgagee upon the written request and at the expense of Mortgagor, otherwise to remain in full force and effect.

Mortgagor hereby covenants and agrees with Mortgagee as follows:

1. Payment of the Indebtedness. The Indebtedness will be promptly paid as and when the same becomes due. The terms and conditions of the Notes are incorporated herein by reference.
2. Representation of Title and Further Assurances. Mortgagor will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this instrument and, without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the Granting Clauses hereof or intended so to be. At the time of delivery of these presents, Mortgagor is well seized of an indefeasible estate in fee simple in that portion of the Mortgaged Premises which constitutes real property and which is identified on Exhibit A, subject only to the matters set forth in Exhibit B attached hereto and hereby made a part hereof (the "Permitted Exceptions"), and Mortgagor has good right, full power and lawful authority to convey, mortgage and create a security interest in the same, in the manner and form aforesaid; except as set forth in Exhibit B hereto, the Mortgaged Premises are free and clear of all liens, charges, easements, covenants, conditions, restrictions and encumbrances whatsoever, including

the personal property and fixtures, security agreements, conditional sales contracts and anything of a similar nature, and Mortgagor shall and will forever defend the title to the Mortgaged Premises against the claims of all persons whomsoever.

3. Mortgage Constitutes Construction Mortgage. This Mortgage, in part, secures an obligation for construction of improvements on the Property and constitutes a construction mortgage for the purpose of Article Nine of the Code and is entitled to all of the benefits afforded construction mortgages thereunder.

4. Compliance with Loan Agreement. Mortgagor will abide by and comply with and be governed and restricted by all of the terms, covenants, provisions, restrictions and agreements contained in the Loan Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns.

5. Provisions of Loan Agreement. The proceeds of the Notes are to be disbursed by Mortgagee in accordance with the terms contained in the Loan Agreement, the provisions of which are incorporated herein by reference to the same extent as if fully set forth herein. Mortgagor covenants that any and all monetary disbursements made in accord with the Loan Agreement shall constitute adequate consideration to Mortgagor for the enforceability of this Mortgage and the Notes, and that all advances and indebtedness arising and accruing under the Loan Agreement from time to time, whether or not the total amount thereof may exceed the face amount of the Notes, shall be secured by this Mortgage. Upon the occurrence of an Event of Default under the Loan Agreement, Mortgagee may (but shall not be required to): (a) declare the entire Indebtedness and interest thereon owing hereunder, under the Notes, or any other Loan Document, due and payable and pursue all other remedies conferred upon Mortgagee by this Mortgage, any other Loan Document or by law upon a default; or (b) complete the construction of the improvements described in the Loan Agreement and enter into the necessary contracts therefor. All monies so expended shall be so much additional Indebtedness secured by this Mortgage and shall be payable on demand with interest at the highest Default Interest Rate applicable under the Notes (the "Default Rate"). Mortgagee may exercise either or both of the aforesaid remedies. The provisions, rights, powers and remedies contained in the Loan Agreement are in addition to, and not in substitution for, those contained herein.

6. Payment of Taxes. Mortgagor shall pay before any penalty attaches all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges, of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed, imposed or charged on or against the Mortgaged Premises or any part thereof and which, if unpaid, might by law become a lien or charge upon the Mortgaged Premises or any part thereof, and shall exhibit to Mortgagee official receipts evidencing such payments, except that, unless and until foreclosure, distraint, sale or other similar proceedings shall have been commenced, no such charge or claim need be paid if being contested (except to the extent any full or partial payment shall be required by law), after notice to Mortgagee, by appropriate proceedings which shall operate to prevent the collection thereof or the sale or forfeiture of the Mortgaged Premises or any part thereof to satisfy the same, conducted in good faith and with due diligence and if Mortgagor shall have furnished such security, if any, as may be required in the proceedings or required by Mortgagee's title insurer to insure over the lien of such taxes.

7. Payment of Taxes on Notes, Mortgage or Interest of Mortgagee. Mortgagor agrees that if any tax, assessment or imposition upon this Mortgage or the Indebtedness or by the Notes or the interest of Mortgagee in the Mortgaged Premises or upon Mortgagee by reason of any of the foregoing (including, without limitation, corporate privilege, franchise and excise taxes, but excepting therefrom any income tax on interest payments on the principal portion of the Indebtedness imposed by the United States or any State) is levied, assessed or charged, then, unless all such taxes are paid by Mortgagor to, for or on behalf of Mortgagee as they become due and payable (which Mortgagor agrees to do upon demand of Mortgagee, to the extent permitted by law), or Mortgagee is reimbursed for any such sum which has been advanced by Mortgagee, Mortgagee may pay such amount and all sums advanced shall become immediately due and payable, notwithstanding anything contained herein or in any law heretofore or hereafter enacted, including any provision thereof forbidding Mortgagor from making any such payment and such amount shall be secured hereby. Mortgagor agrees to provide to Mortgagee, upon request, official receipts showing payment of all taxes and charges which Mortgagor is required to pay hereunder.

8. Tax and Insurance Deposits. Following the occurrence of an Event of Default, upon the written request of Mortgagee, Mortgagor covenants and agrees to deposit with Mortgagee, on the first day of the first month following the date hereof, and on the first day of each successive month thereafter until the Indebtedness is fully paid, a sum equal to one-twelfth (1/12th) of the annual taxes and assessments (general and special) on the Mortgaged Premises (unless said taxes are based upon assessments which exclude improvements thereon now constructed or to be constructed, in which event the amount of such deposits shall be based upon Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed). Upon the commencement of the payment of deposits, if prior deposits are insufficient, Mortgagor shall deposit with Mortgagee an amount of money which, together with the aggregate of the monthly deposits made or to be made pursuant hereto as of one (1) month prior to the date on which the total annual taxes and assessments for the current calendar year become due, shall be sufficient to pay in full the total annual taxes and assessments reasonably estimated by Mortgagee to become due and payable with respect to the Mortgaged Premises for the current calendar year. Such deposits are to be held without any allowance of interest and are to be used for the payment of taxes and assessments (general and special) on the Mortgaged Premises next due and payable when they become due. Mortgagee may, at its option, pay such taxes and assessments when the same become due and payable (upon submission of appropriate bills therefor from Mortgagor) or shall release sufficient funds to Mortgagor for payment of such taxes and assessments. If the funds so deposited are insufficient to pay any such taxes and assessments (general or special) due and payable, Mortgagor shall upon demand therefor, deposit additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year, the excess shall be applied on a subsequent deposit or deposits. Such deposits need not be kept separate and apart from any other funds of Mortgagee.

9. Mortgagee's Interest In and Use of Deposits. Upon the occurrence of an Event of Default under this Mortgage, any of the Notes, the Loan Agreement, or any other document securing payment of the Indebtedness, Mortgagee may, at its option, without being required so to do, apply any monies at the time on deposit pursuant to Section 8 hereof to the performance of any of Mortgagor's obligations hereunder or under the Notes or Loan Agreement, in such order

and manner as Mortgagee may elect. When the Indebtedness has been fully paid, any remaining deposits shall be paid to Mortgagor. Such deposits are hereby pledged as additional security for the Indebtedness and shall be irrevocably applied by Mortgagee for the purposes for which made hereunder and shall not be subject to the direction or control of Mortgagor; provided, however, that Mortgagee shall not be liable for any failure to apply to the payment of taxes, assessments and insurance premiums any amount so deposited unless Mortgagor, while not in default hereunder, shall have requested Mortgagee in writing to make application of such funds to the payment of which they were deposited, accompanied by the original bills for such taxes, assessments and insurance premiums. Mortgagee shall not be liable for any act or omission taken in good faith or pursuant to the instruction of any party.

10. Recordation and Payment of Taxes and Expenses Incident Thereto. Mortgagor will cause this Mortgage, all mortgages supplemental hereto and any financing statement or other notices of a security interest required by Mortgagee at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law for the recording and filing or for the rerecording and refileing of a mortgage, security interest, assignment or other lien or charge upon the Mortgaged Premises, or any part thereof, in order fully to preserve and protect the rights of Mortgagee hereunder, and, without limiting the foregoing, Mortgagor will pay or reimburse Mortgagee for the payment of any and all taxes, fees or other charges incurred in connection with any such recordation or re-recordation, including any documentary stamp tax or tax imposed upon the privilege of having this instrument or any instrument issued pursuant hereto recorded.

11. Security Agreement. Mortgagor and Mortgagee agree that this Mortgage shall constitute a Security Agreement within the meaning of the Code with respect to: (a) all sums at any time on deposit for the benefit of Mortgagor or held by the Mortgagee (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or the other Loan Documents; (b) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Mortgaged Premises or may not constitute a "fixture" (within the meaning of Section 9-313 of the Code); and (c) with respect to all of the property described in Exhibit C attached hereto and by this reference made a part hereof, and all replacements of, substitutions for, additions to, and the proceeds thereof (all of the foregoing described in subclauses (a), (b) and (c) and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "Collateral"), and that a security interest in and to the Collateral is hereby granted to Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all to secure payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Mortgaged Premises; and the following provisions of this Section shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

(d) Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefitting Mortgagee and no other party, and liens and encumbrances, if any, expressly permitted by the other Loan Documents.

(e) The Collateral is to be used by Mortgagor solely for business purposes.

(f) The Collateral will be kept at the Property and will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Property but will not be affixed to any other real estate.

(g) The only persons having any interest in the Mortgaged Premises are Mortgagor, Mortgagee and holders of interests, if any, expressly permitted hereby, and listed on **Exhibit B** hereto.

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

(i) Upon an Event of Default hereunder, Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as Mortgagor can give authority therefor, with judicial process, may enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Mortgaged Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee, which is reasonably convenient to both parties. Mortgagee will give Mortgagor at least ten (10) days' notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor hereinafter set forth at least ten (10) days before the time of the sale or disposition. Mortgagee may buy at any public sale. Mortgagee may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Mortgaged Premises. If Mortgagee so elects, the Mortgaged Premises and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after

deduction for the reasonable expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied against the Indebtedness in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

(j) The terms and provisions contained in this Section 11, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

(k) This Mortgage is intended to be a financing statement within the purview of Section 9-402(6) of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Mortgaged Premises. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are hereinbelow set forth. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or counties where the Mortgaged Premises are located. Mortgagor is the record owner of the Mortgaged Premises.

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

(m) Mortgagor represents and warrants that:

- i. Mortgagor is the record owner of the Mortgaged Premises;
- ii. Mortgagor's principal place of business is located in Vernon Hills, Illinois;
- iii. Mortgagor's state of formation is the State of Indiana; and
- iv. Mortgagor's exact legal name is as set forth in the first paragraph of this Mortgage.

(n) Mortgagor agrees that:

- i. Mortgagee is authorized to file a financing statement describing the Collateral;
- ii. Where Collateral is in possession of a third party, Mortgagor will join with the Mortgagee in notifying the third party of the Mortgagee's interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of Mortgagee;
- iii. Mortgagor will cooperate with the Mortgagee in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and

iv. Until the Indebtedness is paid in full, Mortgagor will not change the state where it is located or change its name without obtaining the prior written consent of Mortgagee.

12. Insurance. Mortgagor will, at its expense, maintain insurance in accordance with the requirements of the Loan Agreement. The proceeds of such insurance shall be applied as provided in Section 13(c) hereof. In the event of foreclosure, Mortgagor authorizes and empowers Mortgagee to effect insurance upon the Mortgaged Premises in the amounts aforesaid, for a period covering the time of redemption from foreclosure sale provided by law, and if necessary therefor, to cancel any or all existing insurance policies.

13. Damage to and Destruction of the Improvements.

(a) Notice. In the case of any material damage to or destruction of any improvements which are or will be constructed on the Mortgaged Premises or any part thereof, Mortgagor shall promptly give notice thereof to Mortgagee generally describing the nature and extent of such damage or destruction. Material damage shall mean damage in excess of Fifty Thousand and No/100 Dollars (\$50,000.00).

(b) Restoration. Upon the occurrence of any damage to or destruction of any improvements on the Mortgaged Premises, provided Mortgagee permits the proceeds of insurance to be used for repairs, Mortgagor shall cause same to be restored, replaced or rebuilt as nearly as possible to their value, condition and character immediately prior to such damage or destruction. Such restoration, replacement or rebuilding shall be effected promptly and Mortgagor shall notify the Mortgagee if it appears that such restoration, replacement or rebuilding may unduly delay completion of such improvements. Any amounts required for repairs in excess of insurance proceeds shall be paid by Mortgagor.

(c) Application of Insurance Proceeds. Net insurance proceeds received by Mortgagee under the provisions of this Mortgage or any instrument supplemental hereto or thereto or any policy or policies of insurance covering any improvements on the Mortgaged Premises or any part thereof shall be applied by Mortgagee at its option as and for a prepayment on any of the Notes (whether or not the same is then due or otherwise adequately secured) or shall be disbursed for restoration of such improvements (in which event Mortgagee shall not be obligated to supervise restoration work nor shall the amount so released or used be deemed a payment of the Indebtedness). If Mortgagee elects to permit the use of insurance proceeds to restore such improvements it may do all necessary acts to accomplish that purpose including using funds deposited by Mortgagor with it for any purpose and advancing additional funds, all such additional funds to constitute part of the Indebtedness secured by the Mortgage. If Mortgagee elects to make insurance proceeds available to Mortgagor for the purpose of effecting such restoration, or, following an Event of Default, elects to restore such improvements, any excess of insurance proceeds above the amount necessary to complete such restoration shall be applied as and for a prepayment on any of the Notes. If Mortgagee elects to make the insurance proceeds available to Mortgagor for the purpose of effecting such a restoration, or, following an Event of Default, elects to restore such improvements, any excess of insurance proceeds above the amount necessary to complete such restoration shall be applied as and for a prepayment on any of the Notes. Any insurance proceeds to be released pursuant to the foregoing provisions

may at the option of Mortgagee be disbursed from time to time as restoration progresses to pay for restoration work completed and in place and such disbursements shall be disbursed in such manner as Mortgagee may determine. Mortgagee may impose such further conditions upon the release of insurance proceeds (including the receipt of title insurance) as it may deem reasonably necessary to insure the completion of the restoration work free and clear of all liens or claims for lien. All necessary and reasonable title insurance charges and other costs and expenses paid to or for the account of Mortgagee in connection with the release of such insurance proceeds shall constitute so much additional Indebtedness secured by this Mortgage to be payable upon demand and if not paid upon demand shall bear interest at the Default Rate. Mortgagee may deduct any such costs and expenses from insurance proceeds at any time held by Mortgagee. No interest shall be payable to Mortgagor upon insurance proceeds held by Mortgagee.

(d) Adjustment of Loss. Mortgagee is hereby authorized and empowered, at its option, to adjust or compromise any loss of more than \$50,000.00 under any insurance policies covering or relating to the Mortgaged Premises and to collect and receive the proceeds from any such policy or policies. Mortgagor hereby irrevocably appoints Mortgagee as attorney-in-fact for the purposes set forth in the preceding sentence. Each insurance company is hereby authorized and directed to make payment: (a) of 100% of all such losses of more than \$50,000.00 directly to Mortgagee alone; and (b) of 100% of all such losses of \$50,000.00 or less directly to Mortgagor alone, and in no case to Mortgagor and Mortgagee jointly. After deducting from such insurance proceeds any expenses incurred by Mortgagee in the collection and settlement thereof, including without limitation reasonable attorneys' and adjusters' fees and charges, Mortgagee shall apply the net proceeds as provided in Section 13(c). Mortgagee shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure, except for its gross negligence or willful misconduct.

14. Eminent Domain.

(a) Notice. Mortgagor covenants and agrees that Mortgagor will give Mortgagee immediate notice of the actual or threatened commencement of any proceedings under condemnation or eminent domain affecting all or any part of the Mortgaged Premises including any easement therein or appurtenance thereof or severance and change in grade of streets, and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings.

(b) Assignment of Claim, Power of Attorney to Collect, Etc. Any and all awards heretofore or hereafter made or to be made to the present and all subsequent owners of the Mortgaged Premises by any governmental body for taking or affecting the whole or any part of such Mortgaged Premises, the improvements on the Mortgaged Premises or any easement therein or appurtenance thereto (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the award for payment thereof) in excess of \$50,000.00 (provided the Property is not materially adversely affected) are hereby assigned by Mortgagor to Mortgagee to the extent of the existing principal balance, interest thereon and other outstanding charges owed by Mortgagor to Mortgagee and Mortgagor hereby irrevocably constitutes and appoints Mortgagee its true and lawful attorney in fact with full power of substitution for it and in its name, place and stead to collect and receive the proceeds of any such award granted by virtue of any such taking and to

give proper receipts and acquittance therefor. Mortgagee shall not settle any condemnation award with the condemning party without the consent of the Mortgagor. Mortgagor shall have the right to participate in any proceedings which determine the award to be granted.

(c) Effect of Condemnation and Application of Awards. In the event that any proceedings are commenced by any governmental body or other person to take or otherwise affect the Mortgaged Premises, the improvements thereon or any easement therein or appurtenance thereto, Mortgagee may, at its option, apply the proceeds of any award assigned to Mortgagee made in such proceedings as and for a prepayment on the Indebtedness, notwithstanding the fact that the Indebtedness may not then be due and payable or is otherwise adequately secured.

15. Construction, Repair, Waste, Etc. Except for the improvements on the Mortgaged Premises to be constructed pursuant to the provisions of the Loan Agreement, Mortgagor covenants and agrees: (a) no building or other improvement on the Mortgaged Premises and constituting a part thereof shall be materially altered, removed or demolished nor shall any fixtures or appliances on, in or about such buildings or improvements be severed, removed, sold or mortgaged, without the consent of Mortgagee; and in the event of the demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby, the same will be replaced promptly by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from any security interest in or encumbrance thereon or reservation of title thereto; (b) to permit, commit or suffer no waste, impairment or deterioration of the Mortgaged Premises or any part thereof; (c) to keep and maintain said Mortgaged Premises and every part thereof in good and first class repair and condition (ordinary wear and tear excepted); (d) to effect such repairs as Mortgagee may reasonably require and from time to time to make all needful and proper replacements and additions so that said buildings, fixtures, machinery and appurtenances will, at all times, be in good and first class condition, fit and proper for the respective purposes for which they were originally erected or installed; (e) to comply with all statutes, orders, requirements, agreements or decrees relating to said Mortgaged Premises by any Federal, State or Municipal authority; (f) to observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, easements, permits (including, but not limited to, zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions which are applicable to the Mortgaged Premises or which have been granted to or contracted for by the Mortgagor in connection with any existing or presently contemplated use of the Mortgaged Premises or any part hereof and not to initiate or acquiesce in any changes to or terminations of any of the foregoing or of zoning classifications affecting the use to which the Mortgaged Premises or any part thereof may be put without the prior written consent of Mortgagee; and (g) to make no alterations in or improvements or additions to the Mortgaged Premises without Mortgagee's written permission except as contemplated by the Loan Agreement or as required by governmental authority.

16. Liens and Encumbrances. Mortgagor will not, without the prior written consent of Mortgagee, directly or indirectly, create or suffer to be created, or to remain, and will discharge or promptly cause to be discharged any mortgage, lien, encumbrance or charge on, pledge or conditional sale or other title retention agreement with respect to the Mortgaged Premises or any part thereof, whether superior or subordinate to the lien hereof, except for this

instrument and the lien of all other documents given to secure the Indebtedness; provided, however, that Mortgagor may contest the validity of any mechanic's lien, charge or encumbrance (other than the lien of this Mortgage or of any other document securing payment of the Notes) upon giving Mortgagee timely notice of its intention to contest the same and either: (a) maintaining with Mortgagee a deposit of cash or negotiable securities satisfactory to Mortgagee in an amount sufficient in the opinion of Mortgagee to pay and discharge or to assure compliance with the matter under contest in the event of a final determination thereof adversely to such Mortgagor; or (b) obtaining title insurance coverage over such lien on Mortgagee's title insurance policy by endorsements acceptable to Mortgagee. Mortgagor agrees to prosecute and contest such lien diligently and by appropriate legal proceedings which will prevent the enforcement of the matter under contest and will not impair the lien of this Mortgage or interfere with the normal conduct of business on the Mortgaged Premises. On final disposition of such contest, any cash or securities in Mortgagee's possession not required to pay or discharge or assure compliance with the matter contested shall be returned to such Mortgagor without interest.

17. Right of Mortgagee to Perform Mortgagor's Covenants, Etc. Upon an Event of Default, Mortgagee, without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter upon prior written notice to Mortgagor and failure of Mortgagor to make such payment or perform such act within any applicable cure period provided for herein or in the Loan Documents make such payment or perform such act for the account and at the expense of Mortgagor, and may enter upon the Mortgaged Premises or any part thereof for such purpose and take all such action thereon as, in the opinion of Mortgagee, may be necessary or appropriate therefor. All sums so paid by Mortgagee and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) so incurred, together with interest thereon from the date of payment or incurrence at the Default Rate, shall constitute so much additional Indebtedness and shall be paid by Mortgagor to Mortgagee on demand. Mortgagee in making any payment authorized under this Section relating to taxes or assessments may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim thereof.

18. After-Acquired Property. Any and all property hereafter acquired which is of the kind or nature herein provided and related to the premises described in Granting Clause I hereof, or intended to be and become subject to the lien hereof, shall ipso facto, and without any further conveyance, assignment or act on the part of Mortgagor, become and be subject to the lien of this Mortgage as fully and completely as though specifically described herein; but nevertheless Mortgagor shall from time to time, if requested by Mortgagee, execute and deliver any and all such further assurances, conveyances and assignments as Mortgagee may reasonably require for the purpose of expressly and specifically subjecting to the lien of this Mortgage all such property.

19. Inspection by Mortgagee. Mortgagee and its agents shall have the right to inspect the Mortgaged Premises at all reasonable times, and access thereto shall be permitted for that purpose on reasonable notice and to the extent feasible, without undue interruption of the business of Mortgagor or any tenant of Mortgagor.

20. Subrogation. Mortgagor acknowledges and agrees that Mortgagee shall be subrogated to any lien discharged out of the proceeds of the loans evidenced by the Notes or out of any advance by Mortgagee hereunder or under the Loan Agreement irrespective of whether or not any such lien may have been released of record.

21. Environmental Matters.

(a) Definitions. As used herein, the following terms shall have the following meanings:

i. "Environmental Laws" means all federal, state and local statutes, laws, rules, regulations, ordinances, requirements, or rules of common law, including but not limited to those listed or referred to in paragraph (b) below, any judicial or administrative interpretations thereof, and any judicial and administrative consent decrees, orders or judgments, whether now existing or hereinafter promulgated, relating to public health and safety and protection of the environment.

ii. "Hazardous Material" means any above or underground storage tanks, flammables, explosives, accelerants, asbestos, radioactive materials, radon, urea formaldehyde foam insulation, lead-based paint, polychlorinated biphenyls, petroleum or petroleum based or related substances, hydrocarbons or like substances and their additives or constituents, methane, solid wastes, refuse, garbage, construction debris, rubble, hazardous materials, hazardous wastes, toxic substances or related materials, and including, without limitation, substances now or hereafter defined as "hazardous substances", "hazardous materials", "toxic substances" or "hazardous wastes" in The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601, et. seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499, 42 U.S.C.), The Toxic Substance Control Act of 1976 as amended, (15 U.S.C. 2601 et. seq.), The Resource Conservation and Recovery Act, as amended (42 U.S.C. 6901, et. seq.), The Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801, et. seq.), The Clean Water Act, as amended (33 U.S.C. 1251, et. seq.), The Clean Air Act, as amended (42 U.S.C. 7401 et. seq.), any so-called "Superfund" or "Superlien" law or any other applicable federal, state or local law, common law, code, rule, regulation, or ordinance, presently in effect or hereafter enacted, promulgated or implemented.

iii. "Environmental Liability" means any losses, liabilities, obligations, penalties, charges, fees, claims, litigation demands, defenses, costs, judgments, suits, proceedings, response costs, damages (including consequential damages), disbursements or expenses of any kind or nature whatsoever (including reasonable attorneys' fees at trial and appellate levels and experts' fees and disbursements and expenses incurred in investigating, defending against or prosecuting any litigation, claim or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Mortgagee or any of Mortgagee's parent or subsidiary corporations, and their affiliates, shareholders, directors, officers, employees, and agents (collectively "Affiliates") in connection with or arising from:

(1) any Hazardous Material on, in, under or affecting all or any portion of the Mortgaged Premises, the groundwater, or any surrounding areas if generated from or migrating from the Mortgaged Premises;

(2) any misrepresentation, inaccuracy or breach of any warranty, covenant and agreement contained or referred to in this Section;

(3) any violation or claim of violation by Mortgagor of any Environmental Laws in respect to the Mortgaged Premises;

(4) the imposition of any lien for damages caused by, or the recovery of any costs for, the cleanup, release or threatened release of Hazardous Material in respect to the Mortgaged Premises or surrounding areas if generated from or migrating from the Mortgaged Premises;

(5) the costs of removal of any and all Hazardous Materials from all or any portion of the Mortgaged Premises or any surrounding areas if generated from or migrating from the Mortgaged Premises;

(6) costs incurred to comply, in connection with all or any portion of the Mortgaged Premises or any surrounding areas, with all Environmental Laws with respect to Hazardous Materials located on or under or generated from or migrating from the Mortgaged Premises;

(b) Representations and Warranties. Mortgagor hereby represents and warrants to Mortgagee that to its knowledge:

i. Compliance. The Mortgaged Premises (including underlying groundwater and areas leased to tenants, if any), and the use and operation thereof, are currently in compliance with all applicable Environmental Laws. All required governmental permits and licenses are in effect. All Hazardous Material generated or handled on the Mortgaged Premises, if any, have been disposed of in a lawful manner.

ii. Absence of Hazardous Material. No generation, manufacture, storage, treatment, transportation or disposal of Hazardous Material is occurring on or from the Mortgaged Premises. No environmental or public health or safety hazards currently exist with respect to the Mortgaged Premises or the business or operations conducted thereon. No underground storage tanks (including petroleum storage tanks) are present on or under the Mortgaged Premises.

(c) Mortgagor's Covenants. Mortgagor hereby covenants and agrees with Mortgagee as follows:

i. Compliance. The Mortgaged Premises and the use and operation thereof by Mortgagor or anyone acting through Mortgagor shall comply with all Environmental Laws. All required governmental permits and licenses which now exist, if any, shall remain in effect, and Mortgagor shall comply therewith. All Hazardous Material present, handled or generated on the Mortgaged Premises will be disposed in a lawful manner.

Mortgagor will satisfy all requirements of applicable Environmental Laws for the maintenance and removal of all underground storage tanks on the Mortgaged Premises, if any exist and become known to Mortgagor. Without limiting the foregoing, all Hazardous Material shall be handled in compliance with all applicable Environmental Laws.

ii. Absence of Hazardous Material. No Hazardous Material shall be introduced to or handled on the Mortgaged Premises by or through Mortgagor.

iii. Proceedings and Actions. Mortgagor shall immediately notify Mortgagee and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports or notices relating to the condition of the Mortgaged Premises or compliance with Environmental Laws. Mortgagor shall promptly cure and have dismissed any such actions and proceedings to the satisfaction of Mortgagee. Mortgagor shall keep the Mortgaged Premises free of any lien imposed pursuant to any Environmental Laws.

iv. Environmental Audit. Mortgagor shall provide such information and certifications which Mortgagee may reasonably request from time to time to insure Mortgagor's compliance with this Section. To investigate Mortgagee's compliance with Environmental Laws and with this Section, Mortgagee shall have the right, at its sole cost, but no obligation, at any reasonable time and where possible, with prior notice to enter upon the Mortgaged Premises, take samples, review Mortgagor's books and records, interview Mortgagor's employees and officers, and conduct similar activities. Mortgagor shall cooperate in the conduct of such an audit.

(d) Mortgagee's Right to Rely. Mortgagee is entitled to rely upon Mortgagor's representations and warranties contained in this Section despite any independent investigations by Mortgagee or its consultants. Mortgagor shall take reasonable actions to determine for itself, and to remain aware of, the environmental condition of the Mortgaged Premises and shall have no right to rely upon any environmental investigations or findings made by Mortgagee or its consultants.

(e) Indemnification. Mortgagor agrees to indemnify, defend (at trial and appellate levels and with counsel reasonably acceptable to Mortgagee and at Mortgagor's sole cost) and hold Mortgagee and its Affiliates free and harmless from and against Mortgagee's Environmental Liability. The foregoing indemnity shall survive satisfaction of the loans evidenced by the Notes and any transfer of the Mortgaged Premises to Mortgagee by voluntary transfer, foreclosure or by a deed in lieu of foreclosure. This indemnification shall not apply to any liability incurred by Mortgagee as a direct result of affirmative actions of Mortgagee as owner and operator of the Mortgaged Premises during any period of ownership thereof by Mortgagee and which actions are the sole and direct cause of damage resulting from the introduction and initial release of a Hazardous Material upon the Mortgaged Premises by Mortgagee or by any previous owner of the mortgaged premises other than Mortgagor; PROVIDED, HOWEVER, this indemnity shall otherwise remain in full force and effect, including, without limitation, with respect to Hazardous Material which is discovered or released at the Mortgaged Premises after Mortgagee (subsequent to the date hereof) acquires title to the Mortgaged Premises but which was not actually

introduced at Mortgaged Premises by Mortgagee, with respect to the continuing migration or release of Hazardous Material previously introduced at or near the Mortgaged Premises by or through Mortgagor and with respect to all substances which may be Hazardous Material and which are situated at the Mortgaged Premises prior to Mortgagee taking title but are removed by Mortgagee subsequent to such date.

(f) Waiver. Mortgagor, its successors and assigns, hereby waives, releases and agrees not to make any claim or bring any cost recovery action against Mortgagee under CERCLA or any state equivalent, or any similar law now existing or hereafter enacted. It is expressly understood and agreed that to the extent that Mortgagee is strictly liable under any Environmental Laws, Mortgagor's obligation to Mortgagee under this indemnity shall likewise be without regard to fault on the part of Mortgagor with respect to the violation or condition which results in liability to Mortgagee.

22. Transfer of the Mortgaged Premises.

(a) In determining whether or not to make the loans secured hereby, Mortgagee has examined the credit-worthiness of Mortgagor, found such credit-worthiness acceptable and relied and continues to rely upon same as the means of repayment of the loans. Mortgagor is experienced in borrowing money and owning and operating property such as the Mortgaged Premises, was ably represented by a licensed attorney at law in the negotiation and documentation of the loans secured hereby and bargained at arm's length and without duress of any kind for all of the terms and conditions of the loans, including this provision. Mortgagor recognizes that Mortgagee is entitled to keep its loan portfolio at current interest rates by either making new loans at such rate or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Mortgagor. Mortgagor further recognizes that any secondary or junior financing placed upon the Mortgaged Premises: (i) may divert funds which would otherwise be used to pay the Notes secured hereby; (ii) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security; (iii) would detract from the value of the Mortgaged Premises should Mortgagee come into possession thereof with the intention of selling same; and (iv) impair Mortgagee's right to accept a deed in lieu of foreclosure as a foreclosure by Mortgagee would be necessary to clear the title to the Mortgaged Premises.

(b) In accordance with the foregoing and for the purposes of: (i) protecting Mortgagee's security, both of repayment by Mortgagor and in the value of the Mortgaged Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) allowing Mortgagee to raise the interest rate and/or collect assumption fees; and (iv) keeping the Mortgaged Premises free of subordinate financing liens, Mortgagor agrees that if this Section is deemed a restraint on alienation, that it is a reasonable one, and except as provided for in the Loan Agreement or other Loan Documents, Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, mortgage, lease, pledge, encumbrance or other transfer of, or the granting of any option in, or any contract for any of the foregoing (on an installment basis or otherwise) pertaining to the Mortgaged Premises, any part thereof, or any interest therein, or any membership or management interest in Mortgagor, whether involuntary or by operation of law or otherwise (collectively "Transfers"), without the prior written consent of Mortgagee, which

consent may be given or withheld in Mortgagee's sole judgment, having been obtained to such sale, assignment, conveyance, mortgage, lease, option, pledge, encumbrance or other transfer. Mortgagor agrees that in the event the ownership of the Mortgaged Premises or any interest therein or any part thereof becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal in any way with such successor or successors in interest with reference to this Mortgage, the Notes, and any other document evidencing the Indebtedness, without in any way vitiating or discharging Mortgagor's liability hereunder or under any other document evidencing the Indebtedness. No transfer of the Mortgaged Premises, forbearance to any person with respect to this Mortgage, or extension to any person of the time for payment of the Notes given by Mortgagee shall operate to release, discharge, modify, change or affect the liability of any Mortgagor, either in whole or in part, except to the extent specifically agreed in writing by Mortgagee or as this Mortgage otherwise provides. Without limitation of the foregoing, in any event in which the written consent of Mortgagee is required in this Section 22, Mortgagee may condition its consent upon any combination of: (v) the payment of compensation to be determined by Mortgagee; (vi) the increase of the interest rate payable under any of the Notes; (vii) the shortening of maturity of any of the Notes; and (viii) other modifications of the terms of any of the Notes or the other instruments evidencing the Indebtedness.

(c) Without limitation of the foregoing: (i) in any event in which Mortgagee's consent is requested in accordance with the terms of this Section 22 Mortgagor shall pay all reasonable expenses incurred by Mortgagee, including reasonable attorneys' fees, in connection with the processing of such request; and (ii) the consent of Mortgagee to any transfer of the Mortgaged Premises shall not operate to release, discharge, modify, change or affect the liability of Mortgagor, either in whole or in part.

(d) Notwithstanding the foregoing, Mortgagor agrees to release this Mortgage from any individual lot constituting part of the Property upon the sale thereof and upon receipt by Lender of the mandatory prepayments set forth in the Loan Agreement and upon the terms and conditions thereof.

23. Events of Default. Any one or more of the following shall constitute an "Event of Default" hereunder:

(a) Default in making payment when due (whether by lapse of time, acceleration, or otherwise) of the principal of or interest on the Notes or any other Indebtedness, and the failure to cure the same within fifteen (15) days;

(b) Any violation of Section 12, related to Insurance, or Section 22, related to transfer of the Mortgaged Premises, hereof;

(c) The Mortgaged Premises is abandoned by Mortgagor;

(d) Default in the observance or performance of any other covenant, condition, agreement or provisions hereof or of any of the Notes or any other Loan Document, and the failure to cure the same within twenty (20) days, provided however, if the default cannot reasonably be cured within twenty (20) days despite Mortgagor's diligent efforts to do so,

Mortgagor shall have an additional twenty (20) days to cure the same, so long as Mortgagor continues to diligently pursue the cure thereof;

(e) Any representation or warranty made by Mortgagor herein or in any of the Notes, Loan Agreement or any other Loan Document in any statement or certificate furnished pursuant hereto or thereto proves untrue in any material respect as of the date of the issuance or making thereof;

(f) The title company refuses to issue the endorsements provided for in the Loan Agreement because of a change in the state of title or a survey exception and Mortgagor is unable to correct the condition giving rise to the refusal and procure issuance of the notice within thirty (30) days of notice of any such refusal given to Mortgagor by Mortgagee; or

(g) Any Event of Default shall occur under the Loan Documents.

24. Remedies. When any Event of Default has occurred and is continuing (regardless of the pendency of any proceeding which has or might have the effect of preventing Mortgagor from complying with the terms of this instrument) and in addition to such other rights as may be available to Mortgagee under applicable law or under the Loan Agreement, but subject at all times to any mandatory legal requirements, Mortgagee:

(a) Acceleration. May declare the Notes and all unpaid Indebtedness of Mortgagor, including interest then accrued thereon, to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without notice or demand of any kind.

(b) Uniform Commercial Code. Shall, with respect to any part of the Mortgaged Premises constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the Code, have all the rights, options and remedies of a secured party under the Code, including without limitation, the right to the possession of any such property or any part thereof, and the right to enter with legal process any premises where any such property may be found. Any requirement of said Code for reasonable notification shall be met by mailing written notice to Mortgagor at its address above set forth at least ten (10) days prior to the sale or other event for which such notice is required. The reasonable expenses of retaking, selling and otherwise disposing of said property, including reasonable attorneys' fees and legal expenses incurred in connection therewith, shall constitute so much additional Indebtedness and shall be payable upon demand with interest at the Default Rate.

(c) Foreclosure. May proceed to protect and enforce the rights of Mortgagee hereunder: (i) by any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law; or (ii) by the foreclosure of this Mortgage. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree of sale, all reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title

insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Mortgaged Premises. All expenditures and expenses of the nature mentioned in this paragraph, and such other reasonable expenses and fees as may be incurred in the protection of the Mortgaged Premises and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Mortgage, the Notes or the Mortgaged Premises, including bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional Indebtedness and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate until paid.

(d) Appointment of Receiver. Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through it, and without regard to the solvency or insolvency of any Mortgagor or any Guarantor or the then value of the Mortgaged Premises, be entitled to have a receiver appointed to all or any part of the Mortgaged Premises and the rents, issues and profits thereof, with such power as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Any such receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Mortgaged Premises or any part thereof by force, summary proceedings, ejectment or otherwise, and may remove any Mortgagor or other persons and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect thereto or any part thereof, whether during the pendency of any foreclosure or until any right of redemption shall expire or otherwise.

(e) Taking Possession, Collecting Rents, Etc. Upon demand by Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee may enter and take possession of the Mortgaged Premises or any part thereof personally, by its agent or attorneys or be placed in possession pursuant to court order as mortgagee in possession or receiver, and Mortgagee, in its discretion, personally, by its agents or attorneys or pursuant to court order as mortgagee in possession or receiver may enter upon and take and maintain possession of all or any part of the Mortgaged Premises, together with all documents, books, records, papers, and accounts of Mortgagor relating thereto, and may exclude Mortgagor and any agents and servants thereof wholly therefrom and may, on behalf of Mortgagor, or in its own name as Mortgagee and under the powers herein granted:

(i) hold, operate, manage and control all or any part of the Mortgaged Premises and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Mortgaged Premises, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;

(ii) cancel or terminate any lease or sublease of all or any part of the Mortgaged Premises for any cause or on any ground that would entitle such Mortgagor to cancel the same;

(iii) elect to disaffirm any lease or sublease of all or any part of the Mortgaged Premises made subsequent to this Mortgage without Mortgagee's prior written consent;

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

(v) make all necessary or proper repairs, decoration renewals, replacements, alterations, additions, betterments, and improvements in connection with the Mortgaged Premises as may seem judicious to Mortgagee, to insure and reinsure the Mortgaged Premises and all risks incidental to Mortgagee's possession, operation and management thereof, and to receive all rents, issues, deposits, profits, and avails therefrom; and

(vi) apply the net income, after allowing a reasonable fee for the collection thereof and for the management of the Mortgaged Premises, to the payment of taxes, premiums and other charges applicable to the Mortgaged Premises, or in reduction of the Indebtedness in such order and manner as Mortgagee shall select.

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Mortgaged Premises. The right to enter and take possession of the Mortgaged Premises and use any personal property therein, to manage, operate, conserve and improve the same, and to collect the rents, issues and profits thereof, shall be in addition to all other rights or remedies of Mortgagee hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. The expenses (including any reasonable receiver's fees, counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby which expenses Mortgagor promises to pay upon demand together with interest at the highest rate applicable to the Notes at the time such expenses are incurred. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any rents actually received by Mortgagee. Without taking possession of the Mortgaged Premises, Mortgagee may, in the event the Mortgaged Premises become vacant or are abandoned, take such steps as it deems appropriate to protect and secure the Mortgaged Premises (including hiring watchmen therefor) and all costs incurred in so doing shall constitute so much additional Indebtedness payable upon demand with interest thereon at the Default Rate.

25. Intentionally Omitted.

26. Waiver of Appraisalment, Valuation, Etc. Mortgagor shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws including but not limited to Indiana Code 34-55-4-1 et. seq. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Premises sold as an entirety. In the event of any sale made under or by virtue of this instrument, the whole of the Mortgaged Premises may be sold in one parcel as an entirety or in separate lots or parcels at the same or different times, all as the Mortgagee may determine. Mortgagee shall have the right to become the purchaser at any sale made under or by virtue of this instrument and Mortgagee so purchasing at any such sale shall have the right to be credited upon the amount of the bid made therefor by Mortgagee with the amount payable to Mortgagee out of the net proceeds of such sale. In the event of any such sale, the Notes and the Indebtedness, if not previously due, shall be and become immediately due and payable without demand or notice of any kind. Mortgagor acknowledges that the Mortgaged Premises does not constitute agricultural real estate or residential real estate.

27. Costs and Expenses of Foreclosure. In any suit to foreclose the lien hereof there shall be allowed and included in the amount due in the decree for sale all reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as to items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, guarantee policies, Torrens certificates and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Mortgaged Premises, and all of which expenditures shall become so much additional Indebtedness which Mortgagor agrees to pay and all of such shall be immediately due and payable with interest thereon from the date of expenditure until paid at the Default Rate.

28. Insurance After Foreclosure. Wherever provision is made in the Mortgage or the Loan Agreement for insurance policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Mortgagee shall continue in the Mortgagee as judgment creditor or mortgagee until confirmation of sale. Upon confirmation of sale, Mortgagee shall be empowered to assign all policies of insurance to the purchaser at the sale.

29. Protective Advances. All reasonable advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise

authorized by this Mortgage (collectively "Protective Advances"), shall be additional Indebtedness secured hereby and by the Loan Documents:

(a) all advances by Mortgagee in accordance with the terms of this Mortgage to: (i) preserve or maintain, repair, restore or rebuild the improvements upon the Mortgaged Premises; (ii) preserve the lien of this Mortgage or the priority thereof; or (iii) enforce this Mortgage;

(b) payments by Mortgagee of: (i) installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance which have become due; (ii) installments when due of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the mortgaged real estate or any part thereof, to the extent such tax payments are not paid by any tenant under the provisions of any Lease; (iii) other obligations authorized by this Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title;

(c) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(d) reasonable attorneys' fees and other costs incurred: (i) in connection with the foreclosure of this Mortgage; (ii) in connection with any action, suit or proceeding brought by or against the Mortgagee for the enforcement of this Mortgage or arising from the interest of the Mortgagee hereunder; or (iii) in the preparation for the commencement or defense of any such foreclosure or other action;

(e) Mortgagee's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing;

(f) advances of any amount required to make up a deficiency in deposits for installments of taxes and assessments and insurance premiums as may be authorized by this Mortgage;

(g) expenses deductible from proceeds of any foreclosure sale;

(h) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the mortgaged real estate; (ii) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (iii) payments required or deemed by Mortgagee to be for the benefit of the Mortgaged Premises under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the mortgaged real estate; (iv) shared or common expense assessments payable to any association or corporation in which the owner of the mortgaged real estate is a member in any way affecting the mortgaged real estate; (v) pursuant to any lease or other agreement for occupancy of the mortgaged real estate.

All Protective Advances shall be so much additional Indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Rate.

This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded.

All Protective Advances shall apply to and be included in:

- vi. determination of the amount of Indebtedness secured by this Mortgage at any time;
- vii. the Indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- viii. determination of amounts deductible from any foreclosure sale proceeds;
- ix. application of income in the hands of any receiver or Mortgagee in possession; and
- x. computation of any deficiency judgment.

30. Application of Proceeds. The proceeds of any foreclosure sale of the Mortgaged Premises or of any sale of property pursuant to Section 24(c) hereof shall be distributed in the following order of priority: First, on account of all costs and expenses incident to the foreclosure or other proceedings including all such items as are mentioned in Sections 24(b), 24(c) and 27 hereof; Second, to all other items which under the terms hereof constitute Indebtedness in addition to that evidenced by the Notes with interest thereon as herein provided; Third, to all interest on the Notes; Fourth, to all principal on the Notes with any overplus to whomsoever shall be lawfully entitled to same.

31. Mortgagee's Remedies Cumulative - No Waiver. No remedy or right of Mortgagee shall be exclusive but shall be cumulative and in addition to every other remedy or right now or hereafter existing at law or in equity or by statute. No delay in the exercise or omission to exercise any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or acquiescence therein, nor shall it affect any subsequent default of the same or different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

32. Mortgagee Party to Suits. If Mortgagee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Premises or the title thereto or the interest of Mortgagee under this Mortgage (including probate and bankruptcy proceedings), or if Mortgagee employs an attorney to collect any or all of the Indebtedness or to enforce any of the terms hereof or realize hereupon or to protect the lien hereof, or if Mortgagee shall incur any costs or expenses

in preparation for the commencement of any foreclosure proceeding or for the defense of any threatened suit or proceeding which might affect the Mortgaged Premises or the security hereof, whether or not any such foreclosure or other suit or proceeding shall be actually commenced, then in any such case, Mortgagor agrees to pay to Mortgagee, immediately and without demand, all reasonable costs, charges, expenses and attorneys' fees incurred by Mortgagee in any such case, and the same shall constitute so much additional Indebtedness payable upon demand with interest at the Default Rate.

33. Modifications Not To Affect Lien. Mortgagee, without notice to anyone, and without regard to the consideration, if any, paid therefor, or the presence of other liens on the Mortgaged Premises, may in its discretion release any part of the Mortgaged Premises or any person liable for any of the Indebtedness, may extend the time of payment of any of the Indebtedness and may grant waivers or other indulgences with respect hereto and thereto, without in any way affecting or impairing the liability of any party liable upon any of the Indebtedness or the priority of the lien of this Mortgage upon all of the Mortgaged Premises not expressly released, and may agree with Mortgagor to modifications to the terms and conditions contained herein or otherwise applicable to any of the Indebtedness (including modifications in the rates of interest applicable thereto).

34. Notices. All correspondence between Mortgagor and Mortgagee, and all notices, if any, required to be given under the terms of this Agreement or which either Indemnitors or Lender desire to give hereunder, shall be in writing and shall be delivered personally, sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Mortgagee: First Midwest Bank
Attention: Kim Armondo
One Pierce Place
Suite 1500
Itasca, Illinois 60143

With copy to: Aronberg Goldgehn
330 North Wabash Avenue, Suite 1700
Chicago, Illinois 60611
Attention: Bernard A. Schlifke

If to Mortgagor: c/o Donald E. Manhard, Jr.
900 Woodlands Parkway
Vernon Hills, Illinois 60061

or to such other address as Mortgagor or Mortgagee may from time to time designate in writing to the other party. Notices sent by mail shall be deemed to have been given two (2) days after the date when sent by registered or certified mail, postage prepaid, return receipt requested; and notices delivered in person or sent by overnight courier service shall be deemed to have been given when delivered or refused.

35. Partial Invalidity. All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage shall be held to be invalid or unenforceable, the validity and enforceability of the other terms of this Mortgage shall in no way be affected thereby.

36. Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Mortgage contained by or on behalf of Mortgagor, or by or on behalf of Mortgagee, shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not.

37. Headings. The headings in this instrument are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

38. Changes, Etc. This instrument and the provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

39. Governing Law. This Mortgage shall be governed by and construed under the laws of the State of Illinois, except to the extent the laws of the State of Indiana are applicable to enforcement proceedings hereunder.

40. Jurisdiction; Venue; Service of Process. Mortgagor irrevocably agrees that, subject to Mortgagee's sole and absolute election, all actions or proceedings in any way, manner or respect arising out of, or from, or relating to, this Mortgage shall be litigated only in courts having situs within the county in Indiana in which the property is located, or in such other location as required by Indiana law. Mortgagor hereby consents and submits to the jurisdiction of any local, state or federal court located within such county. Mortgagor hereby waives any right it may have to transfer or change the venue of any litigation brought in accordance with this paragraph. Mortgagor hereby irrevocably waives the right to trial by jury with respect to any action in which such Mortgagor and Mortgagee are parties.

41. WAIVER OF JURY TRIAL. MORTGAGEE AND MORTGAGOR ACKNOWLEDGE AND AGREE THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THE LOAN DOCUMENTS OR WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREIN AND THEREIN WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES AND THEREFORE, THE PARTIES AGREE THAT ANY COURT PROCEEDING ARISING OUT OF ANY SUCH CONTROVERSY WILL BE FILED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY AND MORTGAGEE AND MORTGAGOR HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN ANY SUCH ACTION.

42. Wherever this Mortgage contemplates Mortgagee's consent or approval, Mortgagee shall not unreasonably withhold, delay or condition any such consent or approval.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.
SIGNATURE PAGE FOLLOWS.]**



EXHIBIT A

LEGAL DESCRIPTION

Parcel 1: Lots 9, 10, 21, 41, 44 to 52, both inclusive; Lot 54; Lots 58 to 66, both inclusive; Lots 69 to 73, both inclusive; Lots 75 to 77, both inclusive; Outlots A, B, C, D, E, F, G, H, I, J, K and L, Stonegate Commons, in the Town of Winfield, as per plat thereof, recorded in Plat Book 101 page 15, and the amended final plat, as per plat thereof, recorded in Plat Book 102 page 38, in the Office of the Recorder of Lake County, Indiana.

Parcel 2: The Westerly 67.50 feet of Lot 43 except the Easterly 27.75 feet thereof of Stonegate Commons, in the Town of Winfield, as per plat thereof, recorded in Plat Book 101 page 15, and the amended final plat, as per plat thereof, recorded in Plat Book 102 page 38 in the Office of the Recorder of Lake County, Indiana, conveyed in Corporate Deed recorded May 5, 2010 as Document No. 2010 025811.



EXHIBIT B

PERMITTED EXCEPTIONS

1. General taxes and assessments for the year 2011 and subsequent years, not yet due and payable.



EXHIBIT C

PERSONAL PROPERTY

Mortgagor has granted to Mortgagee a security interest in the property owned by Mortgagor and described as follows:

(a) All personal property of every nature whatsoever now or hereafter owned by Mortgagor and on, or used in connection with the real estate legally described on Exhibit A to this Mortgage (the "Property") or the improvements thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements thereof and all of the right, title and interest of Mortgagor in and to any such personal property together with the benefit of any deposits or payments now or hereafter made on such personal property by Mortgagor or on its behalf;

(b) Any and all rents, revenues, issues, profits, proceeds, income, royalties, accounts, including health care insurance receivables, accounts receivable, escrows, reserves, impounds, security deposits and other rights to monies now owned or hereafter acquired and arising from or out of the Property and/or the businesses and operations conducted by Mortgagor thereon.

(c) All fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Property or the improvements thereon, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor;

(d) All proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Property or improvements thereon or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Property or improvements thereon or proceeds of any sale, option or contract to sell the Property or improvements thereon or any portion thereof;

(e) Any and all other personal property of any kind, nature or description, whether tangible or intangible, (including without limitation, any and all goods, contract rights, franchises, licenses, permits, chattel paper, money, equipment, deposit accounts, including health care insurance receivables, documents, investment property, instruments, letter of credit rights, supporting obligators and general intangibles) of Mortgagor relating to or used in connection with the operation or maintenance of the Property, whether now owned or hereafter acquired, or in which Mortgagor now has or shall hereafter acquire any right, title or interest whatsoever

(whether by bill of sale, lease, conditional sales contract, or other title retention document or otherwise).

(f) Any and all additions and accessories to all of the foregoing and any and all proceeds (including proceeds of insurance, eminent domain or other governmental takings and tort claims), renewals, replacements and substitutions of all of the foregoing.

(g) All of the books and records pertaining to the foregoing.

