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STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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MICHAEL B. BROWN  
RECORDER

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THIS REAL ESTATE MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND FIXTURE FILING (this "Mortgage"), is executed to be effective as of the 26th day of August, 2016 by **CLOISTERS APARTMENTS LIMITED PARTNERSHIP**, an Illinois limited partnership, having an address at 1051 Perimeter Drive, Suite 550, Schaumburg, Illinois 60173 (hereinafter referred to as "Mortgagor"), in favor of **THE AMENDED AND RESTATED DECLARATION OF TRUST OF JOHN H. COX** dated May 2, 2002, having a principal office at 15589 Adobe Villa Drive, Rancho Santa Fe, California 92067 (hereinafter referred to as "Lender").

WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, including the extension of certain indebtedness to Mortgagor which is secured hereby, the receipt of which is hereby acknowledged, Mortgagor hereby irrevocably, unconditionally and absolutely mortgages, warrants, grants, transfers, pledges, sets over, bargains, sells, deeds, conveys and assigns to Lender, and transfers and grants to Lender a security interest in, all estates, rights, title and interest which Mortgagor now has or may later acquire in and to the following properties, rights and interests:

A. The real estate located in Lake County, Indiana that is more particularly described in Exhibit "A" attached hereto and by reference made a part hereof (hereinafter referred to as the "Real Estate");

B. All of the present and future estates, interests and rights of Mortgagor in and to (i) the Real Estate, (ii) all real estate in which Mortgagor may now or hereafter acquire an interest by reason of any accession or accretion with respect to the Real Estate and (iii) all real estate situated within the rights-of-way of any streets, alleys and roads adjoining the Real Estate;

C. All buildings, structures, improvements and fixtures (including but not limited to all lighting fixtures and mechanical equipment) now or hereafter erected or placed in or upon the Real Estate or now or hereafter attached to or used in connection with the Real Estate to the extent such items may be considered part of the Real Estate under applicable law;

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D. All tenements, hereditaments, easements, appurtenances and other rights and privileges thereunto now or hereafter attaching and belonging, or in any way appertaining to the Real Estate, including without limitation (i) all surface and subsurface soils, (ii) all minerals, elements, oil, gas, and other commercially valuable substances which may be in, under or produced from any part of the Real Estate, (iii) all air rights, and (iv) all water and water rights;

E. All rents, issues, profits, income, cash, proceeds, accounts, accounts receivable, instruments, letter of credit rights, insurance proceeds, deposit and other accounts, contract rights and general intangibles arising of or from the Real Estate or the improvements from time to time located thereon, including but not limited to the rents, income and profits arising from the operation of any business and all fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in any hotel, motel, or other lodging properties located on the Real Estate (funds obtained as such rents, income, profits, fees, charges, accounts or other payments and held in any reserve, account or credit balance shall retain the character of such rents, income, profits, fees, charges, accounts or other payments);

F. All interests, estates or other rights and claims, arising in law or in equity, which Mortgagor now has or may hereafter acquire in any of the foregoing, including without limitation any greater estate Mortgagor may hereafter acquire in the Real Estate or improvements located thereon (the interests, estates and other rights and claims described in paragraphs A through F are hereinafter collectively referred to as the "Mortgaged Premises");

G. All leases, subleases, subtenancies, licenses, occupancy agreements and other agreements for the leasing, use, occupancy or enjoyment of any portion or all of the Mortgaged Premises now or hereafter existing, and all amendments, renewals and extensions thereof (hereinafter collectively referred to as the "Leases");

H. All present and future guaranties of the performance of any lessee under any of the Leases and all letters of credit issued, and all other collateral granted, as security for the obligations of any tenant arising under or in connection with any of the Leases;

I. All monies, deposit accounts, furniture, equipment, inventory, fixtures, accounts, accounts receivable, chattel paper, documents, investment property, trademarks and all trade name agreements, logos, licenses, instruments, contract rights, insurance proceeds, commercial tort claims, franchise agreements, software, letter of credit rights, and general intangibles (including payment intangibles) in which Mortgagor now or hereafter has an interest, individually or with others, and which are located upon, used in connection with, related to or arising out of the Mortgaged Premises, and all additions, accessions and accretions to, replacements and substitutions for, products of and proceeds from any of the foregoing;

J. All insurance policies relating to the Mortgaged Premises and all claims and rights to payment of proceeds and other sums payable thereunder or in connection therewith;

K. All awards, compensation and settlements in lieu thereof made as a result of the taking by power of eminent domain of the whole or any part of the Mortgaged Premises, including any awards for damages sustained to the Mortgaged Premises, for a temporary taking, change of grade of streets or taking of access;

L. All present and future deposits and revenues relating to the Mortgaged Premises, including without limitation security deposits, replacement revenue escrows, tax and insurance escrows and working capital reserves or escrows, and all funds of Mortgagor from time to time on deposit with Lender;

M. All present and future building permits, operating permits, variances, licenses, governmental approvals, utility permits and other permits, licenses and agreements relating to the construction, equipping, operation or maintenance of the Mortgaged Premises including, without limitation, all warranties and contract rights, whether now owned by Mortgagor or hereafter acquired or arising;

N. All present and future contracts or agreements for the design, construction, furnishing and equipping of the improvements located or to be located on the Mortgaged Premises, together with any existing or future changes, extensions, revisions, modifications, guarantees of performance or warranties of any kind thereunder, whether now owned by Mortgagor or hereafter acquired or arising;

O. All present and future service and other agreements relating to the operation, management, maintenance and repair of the Mortgaged Premises or the buildings and improvements thereon, whether now owned by Mortgagor or hereafter acquired or arising, including without limitation any present or future management agreement relating to the management or operation of the Mortgaged Premises;

P. All present and future plans and specifications, surveys, site plans, soil reports, drawings and papers relating to the Mortgaged Premises and the development, design, construction and equipping of the improvements on the Mortgaged Premises, whether now owned by Mortgagor or hereafter acquired or arising;

Q. All building supplies and materials ordered or purchased for use in connection with the construction and equipping of the improvements on the Mortgaged Premises, whether now owned by Mortgagor or hereafter acquired or arising;

R. All proceeds and contract rights and payments payable to Mortgagor under any loan commitment for financing of the Mortgaged Premises;

S. Any contract or agreement previously or hereafter entered into by Mortgagor (but specifically excluding any of Mortgagor's obligations or liabilities arising in connection with in any such contract or agreement) which is an interest rate protection agreement, foreign currency exchange agreement, commodity price protection agreement, or other interest or currency exchange rate or commodity price hedging arrangement, including without limitation any contract or agreement relating to a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor

transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar hedging arrangement or transaction;

T. All present and future purchase and sale agreements for the purchase of any portion of the Mortgaged Premises or other property located on the Mortgaged Premises, including without limitation, security deposits, earnest money deposits, association fees or assessments, and related escrows; and

U. All additions, accessions and accretions to, replacements and substitutions for, products of and proceeds from any of the property described above.

The property, rights and claims described in paragraphs H through U above are hereinafter collectively referred to as the "**Chattel Property**".

TO HAVE AND TO HOLD such property unto Lender, its successors and assigns forever, and Mortgagor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND the title to said property unto Lender against every person whomsoever claiming or to claim the same or any part thereof.

MORTGAGOR HEREBY FURTHER REPRESENTS, WARRANTS,  
COVENANTS AND AGREES AS FOLLOWS:

1. ~~The Indebtedness and Obligations Secured.~~ This Mortgage is given to secure (i) the performance and observance of the covenants and agreements contained herein and in any other agreement executed by Mortgagor to Lender in connection with the indebtedness secured hereby, (ii) the payment and performance when due of all present and future indebtedness and obligations of Mortgagor to Lender and, with respect to any Rate Management Transaction as defined herein, to any affiliate of Lender, individually or with others, in accordance with the terms and conditions of such indebtedness and obligations, whether direct or indirect, absolute or contingent and whether evidenced by promissory notes, agreements, checks, drafts, letters of credit, bills, overdrafts, open accounts or otherwise, and (iii) any and all extensions, renewals, increases, modifications, amendments, restatements and replacements of any present and future indebtedness and obligations of Mortgagor to Lender. The indebtedness and obligations secured by this Mortgage include, without limitation, the indebtedness evidenced by or arising in connection with the following:

a. that certain Promissory Note executed by Mortgagor of even date and concurrently with this Mortgage and payable to the order of Lender in the principal sum of Six Million Six Hundred Forty-Two Thousand One Hundred Forty-Seven and 96/100 Dollars (\$6,642,147.96), as from time to time modified, amended or extended or any notes in renewal thereof (such promissory note, and/or any promissory note which is a direct or remote renewal, extension, modification, amendment, restatement or replacement of such promissory note, as may be from time to time modified or amended, is hereinafter referred to as the "**Note**"), with interest thereon at the rate and payable in the manner described in the Note, which is due and payable on or before October 20, 2016, or as from time to time renewed or extended; and

- b. any and all extensions, renewals, increases, modifications, amendments, restatements and replacements of any of the foregoing.

In addition to any other indebtedness and obligations secured by this Mortgage, this Mortgage secures any and all future obligations and advances, together with any interest thereon, which are made by Lender, at Lender's option, to or for the benefit of Mortgagor up to a maximum principal amount outstanding at any point in time of Seven Million and 00/100 Dollars (\$7,000,000.00), such maximum principal amount is stated herein for the purpose of any applicable future advance laws and is not deemed a commitment by Lender to make any future advances.

2. General Representations and Warranties. Mortgagor covenants, warrants and represents that (a) Mortgagor is the owner in fee simple of the Mortgaged Premises and has full power to mortgage and assign the same, (b) Mortgagor has good and valid title to the Chattel Property free and clear of all security interests and encumbrances and has full power to grant a security interest in the same, (c) the Mortgaged Premises are free and clear of any and all liens and encumbrances, except use restrictions of record, zoning ordinances, rights of way and easements of record, the rights of tenants now in possession and the lien of current taxes and assessments not delinquent, (d) this Mortgage creates a valid lien in favor of Lender on the Mortgaged Premises as provided for herein, (e) this Mortgage creates a valid assignment of the Leases, and rents and income therefrom, in favor of Lender as provided for herein, and (f) this Mortgage creates a valid security interest in favor of Lender in the Chattel Property as provided for herein. Mortgagor will make any further assurances of title that Lender may require and will warrant and defend the Mortgaged Premises and the Chattel Property against all lawful claims and demands whatsoever. Mortgagor shall not acquire any Chattel Property covered by this Mortgage that is subject to any security interest or other charge or lien having priority over the lien or security interest granted under this Mortgage. Mortgagor acknowledges and confirms that Lender is extending the indebtedness evidenced by the Note with the expectation that this Mortgage will be a first lien upon the Mortgaged Premises free and clear of any and all liens and encumbrances, except the lien of current taxes and assessments not delinquent.

3. Payment of Indebtedness and Observance of Covenants. Mortgagor will pay the Note and all other indebtedness secured hereby in accordance with its terms and will perform and comply with all of the terms and provisions contained in the Note and in any other instrument or agreement given as security for the payment of or executed in connection with the Note.

4. Due on Sale or Encumbrance. In the event that: (a) Mortgagor sells, conveys, transfers, assigns, changes the form of ownership, or disposes of the Mortgaged Premises, Leases or the Chattel Property, or any part thereof, or any interest therein (including without limitation any right to collect any income therefrom), or agrees so to do; (b) Mortgagor further mortgages, encumbers, collaterally assigns, pledges or grants a security interests in any portion of the direct or beneficial interest of Mortgagor in the Mortgaged Premises, Leases or the Chattel Property, or any part thereof, or any interest therein (including without limitation any right to collect any income therefrom), or agrees so to do; or (c) any stock, partnership, membership or beneficial interest of Mortgagor is sold, conveyed, transferred, collaterally assigned, pledged or encumbered (or a security interest is granted therein), or there is an agreement so to do; without

the prior written approval of Lender being first obtained, whether such event is voluntary, involuntary or by operation of law, then in any such event, the whole of the indebtedness secured hereby shall, at the election of Lender at any time thereafter, become immediately due and payable, without notice or demand and any such event shall be deemed to be an Event of Default under this Mortgage [each such event described under (a), (b) and (c) of this Paragraph is herein referred to as a "**Prohibited Transfer**"]. Consent as to any one transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. If the Mortgaged Premises, Leases, the Chattel Property or the corporate, partnership, membership or beneficial interest in Mortgagor, or any part thereof, should be transferred to a partnership, to a limited liability company, to a trust, to a privately held corporation or to any other person or entity pursuant to the terms of this paragraph, thereafter a subsequent transfer of such interest, shall constitute a conveyance for purposes of this paragraph and the consent of the Lender shall be required.

5. Maintain Property and Liability Insurance. Mortgagor will procure and maintain in effect at all times the following insurance coverage with respect to Mortgagor, the Mortgaged Premises and the Chattel Property:

a. Mortgagor will procure and maintain commercial general liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Mortgaged Premises, such insurance (i) to be on the so-called "occurrence" form with an occurrence limit of not less than \$2,000,000 and an aggregate limit of not less than \$5,000,000; (ii) to continue at not less than the aforesaid limit until required to be changed by Lender by reason of changed economic conditions making such protection inadequate or changed due to changes in the standard practice of lenders in the business of making loans secured by collateral similar to the Mortgaged Premises; and (iii) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations on an "if any" basis; (3) independent contractors; and (4) blanket contractual liability for all legal contracts. All policies shall name Lender as an additional insured.

b. Mortgagor will procure and maintain comprehensive all risk or "Special Causes of Loss" insurance (and builder's risk during any period in which construction is occurring on the Mortgaged Premises) on the Mortgaged Premises and Chattel Property (i) in an amount equal to one hundred percent (100%) of the full replacement cost value of all improvements and Chattel Property which for purposes of this Mortgage shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; (ii) containing an agreed amount endorsement with respect to the improvements and personal property waiving all co-insurance provisions; (iii) providing for no deductible in excess of \$25,000 for all such insurance coverage; (iv) containing an "Ordinance or Law Coverage" or "Enforcement" endorsement if any of the improvements or the use of the Mortgaged Premises shall at any time constitute legal non-conforming structures or uses; and (v) shall also insure costs of demolition and increased cost of construction. The insurance policy shall be endorsed to also provide Guaranteed building replacement cost to the improvements and Chattel Property in an amount to be subject to the consent of Lender, which consent shall not be unreasonably withheld. All policies shall name Lender as a

"mortgagee" on a non-contributing New York type of standard mortgagee clause or an equivalent endorsement satisfactory to Lender and as "Loss Payee" as respects rental/business income insurance. Such insurance shall include such special coverages as Lender may require, including without limitation coverage for earthquakes and mudslides.

c. If applicable, Mortgagor will procure and maintain comprehensive boiler and machinery insurance covering all mechanical and electrical equipment against physical damage, rent loss and improvements loss in an amount equal to one hundred percent (100%) of the replacement costs of the equipment and the area surrounding the equipment and naming Lender as "mortgagee" on a non-contributing Standard Mortgagee Endorsement providing that any loss payable thereunder shall be paid to Lender.

d. If any portion of the Mortgaged Premises is currently or at any time in the future located in a federally designated "special flood hazard area", Mortgagor will procure and maintain flood hazard insurance in an amount and with such coverages as may be required by Lender and to comply with any other requirement of the Flood Disaster Protection Act of 1973, the National Flood Insurance Act of 1968, the National Flood Insurance Reform Act of 1994, or any other applicable federal, state or local statute, regulation or ordinance concerning flood hazard areas, as each may be amended. Such flood insurance shall be (i) obtained prior to the effective date of this Mortgage, or if the Mortgaged Premises are first designated to be in a special flood hazard area after the effective date of this Mortgage, within forty-five (45) days after notice is given by Lender of such designation, (ii) for the full unpaid principal balance of the indebtedness secured hereby and any prior liens on the Mortgaged Premises, up to the maximum amount of coverage available for the type of property constituting the Mortgaged Premises under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 or the Biggert-Waters Flood Insurance Reform Act of 2012, as each may be amended, (iii) maintained until the indebtedness secured hereby is paid in full and all obligations of Lender to advance additional indebtedness to Mortgagor are terminated, and (iv) purchased under the National Flood Insurance Program or from private insurers as may from time to time be approved by Lender. Mortgagor agrees to deliver to Lender prior to the effective date of this Mortgage, or if the Mortgaged Premises are first designated to be in a special flood hazard area after the effective date of this Mortgage, within forty-five (45) days after notice is given by Lender of such designation, written evidence of the flood insurance coverage required hereby together with receipts evidencing payment in full of the premiums thereon, in such form as Lender may require and naming Lender as a mortgagee and loss payee thereon. Mortgagor acknowledges and agrees that if Mortgagor fails at any time to provide Lender with such written evidence, in form and substance acceptable to Lender, that the flood insurance required hereby is in full force and effect, Lender may obtain, at Mortgagor's expense, flood insurance for the Mortgaged Premises in an amount acceptable to Lender. The cost of any such insurance shall be added to the indebtedness secured hereby and Mortgagor agrees to reimburse Lender upon demand for all costs and expenses incurred by Lender in connection with such insurance. Mortgagor acknowledges that if Lender purchases any such flood insurance, such flood insurance will provide limited protection against physical damage

to the Mortgaged Premises and the Chattel Property and may not be adequate to protect the interests of Mortgagor therein. Mortgagor waives all claims and defenses with respect to Lender as to whether such insurance is adequate to protect the interests of Mortgagor in the Mortgaged Premises and the Chattel Property. For purposes of obtaining insurance coverage on the Mortgaged Premises, Mortgagor authorizes Lender to provide to any person (including any insurance agent or company) all information Lender deems appropriate, whether regarding the Mortgaged Premises, the indebtedness secured hereby or other financial accommodations, or both.

e. If required by Lender, Mortgagor will maintain, or cause to be maintained, rent loss insurance, without a co-insurance provision, in an amount which is not less than twelve (12) months of scheduled rental income from the Mortgaged Premises, with a loss payable clause in favor of Lender, such insurance to be carried with such company or companies and upon such terms and conditions as Lender may require.

f. Mortgagor will procure and maintain such other types and amounts of insurance with respect to Mortgagor, the Mortgaged Premises and the Chattel Property and the operation thereof that are commonly maintained by prudent owners of other property and buildings similar to the Mortgaged Premises in nature, use, location, height, and type of construction, as may from time to time be reasonably required by Lender.

All such policies of insurance shall (i) contain waiver of subrogation clauses, and (ii) require at least ten (10) days' prior written notice to Lender before cancellation. Mortgagor and Lender shall be named as insured, as their interests may appear, on each policy of insurance with the originals of such policies to be issued to Lender together with appropriate endorsement thereto, and evidence of payment of premiums thereon. All insurance coverages required by this Mortgage shall be provided by insurance companies acceptable to Lender that are rated at least an "A- IX" or better by Best's Insurance Guide. All insurance policies shall contain terms and conditions acceptable to Lender.

6. Assignment of Insurance Policies, Application of Proceeds and Additional Requirements. All insurance policies are to be held by and, to the extent of its interests, for the benefit of and first payable in case of loss to Lender, and Mortgagor shall deliver to Lender a new policy as replacement for any expiring policy at least fifteen (15) days before the date of such expiration. Lender shall have the right to settle and compromise any and all claims under any of the insurance policies required to be maintained by Mortgagor under this Mortgage; to demand, receive and receipt for all monies payable thereunder; and to execute in the name of Mortgagor or Lender or both any proof of loss, notice or other instruments in connection with such policies or any loss thereunder. All amounts recoverable under any policy are hereby assigned to Lender and, in the event of a loss, each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender rather than jointly to Lender and Mortgagor, and the amount collected shall be used in any one or more of the following ways, at the option of Lender: (a) applied upon the indebtedness secured hereby, whether or not such indebtedness is then due and payable, (b) used to fulfill any of the covenants contained herein, or (c) used to replace or restore the Mortgaged Premises or Chattel Property to a condition satisfactory to Lender. All insurance proceeds applied toward the indebtedness secured hereby shall be applied without the imposition of a prepayment penalty or premium. In



the event of the foreclosure of this Mortgage or a transfer of the Mortgaged Premises in lieu thereof, all rights, title and interest of Mortgagor in and to such policies of insurance shall pass to the purchaser or grantee and Mortgagor hereby irrevocably appoints Lender as attorney-in-fact of Mortgagor to assign any policies in the event of the foreclosure of this Mortgage or a conveyance in lieu of foreclosure. Mortgagor transfers and grants a security interest, within the meaning of the Uniform Commercial Code as adopted in Indiana, to Lender in and to all monies at any time held by Lender pursuant to this paragraph and such monies and all of Mortgagor's right, title and interest therein are hereby assigned to Lender, all as additional security for the indebtedness secured hereby. Mortgagor warrants and represents to Lender that Mortgagor has not received any notice from any insurance company of any defects or inadequacies in the Mortgaged Premises which would adversely affect the insurability of the Mortgaged Premises or materially increase the cost of insuring the Mortgaged Premises beyond that which is customarily charged for similar property in the vicinity of the Mortgaged Premises used for a similar purpose. Mortgagor covenants and agrees to provide to Lender, promptly after receipt by Mortgagor, copies of any notices received from any insurance company regarding any defects or inadequacies in the Mortgaged Premises.

7. Taxes and Impositions. Mortgagor will pay, before the same become delinquent or any penalty for non-payment attaches thereto, all taxes, assessments and charges of every nature now or hereafter levied or assessed against or upon the Mortgaged Premises or the Chattel Property, or any part thereof or upon the rents, issues, income or profits therefrom, which by reason of non-payment could become a lien prior or junior to this Mortgage, whether any or all of said taxes, assessments or charges be levied directly or indirectly or as excise taxes or as income taxes, and will submit to Lender such evidence of the timely payment of such taxes, assessments and charges as Lender may require. Notwithstanding the foregoing, Mortgagor shall have the right to contest in good faith by appropriate legal or other proceedings the validity or amount of any such tax, assessment or charge, provided that (a) Mortgagor gives Lender prior written notice of its intent to contest the same, (b) if requested by Lender, Mortgagor demonstrates to the reasonable satisfaction of Lender that such legal or other proceedings shall operate to prevent the sale of the Mortgaged Premises or Chattel Property (or any portion thereof) to satisfy the payment of the tax, assessment, or charge in question prior to final determination of such proceedings and (c) if requested by Lender, Mortgagor provides a sufficient undertaking as may be required or permitted by law to accomplish the discharge or release of any lien which may attach to the Mortgaged Premises as a result of such matter. Furthermore, Mortgagor consents to the intervention by Lender in any such judicial proceeding if Lender determines such intervention is necessary or desirable to protect the interest of Lender. In such event, Mortgagor agrees to reimburse Lender upon demand for all reasonable attorneys' fees, costs and expenses incurred by Lender in connection with its intervention in such judicial proceeding. If at any time any governmental authority shall require documentary, revenue or other stamps on or with respect to this Mortgage, or if at any time after the date hereof there shall be assessed, levied or imposed a tax or assessment on the Mortgaged Premises in lieu or in addition to real estate taxes and assessments imposed as of the date hereof, or if there shall be assessed, levied or imposed any fee, tax, charge or assessment on Lender measured by or based in whole or in part upon the amount of the indebtedness secured hereby, then all such stamps, fees, taxes or assessments shall be deemed additional sums payable hereunder by Mortgagor to Lender and Mortgagor shall pay the same prior to delinquency or shall reimburse Lender on demand for the payment of same by Lender, and a failure of Mortgagor to make any such

payment within ten (10) days after when due shall constitute an Event of Default hereunder; provided, however, the foregoing shall not be construed as obligating Mortgagor to, and Mortgagor shall have no obligation to, pay any state or federal income taxes or state intangibles taxes levied on Lender or the indebtedness secured hereby. Mortgagor shall cause at all times the Mortgaged Premises to be segregated and separately assessed on the tax rolls of the county [or counties] in which the Mortgaged Premises is located, from all other property. Unless Lender has paid such items from any escrow account maintained pursuant to this Mortgage, Mortgagor shall provide to Lender within thirty (30) days of when the same become due, copies of paid receipts for all taxes, assessments and charges on or against the Mortgaged Premises or the Chattel Property. Lender may, at its sole discretion from time to time, enter into agreements with third parties for the monitoring of the payment of real estate taxes and other assessments affecting the Mortgaged Premises and Mortgagor shall reimburse Lender upon demand for all fees and expenses incurred by Lender in connection with such contracts.

8. [This paragraph is intentionally left blank]

9. Maintenance of Mortgaged Premises and Payment of Charges. Mortgagor shall not abandon the Mortgaged Premises or the Chattel Property, shall keep and maintain the Mortgaged Premises and the Chattel Property in good condition, repair, maintenance and operating condition free from any waste or misuse, and shall promptly repair and restore any buildings, improvements or structures now or hereafter on the Mortgaged Premises which may become damaged or destroyed to their condition prior to any such damage or destruction. Mortgagor will not commit waste or allow waste to be committed against the Mortgaged Premises or the Chattel Property. Without the prior consent of Lender, Mortgagor agrees that it will not construct or expand any improvements on the Mortgaged Premises, erect any new improvements nor make any material alterations in any improvements which shall alter the basic structure, affect the market value or change the existing architectural character of the Mortgaged Premises, nor remove or demolish any improvements. If Mortgagor shall neglect or refuse to keep the Mortgaged Premises and the Chattel Property in good repair, to maintain and pay the premiums for insurance which may be required, or to pay and discharge all taxes, assessments and charges of every nature assessed against Mortgagor, the Mortgaged Premises or the Chattel Property, all as provided for under the terms of this Mortgage, Lender may, at its election, cause such repairs or replacements to be made, obtain such insurance or pay said taxes, assessments and charges, and any amounts paid as a result thereof, together with interest thereon at the rate which is equal to the "Default Rate" of interest as defined under the Note from the date of payment, shall be immediately due and payable by Mortgagor to Lender, and until paid shall be added to and become a part of the indebtedness evidenced by the Note and secured hereby, and the same may be collected in any suit hereon or upon the Note, or Lender, by payment of any tax, assessment or charge may, at its discretion, be subrogated to the rights of the governmental subdivisions levying such tax, assessment or charge. No such advances shall be deemed to relieve Mortgagor from any Event of Default or impair any right or remedy of Lender, and the exercise by Lender of the right to make advances shall be optional with Lender and not obligatory and Lender shall not in any case be liable to Mortgagor for a failure to exercise any such right.

10. Compliance with Laws and Ordinances; Zoning. Mortgagor will not commit or allow the commission of any violation of any law, regulation, ordinance or contract affecting the

Mortgaged Premises. Lender shall at reasonable times during normal business hours have free access to the Mortgaged Premises for the purposes of inspection and the exercise of its rights hereunder. Mortgagor covenants and agrees that Mortgagor shall cause at all times the Mortgaged Premises to comply with all applicable laws, regulations, building codes, zoning ordinances and requirements of any federal, state or local regulatory agencies having jurisdiction, including but not limited to causing the Mortgaged Premises to be in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and the Americans with Disabilities Act of 1990 Architectural Guidelines (as amended from time to time). Mortgagor will indemnify Lender and save it harmless from any and all loss, damage or expense, including attorneys' fees, resulting from or arising out of any failure of the Mortgaged Premises to comply with all such laws and regulations and the same is made a part of the indebtedness secured hereby. Mortgagor shall comply with all restrictions and covenants affecting the Mortgaged Premises. Without the prior written consent of Lender, Mortgagor shall not request, initiate, join in or consent to (i) any private covenant or any public or private restriction which would detract from or limit the value or utility of the Mortgaged Premises, or (ii) any zoning ordinance or rezoning classification affecting the Mortgaged Premises.

11. Eminent Domain. All awards made by any public or quasi-public authority for damages to the Mortgaged Premises by virtue of an exercise of the right of eminent domain by such authority, including any award for a taking of title, possession or right of access to a public way, or for any change of grade of streets affecting the Mortgaged Premises, are hereby assigned to Lender and Lender, at its option, is hereby authorized, directed and empowered to collect and receive the proceeds of any such award to the extent of the indebtedness secured by or payable under this Mortgage from the appropriate governmental authority. Such award shall be used in any one or more of the following ways, at the option of Lender: (i) applied upon the indebtedness secured hereby or payable hereunder, whether or not such indebtedness is then due and payable, or (ii) applied to replace or restore the Mortgaged Premises to a condition satisfactory to Lender. Upon the occurrence of an Event of Default hereunder, Lender is authorized, at its option, to appear in and prosecute in its own name any action or proceeding, with consent and joinder of Mortgagor, to make any compromise or settlement in connection with such taking or damage. Mortgagor will, upon request by Lender, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning, upon the occurrence of an Event of Default hereunder, all proceeds from such awards to Lender free and clear and discharged of any and all encumbrances or claims of any kind or nature whatsoever. Mortgagor transfers and grants a security interest, within the meaning of the Uniform Commercial Code as adopted in Indiana, to Lender in and to all monies at any time held by Lender pursuant to this paragraph and such monies and all of Mortgagor's right, title and interest therein are hereby assigned to Lender, all as additional security for the indebtedness secured hereby. All condemnation proceeds applied toward the indebtedness secured hereby shall be applied without the imposition of a prepayment penalty or premium.

12. Escrows. If required by Lender or upon the occurrence of an Event of Default hereunder, Mortgagor will pay to Lender, on dates upon which interest is payable, such amounts as Lender from time to time estimates as necessary to create and maintain a reserve fund from which to pay at least ninety (90) days before the same become due, all rental payments, taxes, assessments, liens and charges on or against the Mortgaged Premises and the Chattel Property and premiums for insurance as herein covenanted to be furnished by Mortgagor. Payments from

such reserve fund for such purposes may be made by Lender at its discretion and Lender shall have no obligation or duty to Mortgagor for the payment of any such items. Such payments shall not be, nor deemed to be, trust funds but may be commingled with the general funds of Lender, and no interest shall be payable in respect thereof. Upon the occurrence of an Event of Default hereunder, any part or all of said reserve fund may be applied to the indebtedness secured hereby and, in refunding any part of said reserve fund, Lender may deal with whomever is represented to be the owner of the Mortgaged Premises at that time. Mortgagor transfers and grants a security interest, within the meaning of the Uniform Commercial Code as adopted in Indiana, to Lender in and to all monies at any time held by Lender pursuant to this paragraph and such monies and all of Mortgagor's right, title and interest therein are hereby assigned to Lender, all as additional security for the indebtedness secured hereby. Mortgagor shall provide to Lender, at least fifteen (15) days prior to the due date, copies of all bills, statements or invoices for any items which are to be paid from proceeds escrowed with Lender. Lender in making any payment hereby authorized may do so according to any bill, statement or estimate procured from the appropriate public office or according to any bill, statement or estimate received by Lender from Mortgagor or other party without inquiry into the accuracy or validity of such bill, statement or estimate.

13. Financial Statements. Mortgagor at its expense will furnish, or cause to be furnished, to Lender within the time frames required the following financial statements and other information of Mortgagor and the guarantors of the indebtedness secured hereby:

a. As soon as available and in any event within ninety (90) days following the end of each fiscal year of Mortgagor, the balance sheet and annual statements of income and surplus accounts for Mortgagor as of and for the fiscal year then ended, all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved and audited, if requested by Lender, by an independent certified public accountant which shall furnish to Lender a standard unqualified opinion regarding such financial statements;

b. As soon as available and in any event within thirty (30) days from filing and in no event later than one hundred twenty (120) days following the end of each calendar year, a copy of the federal income tax return for Mortgagor for the calendar year then ended; and

c. As soon as available following the end of each calendar year and in any event (i) within thirty (30) days from filing and in no event later than one hundred twenty (120) days following the end of each calendar year, a copy of the federal income tax return for each guarantor of the indebtedness secured hereby for the calendar year then ended and (ii) within ninety (90) days following the end of each calendar year, a financial statement for each such guarantor in the form requested by Lender.

14. In addition, Mortgagor will furnish Lender with such other financial statements in respect to the operation of the Mortgaged Premises or the financial condition of Mortgagor at such times and in such form as Lender may require, including but not limited to, a certified rent roll, accounting and management recommendations and certificates of no default under this Mortgage.

15. Protection of Security. Mortgagor shall promptly notify Lender of, and appear in and defend, any suit, action or proceeding that affects the Mortgaged Premises or the rights or interest of Lender hereunder and Lender may elect to appear in or defend any such action or proceeding. Mortgagor agrees to indemnify and reimburse Lender from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and attorneys' fees incurred by Lender. All such sums paid by Lender shall be paid by Mortgagor to Lender, together with interest thereon from date of payment at the rate which is equal to the "Default Rate" of interest as defined under the Note, and any such sums and the interest thereon shall be immediately due and payable and secured hereby, having the benefit of the lien hereby created as a part thereof and with its priority, all without relief from valuation or appraisal laws.

16. Indemnification. Mortgagor will indemnify Lender and save it harmless from any and all loss, damage or expense, including attorneys' fees, resulting from or arising out of the execution and delivery of this Mortgage and the terms hereof and the same is made a part of the indebtedness secured hereby. Such amounts shall include without limitation all costs and expenses incurred by Lender in connection with the collection or enforcement of this Mortgage, including without implied limitation reasonable attorneys' fees incurred by Lender in connection with (i) the protection of any rights arising in connection with this Mortgage, (ii) the enforcement of any provision contained in this Mortgage, or (iii) the collection of any indebtedness evidenced hereby or arising in connection herewith (including without limitation attorneys' fees incurred by Lender in connection with any bankruptcy, reorganization, receivership or other proceeding affecting creditor's rights and involving a claim under this Mortgage or any document executed in connection herewith). In addition, Mortgagor agrees to pay to Lender all reasonable attorneys' fees incurred by Lender in connection with any advice or other representation with respect to any Event of Default, regardless of whether any formal legal proceedings are initiated by Lender. All sums paid by Lender for which Mortgagor is obligated to reimburse Lender pursuant to the terms of this Mortgage, shall be paid by Mortgagor to Lender, together with interest thereon from date of payment at the rate which is equal to the "Default Rate" of interest as defined under the Note, and any such sums and the interest thereon shall be immediately due and payable and secured hereby, having the benefit of the lien hereby created as a part thereof and with its priority, all without relief from valuation or appraisal laws.

17. Payment of Obligations. Mortgagor will pay all sums which if not paid may result in the acquisition or creation of a lien prior to or of equal priority with or junior to the lien of this Mortgage, or which may result in conferring upon a tenant of any part of the Mortgaged Premises a right to recover such sums as prepaid rent or as a credit or offset against any future rental obligation. Mortgagor shall pay all operating costs and expenses of the Mortgaged Premises, shall keep the Mortgaged Premises free from levy, attachment, mechanics', materialmen's' and other liens, including without limitation, liens of any supplier, contractor, subcontractor, designer, engineer, architect, or vendor furnishing material or labor to any portion of the Mortgaged Premises and shall pay when due all indebtedness which Lender may permit which may be secured by mortgage, lien or charge on the Mortgaged Premises. Notwithstanding anything contained herein to the contrary, Mortgagor shall have the right to contest in good faith by appropriate legal or other proceedings the validity or amount of any lien, levy, or attachment imposed upon all or any portion of the Mortgaged Premises, provided that (a) Mortgagor gives Lender prior written notice of its intent to contest the same, (b) if requested by Lender,

Mortgagor demonstrates to the reasonable satisfaction of Lender that such legal or other proceedings shall operate to prevent the sale of the Mortgaged Premises (or any portion thereof) to satisfy payment of the amount being contested prior to final determination of such proceedings, (c) Mortgagor causes the title insurance company insuring the lien of this Mortgage to provide to Lender such affirmative coverages and endorsements as Lender may require to insure the priority of the lien of this Mortgage over the lien of any such lien, levy, or attachment, and (d) if requested by Lender, Mortgagor provides a sufficient undertaking as may be required or permitted by law to accomplish the discharge or release of any such lien, levy, or attachment as to the Mortgaged Premises. Furthermore, Mortgagor consents to the intervention by Lender in any such judicial proceeding if Lender determines such intervention is necessary or desirable to protect the interest of Lender. In such event, Mortgagor agrees to reimburse Lender upon demand for all reasonable attorneys' fees, costs and expenses incurred by Lender in connection with its intervention in such judicial proceeding. Any such contest shall be prosecuted with due diligence and Mortgagor shall promptly after final determination thereof pay the amount of any such lien, levy, or attachment so determined, together with all interest and penalties which may be payable in connection therewith. Notwithstanding these provisions, Mortgagor shall (and if Mortgagor shall fail so to do, Lender may but shall not be required to) pay any such lien, levy, or attachment notwithstanding such contest if in the reasonable opinion of Lender, the Mortgaged Premises shall be in jeopardy or in danger of being forfeited or foreclosed.

18. Subrogation. Lender is subrogated for further security to the lien, although released of record, of any and all encumbrances paid with the proceeds of the indebtedness secured by this Mortgage. Accordingly, this Mortgage shall be entitled to the lien and priority of any mortgage, deed of trust, lien or other encumbrance that is paid in full or in part with the proceeds of the indebtedness secured by this Mortgage.

19. Leases and Rents. Any rental payments and other income received by Mortgagor from the Mortgaged Premises shall be applied toward the payment when due of the principal of and interest on the Note to the extent such amounts may be due and payable from time to time and Lender may, at its option and without notice or demand, collect and receive all rentals and income due to Mortgagor under the Leases or otherwise and apply said rentals and income toward the payment of the principal of and interest on the Note or any other indebtedness due and payable to Lender under this Mortgage, including but not limited to costs of collection, expenses of operation, advancements and attorneys' fees. Such right may be exercised by Lender without regard to other security and without releasing Mortgagor from any obligation. This Mortgage shall create a perfected, absolute and present assignment of the Leases and the rents, income and profits arising from the Mortgaged Premises to Lender. Notwithstanding the foregoing, until an Event of Default shall occur hereunder Mortgagor is hereby permitted, at its discretion, and is hereby granted a license by Lender, to exercise all rights granted to the landlord under the Leases and to collect, but not prior to accrual, all of the rents and income arising from the Leases and the Mortgaged Premises and to retain, use and enjoy the same unless and until an Event of Default shall occur hereunder, provided, however, that all rents and income collected by Mortgagor shall be applied toward operating expenses, real estate taxes and insurance relating to the Mortgaged Premises, capital repair items necessary to the operation of the Mortgaged Premises, and the payment of sums due and owing under the Note, this Mortgage and the other Loan Documents prior to any other expenditure or distribution by Mortgagor. The right of Mortgagor to collect the rents, income and profits arising from the Mortgaged Premises shall

constitute a revocable license in favor of Mortgagor, revocable by Lender in accordance with this Mortgage. The aforementioned license in favor of Mortgagor to collect the rents, income and profits arising from the Mortgaged Premises and to exercise all other rights granted to the landlord under the Leases shall automatically be deemed to be revoked upon the occurrence of an Event of Default hereunder without further notice to Mortgagor. Further, from and after any such license termination, if Mortgagor receives any rents, income and profits arising from the Mortgaged Premises, Mortgagor shall hold any such amounts collected in trust for the sole and exclusive benefit of Lender and Mortgagor shall, within one (1) business day after receipt of such funds, pay the same to Lender. Furthermore, from and after such Event of Default and termination of the aforementioned license, to the extent permitted by law, Lender shall have the right and authority, without any notice whatsoever to Mortgagor and without regard to the adequacy of the security for the indebtedness secured hereby, to collect all of the rents payable under the Leases, enforce the payment thereof, to exercise all other rights of Mortgagor under the Leases and to exercise all other rights and remedies of Lender under this Mortgage. Mortgagor hereby irrevocably appoints and constitutes Lender as its true and lawful attorney-in-fact with full power of substitution for and on behalf of Mortgagor and in a manner not adverse to the interests of Mortgagor, after an Event of Default, to request, demand, enforce payment, collect and receive the rentals and income payable under the Leases or otherwise, to endorse any checks, drafts or orders evidencing the payment of rentals and income under the Leases or otherwise, and to do and perform any act which Mortgagor might do for and on its own behalf. Any security deposits received by Mortgagor shall be held in trust. Mortgagor shall notify Lender in writing in the event of any default by Mortgagor under the Leases. Mortgagor shall enforce, at its cost and expense, the full performance of all of the conditions, obligations and covenants under the Leases to be observed and performed by the tenants and occupants thereunder and shall appear and defend any action growing out of or in any way connected with the Leases. Lender may, at its option but without the assumption of any of Mortgagor's obligations as lessor, perform any obligation of Mortgagor under the Leases, without releasing Mortgagor from any obligations herein or under the terms of the Leases. In the exercise of such power, Lender shall be entitled to reimbursement for all costs and expenses, including attorneys' fees, and the same shall be payable upon demand or added to the Note and secured hereby. Mortgagor shall indemnify and save harmless Lender from any and all cost, expense, including attorneys' fees, or liability under the Leases or by reason of this Mortgage and against claims or demands whatsoever which may be asserted against it by reason of any alleged obligation of Lender to perform or discharge any of the terms of the Leases. The receipt by Lender of any rental payments made by tenants and occupants pursuant to the Leases shall constitute a valid receipt and acquittance for all such rents paid, and tenants shall be under no duty or obligation concerning the proper application of any rents so paid. Unless Lender agrees in writing to the contrary, nothing herein contained and no actions taken pursuant to this Mortgage shall be construed as constituting Lender a "Mortgagee in Possession."

20. Maintain Leases. Except to the extent such actions are taken in the ordinary course of business and involve residential leases, Mortgagor shall not materially change, modify, release, waive, terminate or cancel, surrender, alter or amend the Leases or any of the terms and provisions thereof, including the rentals thereunder, approve any subletting or assignment by any lessee under the Leases, nor assign or encumber its rights, title and interest in and to the Leases, nor waive, excuse, condone or in any manner release or discharge the tenants of or from their obligations, covenants and agreements to be performed, nor accept any prepayment of rent

(except any amount which may be required to be prepaid by the terms of any such Lease) without first securing, on each occasion, the written consent of Lender, which consent shall not be unreasonably withheld or delayed; provided however, Mortgagor may, without the prior written consent of Lender, terminate or surrender any of the Leases which are in default, provided Mortgagor exercises all rights and remedies available to Mortgagor which may be commercially reasonable to pursue. Mortgagor may enter into non-material modifications of the Leases provided that such modifications are done in the ordinary course of business and do not diminish the rent or other sums payable, or the timing of the payment of same, to the landlord under the Leases. In addition, Mortgagor covenants and agrees that Mortgagor shall not enter into any new leases for the Mortgaged Premises unless (i) such lease is a residential lease and Mortgagor uses a standard form lease which has been previously delivered to and approved by Lender as the basis for new leases executed on the Mortgaged Premises, or (ii) Lender has specifically consented to any such new lease, which consent shall not be unreasonably withheld. With respect to all new tenants executing leases on the Mortgaged Premises after the date hereof, Mortgagor covenants and agrees to obtain Lender's consent to any material changes made to the standard form leases referenced above. With respect to any lease which is not a residential lease, Mortgagor will deliver copies of all lease amendments and new leases to Lender within thirty (30) days after execution whether or not the prior written consent of Lender was required for such amendment or new lease. Mortgagor shall not, without Lender's written consent, request or consent to the subordination of any of the Leases to any lien subordinate to this Mortgage. If Mortgagor becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right of set-off against rent, Mortgagor shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against rent, and (ii) within ten (10) days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such setoff and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

21. Extraordinary Payments Under Leases. In the event Mortgagor receives or collects any payment in excess of Five Thousand and 00/100 Dollars (\$5,000.00) in the aggregate from any tenant under any of the Leases (i) pursuant to any right of early termination or cancellation of any of the Leases, (ii) pursuant to a settlement of the obligations of any tenant under any of the Leases, (iii) pursuant to any claim made by Mortgagor as a result of the termination or rejection of any of the Leases pursuant to any federal or state insolvency or bankruptcy statute permitting the termination or rejection of any of the Leases, or (iv) as a result of the waiver of any obligation under any of the Leases, then Mortgagor shall immediately pay such sums directly to Lender for application against the indebtedness secured hereby in such order of application as Lender may determine. All such proceeds applied toward the indebtedness secured hereby shall be applied without the imposition of a prepayment penalty or premium.

22. Security Interest. Mortgagor hereby authorizes Lender to file with any public office or official (i) such financing statements covering the security interest of Lender in the Mortgaged Premises and the Chattel Property and (ii) such amendment financing statements and correction statements relating to any financing statement covering the security interest of Lender in the Mortgaged Premises and the Chattel Property, as Lender may deem necessary or advisable, at its reasonable discretion, to perfect its security interest. Such financing statements, amendment financing statements and correction statements may be unsigned or, if required to be



signed by the applicable office with which Lender intends to file such financing statement, signed only by a representative of Lender. Mortgagor shall reimburse Lender upon demand for any filing fees, documentary taxes, intangible taxes and similar taxes incurred by Lender in connection with the filing of financing statements, or any amendments, corrections or extensions relating thereto, and all such amounts shall be secured by this Mortgage. To the full extent Mortgagor may do so, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any damages, penalty or fee against Lender for failure to furnish Mortgagor with any financing statement filed by Lender which relates to the Mortgaged Premises and the Chattel Property. Mortgagor, to the extent permitted by law, hereby waives and releases all rights to collect or receive any damages, penalty or fee from Lender for failure to furnish Mortgagor with any financing statement filed by Lender which relates to the Mortgaged Premises and the Chattel Property. Upon an Event of Default hereunder, Lender, at its option and without notice or demand, shall be entitled to enter upon the Mortgaged Premises to take immediate possession of the Chattel Property or to render the same unusable. Upon request, Mortgagor shall assemble and make the Chattel Property available to Lender at a place to be designated by Lender which is reasonably convenient to both parties. Upon repossession, Lender may propose to retain the Chattel Property in partial satisfaction of the indebtedness of Mortgagor secured hereby or sell all or any portion of the Chattel Property at public or private sale in accordance with the Uniform Commercial Code as adopted in Indiana or any other applicable statute. In the further event that Lender shall dispose of any or all of the Chattel Property after an Event of Default, the proceeds of disposition shall be first applied in the following order: (a) to the reasonable expenses of retaking, holding, preparing for sale, selling and the like, (b) to the reasonable attorneys' fees and legal expenses incurred by Lender, and (c) to the satisfaction of the indebtedness secured hereby. Mortgagor agrees to release and hold harmless Lender from any and all claims arising out of the repossession of the Chattel Property. In the event of a proposed sale of all or any part of the Chattel Property, notification shall be given to Mortgagor at least ten (10) days prior thereto. From time to time upon the request of Lender, Mortgagor shall furnish to Lender a current detailed written list of all of the Chattel Property. Mortgagor shall give prior written notice to Lender of any transfer, sale, pledge, encumbrance, assignment or any other process or action taken or pending, voluntary or involuntary, whereby a third party is to obtain or is attempting to obtain possession of or any interest in any of the Chattel Property, except in connection with the sale of inventory in the ordinary course of business or disposal of any obsolete equipment for fair market value. To the extent that the Uniform Commercial Code does not apply to any item of the Chattel Property, it is the intention of this Mortgage that Lender have a common law pledge and/or collateral assignment of such item of Chattel Property.

23. Fixture Filing. This Mortgage is to be recorded in the real estate records in the Recorder's office of the county in which the Mortgaged Premises are located. THIS MORTGAGE SHALL CONSTITUTE A FIXTURE FILING AND FINANCING STATEMENT TO THE EXTENT PERMITTED UNDER THE UNIFORM COMMERCIAL CODE AS ADOPTED IN INDIANA AS TO ALL FIXTURES OWNED BY MORTGAGOR ACTUALLY OR CONSTRUCTIVELY ATTACHED TO THE MORTGAGED PREMISES. In connection therewith, (i) Mortgagor shall be deemed the "debtor"; (ii) Lender shall be deemed the "secured party"; (iii) this Mortgage covers goods which are or are to become fixtures; (iv) the name of the record owner of the Real Estate is Mortgagor; (v) the names and addresses of the secured party (Lender) and the debtor (Mortgagor) are set forth in the opening paragraph of this Mortgage; and

(vi) the state of organization and the state organizational identification number of Mortgagor, if any, are as set forth in the next paragraph of this Mortgage.

24. State of Organization. Mortgagor covenants and warrants to Lender that: (i) Mortgagor is a limited partnership duly organized in the State of Illinois, (ii) Mortgagor shall continue to maintain its existence in good standing under the laws of the state of its incorporation or organization, as the case may be, at all times, (iii) Mortgagor's legal name as shown on the records of the Secretary of State in which Mortgagor is organized is Cloisters Apartments Limited Partnership and such legal name is correctly reflected in the records of the State of Illinois, (iv) Mortgagor shall not change its legal name without providing Lender with not less than sixty (60) days prior written notice, (v) Mortgagor shall not voluntarily or involuntarily dissolve, cancel or terminate its legal existence or change the state of its incorporation or organization, as the case may be, (vi) Mortgagor's organizational identification number organizational number as shown on the records of the Secretary of State in which Mortgagor is organized is S019172. Mortgagor shall maintain all of Mortgagor's records regarding the Chattel Property at such chief executive office or residence.

25. Continuing Lien. This Mortgage creates a continuing lien to secure the full and final payment of the Note and the performance of the other obligations of Mortgagor under this Mortgage or under any other security documents or agreements executed by Mortgagor in connection with the indebtedness secured hereby.

26. Successors. In the event the ownership of the Mortgaged Premises, or any part thereof, becomes vested in a person or persons other than Mortgagor, and Lender does not exercise the option reserved to it hereunder to accelerate the indebtedness secured hereby in the event of alienation of all or any part of the Mortgaged Premises, Lender may deal with successor or successors in interest with reference to this Mortgage and the indebtedness secured hereby in the same manner as with Mortgagor, without in any manner vitiating or discharging Mortgagor's liability hereunder, or upon the indebtedness hereby secured.

27. Environmental Representations and Indemnification. Mortgagor makes the following representations, warranties, covenants and agreements:

a. For purposes herein, the term "Environmental Law(s)" shall mean any present and future federal, state or local statute, law (including common law), ordinance, code, rule, regulation, guideline, order or decree regulating, relating to, or imposing liability or standards of conduct concerning (i) any Hazardous Substance, (ii) the protection of human health or the environment or (iii) any Wetlands (as defined herein), each as now or at any time hereafter in effect. The term "Environmental Law" includes, but is not limited to, the following statutes, as amended from time to time, any successor thereto, and any regulations promulgated pursuant thereto, and any state or local statutes, ordinances, rules, regulations, guidelines and the like addressing similar issues: (i) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq. and the regulations promulgated thereunder, (ii) the Clean Air Act, 42 U.S.C. 7401, et seq. and the regulations promulgated thereunder, (iii) the Clean Water Act, 33 U.S.C. 1251, et seq. and regulations promulgated thereunder, (iv) the Resource, Conservation and Recovery Act, 42 U.S.C. 6901, et seq. and regulations promulgated

thereunder, (v) the Oil Pollution Act of 1990, 33 U.S.C. 2701, et seq. and regulations promulgated thereunder, and (vi) the Hazardous Materials Transportation Act, 49 U.S.C. 1801, et seq. and regulations promulgated thereunder. For purposes of this Mortgage, the term "**Hazardous Substance(s)**" shall mean any and all substances (whether solid, liquid or gas) defined, listed, or otherwise classified as "pollutants," "hazardous wastes," "hazardous substances," "hazardous materials," "extremely hazardous wastes," "toxic substances," "oil," "waste oil," and "used oil" or words of similar meaning or regulatory effect under any present or future Environmental Law or that may have a negative impact on human health, property value or the environment, including but not limited to Mold (as defined herein), petroleum and petroleum products, asbestos and asbestos-containing materials, polychlorinated biphenyls, lead, lead-based paints, radon, radioactive materials, flammables and explosives. For purposes of this Mortgage, the term "**Mold**" shall mean mold or any fungus, bacteria, spores or other airborne microbial contaminants of a type that could pose a risk of any kind to human health or the indoor or outdoor environment or could negatively impact the value of the Premises. For purposes of this Mortgage, the term "**Wetland(s)**" shall have the meaning ascribed in 33 C.F.R. §328.3, as hereinafter amended, or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any such Wetlands, as now or at any time hereafter in effect.

b. Mortgagor certifies that no violation of any Environmental Law currently exists in connection with use, ownership, lease, maintenance or operation of the Mortgaged Premises. Mortgagor further certifies that Mortgagor will not violate, or permit any tenant of the Mortgaged Premises to violate, any Environmental Law in connection with the use, ownership, lease, maintenance or operation of the Mortgaged Premises. Mortgagor shall not perform or cause to be performed any excavation or fill activity or other acts which would in any way destroy, eliminate, alter, obstruct, interfere with or otherwise affect any Wetlands.

c. Mortgagor certifies, based upon reasonable investigation, that, except for such substances which have been used in the normal course of operation of Mortgagor's business, (i) neither Mortgagor nor any other person within Mortgagor's knowledge or control, including any lessee of the Mortgaged Premises, has ever caused or permitted any Hazardous Substance to be released, spilled or disposed of on, under or at the Mortgaged Premises or any part thereof, (ii) neither the Mortgaged Premises nor any part thereof has ever been used by Mortgagor or any other person as a dump site or storage site, whether permanent or temporary, for any Hazardous Substance, and (iii) to the best knowledge of Mortgagor, the Mortgaged Premises does not now contain and has not in the past contained any Hazardous Substance.

d. Mortgagor certifies that it is not a party to any litigation or administrative proceeding, nor so far as is known by Mortgagor is any litigation or administrative proceeding threatened against it, which in either case asserts or alleges that (i) Mortgagor violated any Environmental Law, (ii) Mortgagor is required to clean up or take other response action due to the release or threatened release or transportation of any Hazardous Substance, or (iii) Mortgagor is required to pay all or a portion of the cost of

any past, present or future cleanup or other response action which arises out of or is related to the release or threatened release or transportation of any Hazardous Substance.

e. There are not now, nor to Mortgagor's knowledge after reasonable investigation have there ever been, tanks or other facilities on, under or at the Mortgaged Premises which contained materials which, if known to be present in soils or groundwater, would require cleanup or other corrective action. If there are such tanks or other facilities, Mortgagor represents after reasonable investigation that nothing contained therein has ever been spilled, leaked or released into the environment, soil or groundwater and that such tanks or other facilities are in compliance with all Environmental Laws.

f. If Mortgagor acquires any knowledge of or receives any notice or other information regarding (i) the happening of any event involving any Hazardous Substance with respect to the Mortgaged Premises or to any activity of the Mortgagor or of any tenant of the Mortgaged Premises or (ii) any noncompliance with regard to any environmental, health or safety matter with respect to the Mortgaged Premises or to any activity of the Mortgagor or of any tenant of the Mortgaged Premises, then Mortgagor shall immediately notify Lender orally and in writing and provide Lender with copies of any written notice or information.

g. Mortgagor shall promptly perform all necessary remedial work in response to the presence of any Hazardous Substances on the Mortgaged Premises, any violation of any Environmental Laws, or any claims or requirements made by any governmental agency or authority. All such work shall be conducted by licensed and reputable contractors pursuant to written plans approved by the agency or authority in question (if applicable) under proper permits and licenses (if applicable) with such insurance coverage as is customarily maintained by prudent property owners in similar situations. If the cost of the work exceeds One Hundred Thousand and 00/100 Dollars (\$100,000.00), then Lender shall have the right of prior approval over the environmental contractor and plans, which shall not be unreasonably withheld or delayed. All costs and expenses of the remedial work shall be promptly paid by Mortgagor. In the event Mortgagor fails to undertake the remedial work, or fails to complete the same within a reasonable time period after the same is undertaken, and if Lender is of the good faith opinion that Lender's security in the Mortgaged Premises is jeopardized thereby, then Lender shall have the right to undertake or complete the remedial work itself. In such event all costs of Lender in doing so, including all fees and expenses of environmental consultants, engineers, attorneys, accountants and other professional advisors, shall become a part of the indebtedness secured hereby and shall be due and payable from Mortgagor upon demand. Such amount shall be secured by this Mortgage, and failure to pay the same shall be an Event of Default hereunder. In the event any Hazardous Substances are removed from the Mortgaged Premises, either by Mortgagor or Lender, the number assigned by the United States Environmental Protection Agency to such Hazardous Substances shall be solely in the name of Mortgagor, and Mortgagor shall have any and all liability for such removed Hazardous Substances. In addition, upon the request of Lender, Mortgagor shall initiate and pursue (at the sole cost and expense of Mortgagor) such corrective actions as Lender deems necessary or advisable at any time to

clean up or otherwise deal with any Hazardous Substance which may now or hereafter affect the Mortgaged Premises.

h. In addition to the other rights of Lender set forth herein, Lender shall have the right but not the obligation, and without limitation of Lender's rights under this Mortgage and the other Loan Documents, to enter the Mortgaged Premises and take such other actions as it deems necessary or advisable at any time (i) to clean up or otherwise deal with any Hazardous Substance or (ii) following receipt of any notice or other information which, in the sole opinion of Lender, could result in action against Mortgagor or Lender or could adversely affect the value of Lender's collateral. Lender further shall have the right but not the obligation, and without limitation of Lender's rights under the Loan Documents, to enter the Mortgaged Premises to investigate the environmental condition of the Mortgaged Premises and shall have the right to grant access to environmental professionals to perform investigations, including without limitation sampling and borings, to determine the environmental condition of the Mortgaged Premises in anticipation of foreclosure or acceptance of a deed in lieu of foreclosure. Notwithstanding the indemnification set forth below, Mortgagor agrees that all reasonable costs and expenses incurred by Lender in the exercise of any entry, investigation or mitigation rights (including without limitation those incurred in anticipation of foreclosure or acceptance of a deed in lieu of foreclosure) shall be payable by Mortgagor upon demand by Lender, together with interest thereon at the rate which is equal to the "Default Rate" of interest as defined under the Note from the date of payment by Lender, and until paid shall be added to the outstanding balance of the indebtedness secured hereby.

i. Mortgagor covenants and agrees, at its sole cost and expense, to indemnify, protect and hold each Indemnified Party harmless from and against any and all losses, liabilities, including without limitation strict liability, damages, injuries, expenses, including without limitation reasonable attorneys' fees and disbursements (which fees shall include without limitation the allocated cost of in-house counsel and staff) and expert fees and disbursements, claims for damage to the environment, claims for fines or civil penalties, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by or asserted against Lender, or any other Indemnified Party, by any person, entity or governmental agency for, with respect to or as a direct or indirect result of (i) noncompliance or alleged noncompliance with any Environmental Law by any person or entity, (ii) the presence on, under or at the Mortgaged Premises or any surrounding areas of, or the release or threatened release or transportation of, any Hazardous Substance, regardless of whether or not caused by or within the control of Mortgagor or (iii) the enforcement by Lender of the provisions of this Mortgage. For purposes of this Mortgage, the term "Indemnified Party" and "Indemnified Parties" shall mean, individually and collectively, (i) Lender, and its directors, officers, employees, and agents, (ii) any party who acquires a participating interest in any of the indebtedness secured by this Mortgage, and its directors, officers, employees, and agents, and (iii) any successors or assigns of Lender, and their directors, officers, employees, and agents. The covenants, representations, warranties, agreements and indemnities contained in this Paragraph 27 shall (i) be deemed continuing covenants, representations, warranties, agreements and indemnities for the benefit of Lender and the

other Indemnified Parties and any successors or assigns of Lender, including without limitation any purchaser of the Mortgaged Premises at a mortgage foreclosure sale, any transferee of the title of Lender and any subsequent owner of the Mortgaged Premises claiming through or under the title of Lender, (ii) be in addition to any other obligations or liabilities that Mortgagor may have to Lender and the other Indemnified Parties at common law, by statute, or otherwise, and (iii) survive any enforcement of Lender's rights against the Mortgaged Premises or the satisfaction of the indebtedness secured hereby. Notwithstanding any other terms or provisions in this Mortgage or the other Loan Documents to the contrary, Mortgagor shall not have any obligation of any nature to any Indemnified Party for any matters resulting solely from the gross negligence or willful misconduct of such Indemnified Party.

j. The liability of Mortgagor under this paragraph shall in no way be limited or impaired by, and Mortgagor hereby consents to and agrees to be bound by, any amendment to or modification of the provisions of the Loan Documents by Mortgagor or any person who succeeds Mortgagor as owner of the Mortgaged Premises. In addition, the liability of Mortgagor under this paragraph shall in no way be limited by (i) any extensions of time for performance required by any of the Loan Documents, (ii) any sale or assignment of any of the Loan Documents or any sale or transfer of all or part of the Mortgaged Premises after the enforcement of Lender's rights under the Loan Documents or Lender's, or its assignee's, acquisition of all or part of the Mortgaged Premises after the enforcement of Lender's rights under the Loan Documents or Lender's, or its assignee's, acquisition of all or part of the Mortgaged Premises by a deed-in-lieu of foreclosure, (iii) the accuracy or inaccuracy of the representations and warranties made by Mortgagor under any of the Loan Documents, (iv) the release of Mortgagor or any other person from performance or observance of any of the agreements, covenants, terms or conditions contained in any of the Loan Documents by operation of law, Lender's voluntary act or omission, or otherwise, (v) the release or substitution in whole or in part of any security for the indebtedness secured hereby, (vi) Lender's failure to record any of the Loan Documents or file any UCC financing statements (or Lender's improper recording or filing of any thereof) or to otherwise perfect, protect, secure or insure any security interest or lien given as security for the Note, (vii) any exculpatory provision in any of the Loan Documents limiting Lender's recourse to the Mortgaged Premises or to any other security, or limiting Lender's rights to a judgment against Mortgagor for any deficiency after the application of any security for the indebtedness secured hereby or (viii) the repayment of the Note.

28. Events of Default. Each of the following events shall constitute an event of default hereunder (each such event is herein referred to as an "Event of Default"):

a. A failure by Mortgagor to pay, within five (5) days when due, any installment of interest or principal due and payable pursuant to the terms of the Note or the terms of any other agreement evidencing any indebtedness secured hereby;

b. A failure by Mortgagor or any other obligor to pay, within five (5) days upon demand or when due, any other amounts due and payable pursuant to the terms of

the Note, the Mortgage, any of the other Loan Documents the Loan Agreement or the terms of any other agreement evidencing any indebtedness secured hereby;

c. A failure to make any payment when due of any of the taxes, assessments, charges, liens, fees or reimbursements as required hereunder and the continuation of such failure for a period of ten (10) days after written notice of such failure has been sent to Mortgagor;

d. A failure to maintain any insurance policies as required hereunder and the continuation of such failure for a period of ten (10) days after written notice of such failure has been sent to Mortgagor;

e. The occurrence of a Prohibited Transfer;

f. A default under or a failure by Mortgagor to observe or perform any agreement or covenant contained in this Mortgage which default or failure can be cured by the payment of money and the continuation of such default or failure for a period of ten (10) days after written notice of such default or failure has been sent to Mortgagor;

g. A default under or a failure by Mortgagor to observe or perform any other term, agreement or covenant contained in this Mortgage and the continuation of such default or failure for a period of thirty (30) days after written notice of such default or failure has been sent to Mortgagor;

h. Any warranty, representation, certification or statement made by Mortgagor in this Mortgage, in any of the other Loan Documents or in any certification or other agreement or document executed or delivered in connection herewith is false or incorrect in any material respect upon the date when made or deemed to be made or repeated;

i. The occurrence of an "Event of Default" under the Note or any of the other Loan Documents (for purposes of this paragraph, an "Event of Default" shall mean the occurrence of any event or circumstance which is either defined as, or would constitute, an "Event of Default" under the terms of such Loan Document);

j. With respect to any Loan Document which does not contain an express definition for an "Event of Default", the occurrence of any default under such Loan Document and a failure to cure such default within the applicable cure period specified therein, if any;

k. The institution of any foreclosure proceeding by the holder of any mortgage or lien upon the Mortgaged Premises or security interest in the Chattel Property, which proceeding remains undismissed for sixty (60) days after being instituted;

l. The Mortgaged Premises or the Chattel Property being seized under any writ or process of court or by any trustee or receiver;

m. The Mortgaged Premises, Leases, Chattel Property or corporate, partnership or beneficial interest in Mortgagor shall be transferred in any manner other than that allowed in Paragraph 5 of this Mortgage;

n. The failure at any time of this Mortgage to be a valid first lien upon the Mortgaged Premises or any portion thereof (other than as a result of any release by Lender of this Mortgage), subject only to the lien of taxes and assessments, use restrictions, rights of way and easements of record as of the date of the recording of this Mortgage, the rights of tenants in possession as of the date of the recording of this Mortgage and any other matter expressly consented to by Lender;

o. One or more judgments for the payment of money shall have been entered against Mortgagor or any guarantor of the indebtedness secured hereby, which judgment or judgments exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00) in the aggregate with respect to Mortgagor or any such guarantor, and such judgment or judgments shall have remained undischarged and unstayed for a period of ninety (90) consecutive days;

p. The occurrence of a default under any instrument, agreement or document executed, or any arrangement or device entered into, in connection with any Rate Management Transaction and a failure to cure such default within the applicable cure period specified therein, if any;

q. The dissolution, liquidation, winding up or termination of Mortgagor or the business of Mortgagor;

r. The occurrence of any material organizational change in Mortgagor, or any guarantor of the indebtedness secured hereby or their respective members, partners or venturers, including, without limitation, any member, partnership or joint venture dispute which Lender determines, in its sole and absolute discretion, shall have a material adverse effect on the indebtedness secured hereby, on the Mortgaged Premises, or on the ability of Mortgagor or any guarantor of the indebtedness secured hereby or their respective members, partners and venturers to perform their obligations under the Loan Documents;

s. A consolidation or merger of Mortgagor;

t. An assignment by Mortgagor for the benefit of its creditors;

u. The appointment of a receiver, trustee, custodian or liquidator for Mortgagor or any of its assets, which appointment is consented to or, if not consented to, shall not be removed or discharged within sixty (60) days after such appointment;

v. The filing of a petition by or on behalf of Mortgagor for relief under the United States Bankruptcy Code, or under any other present or future state or federal law regarding bankruptcy, reorganization or other debtor relief law, which petition is consented to or, if involuntary, remains undismissed for sixty (60) days after such filing;



w. The occurrence of a material adverse change in the financial condition of Mortgagor, as determined by Lender in its sole reasonable discretion;

x. The occurrence of any other default under any guaranty of the indebtedness secured hereby and a failure to cure such default within the applicable cure period specified therein, if any;

y. Any representation or warranty made or deemed to be made by or on behalf of any guarantor of the indebtedness secured hereby in any guaranty, agreement or certification executed by such guarantor in connection with the indebtedness secured hereby, or in any report, certificate, financial statement, document or other instrument delivered pursuant to or in connection with the Note or any other Loan Document, is false or incorrect in any material respect upon the date when made or deemed to be made or repeated;

z. A determination by Lender, in its sole reasonable discretion that any action, inaction, commission, omission or circumstances has occurred or may occur which may subject any assets of Mortgagor, including but not limited to the Mortgaged Premises and Chattel Property, to be seized by any federal, state or local governmental department, agency or instrumentality pursuant to 18 U.S.C. § 1963, 21 U.S.C. § 853, 21 U.S.C. § 881, 46 App. U.S.C. App. § 1904, I.C. 34-24-1 et seq. or any similar federal, state or local law and/or regulations adopted in publications promulgated pursuant to such laws, or as such laws or regulations may be amended, modified or supplemented from time to time.

Notwithstanding anything expressed or implied in this Paragraph to the contrary, if Lender is prevented or prohibited by any applicable provision of the United States Bankruptcy Code or other applicable law from giving Mortgagor a notice of default hereunder, then in such event with respect to any default for which this Paragraph provides that notice shall be given (i) no notice of a default shall be given to Mortgagor and any requirement that notice of a default must be given in order for an Event of Default to have occurred hereunder shall be deemed eliminated, and (ii) any applicable cure period which this Paragraph provides shall follow such notice shall run from the occurrence of the event or condition of default rather than from the date of notice.

29. Specific Remedies. Upon the occurrence of an Event of Default, in addition to all other rights and remedies available to Lender at law or in equity, Lender shall be entitled to exercise any and all of the following rights and remedies:

a. Lender may declare any or all of the indebtedness secured hereby to be immediately due and payable without notice or demand.

b. Lender, at its option, may proceed to foreclose this Mortgage, in one or several concurrent or consecutive proceedings, without relief from valuation and appraisal laws.

c. At any time during the existence of any such Event of Default, Lender shall be entitled to enter into possession of the Mortgaged Premises and to collect the rents, issues and profits thereof, accrued and to accrue, and to apply the same on any

indebtedness secured hereby (with application against the various obligations constituting the indebtedness secured hereby in such manner and amounts as Lender, in its sole discretion, may determine).

d. To the extent permitted by applicable law, Lender shall be entitled to the appointment of a receiver in any court of competent jurisdiction for all or any part of the Mortgaged Premises and the Chattel Property, and the proceeds, issues and profits thereof, with the rights and powers referenced herein and such other rights and powers as the court making such appointment shall confer, such powers shall include without limitation the power to collect such rents, issues and profits. Mortgagor hereby waives (i) notice of the exercise by Lender of its right to obtain the appointment of such receiver and (ii) the posting of any bond by Lender in connection with the appointment of such receiver. Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by applicable law, all other powers which are necessary or usual in such cases for the protection, possession, control, management and operation of the Mortgaged Premises and the Chattel Property.

e. Lender may order an appraisal and an environmental site assessment of the Mortgaged Premises and Chattel Property, to be in such form and scope and to be performed by an appraiser and engineer, as applicable, as Lender may choose in its sole discretion. All costs and expenses of such appraisal and environmental site assessment shall be immediately paid by Mortgagor upon demand by Lender and such amounts shall be added to the indebtedness secured hereby.

f. In addition to the rights available to a mortgagee of real property Lender shall also have all the rights, remedies and courses available to a secured party under the Uniform Commercial Code as adopted in the State in which the Mortgaged Premises is located, including the right to proceed under the provisions of the Uniform Commercial Code governing default as to any property which is subject to the security interest created by this Mortgage or to proceed as to such personal property in accordance with the procedures and remedies available pursuant to a foreclosure of real estate.

All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

30. Fees and Costs. Mortgagor shall pay to Lender, or its legal representatives, successors and assigns, the costs and expenses, including but not limited to attorneys' fees and legal expenses, incurred by Lender in the exercise of any right or remedy available to it under this Mortgage, whether or not suit is commenced, including without limitation, attorneys' fees and legal expenses incurred in connection with any bankruptcy, reorganization, receivership or other proceeding affecting creditor's rights and involving a claim under this Mortgage or any document executed in connection herewith, which fees and costs shall be an additional lien and security interest against the Mortgaged Premises and the Chattel Property and shall be secured hereby. In addition, Mortgagor shall pay to Lender, or its legal representatives, successors and assigns, reasonable attorneys' fees, any sums expended for obtaining title reports for the Mortgaged Premises, for title searches, or for title insurance, and all other costs incurred in any

action to foreclose this Mortgage, or for the cure of an Event of Default, which fees and costs shall be an additional lien and security interest against the Mortgaged Premises and the Chattel Property and shall be secured hereby.

31. Rights Cumulative. In addition to the rights, powers and remedies herein expressly conferred upon Lender, Lender shall be entitled to exercise all rights, powers and remedies available to Lender by law or at equity. Each right, power or remedy herein expressly conferred upon Lender is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to Lender, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Lender and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

32. Compliance with Mortgage Foreclosure Law. Where any provision of this Mortgage or the other Loan Documents is inconsistent with any provision of Indiana law regulating the creation, perfection, enforcement or priority of a lien or security interest in real or personal property (such laws as amended, modified and/or recodified from time to time, are collectively referred to herein as the "**Applicable Law**"), the provisions of the Applicable Law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provisions of this Mortgage that can be construed in a manner consistent with the Applicable Law. Conversely, if any provision of this Mortgage shall grant to Lender any rights or remedies upon an Event of Default which is more limited than the rights that would otherwise be vested in Lender under the Applicable Law in the absence of said provision, Lender shall be vested with the rights granted under the Applicable Law to the fullest extent not prohibited by the Applicable Law. If any provision of this Mortgage shall grant to Lender (including Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of this Mortgage or any of the other Loan Documents any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such receiver under the Applicable Law in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted under the Applicable Law to the full extent permitted by law.

33. Exercise of Rights. No failure by Lender in the exercise of any of its rights under this Mortgage shall preclude Lender from the exercise thereof in the event of any subsequent Event of Default, and no delay by Lender in the exercise of its rights under this Mortgage shall preclude Lender from the exercise thereof so long as an Event of Default exists. Lender may enforce any one or more of its rights or remedies hereunder successively or concurrently.

34. Additional Assurances. Mortgagor agrees upon the request by Lender to execute and deliver such further instruments, deeds and assurances including financing statements under the Uniform Commercial Code and will do such further acts as may be necessary or proper to carry out more effectively the purposes of this Mortgage and without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the granting clause hereof, or intended so to be. Mortgagor agrees to pay any recording fees, filing

fees, note taxes, mortgage registry taxes or other charges arising out of or incident to the filing or recording of this Mortgage and such further assurances and instruments.

35. Extension of Time and Other Acts of Lender. Lender, at its option, may (i) extend the time for the payment of the indebtedness secured hereby, (ii) reduce the payments thereon, (iii) accept a renewal note or notes therefore, (iv) grant any release, with or without consideration, of the whole or any part of the security for the payment of the indebtedness secured hereby or the release of any person, party or entity liable for payment of said indebtedness, or (v) amend or modify in any respect any of the terms and provisions hereof, of this Mortgage, the Note (including substitution of another note) or of any other Loan Documents (as defined herein), without the consent of any endorser or guarantor and without the consent of Mortgagor if Mortgagor has conveyed title to the Mortgaged Premises, and any such extension, reduction or renewal shall not affect the priority of this Mortgage or impair the security hereof in any manner whatsoever, or release, discharge or affect in any manner the primary liability of Mortgagor or any endorser or guarantor to Lender.

36. Partial Release and Additional Security. Any part of the Mortgaged Premises and the Chattel Property covered by this Mortgage may be released by Lender without affecting the lien and security interest hereby granted as to the remainder, and the security of this Mortgage shall not affect or be affected by any other security for the indebtedness secured hereby nor shall the taking of additional security release or impair the security hereof or liability for the indebtedness secured hereby in any manner whatsoever.

37. Waiver of Certain Rights by Mortgagor. Mortgagor for Mortgagor and Mortgagor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Premises through Mortgagor, hereby waives, releases and relinquishes, to the full extent permitted by law, each of the following:

- a. any right or claim of right to cause a marshalling of Mortgagor's assets or to cause Lender to proceed against any of the security for the indebtedness secured hereby before proceeding under this Mortgage against Mortgagor and Mortgagor hereby agrees that any court having jurisdiction to foreclose the lien of this Mortgage may order the Mortgaged Premises sold as an entirety;
- b. the benefit of all laws now or hereafter existing providing for any appraisement before sale of any portion of the Mortgaged Premises;
- c. the benefit of all laws now or hereafter existing providing for the extension of time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt;
- d. all rights of redemption, reinstatement, valuation, appraisement, stay of execution and notice of election to mature or declare due the whole of the indebtedness secured hereby in the event of foreclosure of this Mortgage; and
- e. all rights of dower, curtesy, and homestead in and to the Mortgaged Premises.

All principal, interest and other amounts secured by this Mortgage shall be payable without relief from valuation and appraisal laws. To the full extent Mortgage may do so, Mortgagor agrees that Mortgage will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension or redemption. Mortgage agrees that any payments required to be made hereunder shall become due on demand and Mortgage expressly waives and relinquishes all rights and remedies (including any rights of subrogation) accorded by applicable law to indemnitors or guarantors.

38. No Additional Indebtedness or Liens. Mortgage will not incur any indebtedness in connection with the Mortgaged Premises, Chattel Property, or Leases other than (i) the loan evidenced by the Note and any subsequent indebtedness to Lender and (ii) open account obligations incurred in the ordinary course of business having maturities of less than ninety (90) days, without the prior written consent of Lender. Except for the liens and security interests granted in favor of Lender, Mortgage shall not grant any mortgage, encumbrance, collateral assignment, pledge or security interests in any portion of the Mortgaged Premises, Leases or the Chattel Property without the prior written consent of Lender.

39. No Transfers of Assets. Mortgage will not, without the prior written consent of Lender, cause or permit any of Mortgage's property, business or assets to be sold, terminated, assigned, leased, conveyed, pledged or otherwise transferred or encumbered without fair and adequate consideration so long as any indebtedness secured hereby remains unpaid.

40. Waiver of Right to Trial by Jury. Mortgage hereby agrees that any suit, action or proceeding, whether a claim or counterclaim, brought or instituted by any party on or with respect to this Mortgage or any other document executed in connection herewith or which in any way relates, directly or indirectly, to any of the Loan Documents or any event, transaction or occurrence arising out of or in any way connected with this Mortgage or the dealings of the parties with respect thereto, shall be tried only by a court and not by a jury. **MORTGAGOR, AND LENDER BY ACCEPTANCE HEREOF, HEREBY EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING.** Mortgage acknowledges that Mortgage may have a right to a trial by jury in any such suit, action or proceeding and that Mortgage hereby is knowingly, intentionally and voluntarily waiving any such right. Mortgage further acknowledges and agrees that this paragraph is material to this Mortgage and that adequate consideration has been given by Lender and received by Mortgage in exchange for the waiver made by Mortgage pursuant to this paragraph.

41. Successors and Assigns. The covenants, conditions and agreements contained in this Mortgage shall bind, and the benefits thereof shall inure to, Mortgage and Lender, their respective successors, assigns, heirs and legal representatives.

42. No Agricultural Use. Mortgage will operate the Mortgaged Premises at all times as a multifamily apartment project. Mortgage covenants that the Mortgaged Premises and Chattel Property shall not be used for either agricultural or farming purposes.

43. Merger. In the event Lender acquires any other estate, or any other lien, in the Mortgaged Premises, no merger shall occur as a result thereof unless Lender consents to a merger in writing.

44. Release of Mortgage. Lender shall release this Mortgage of record upon the satisfaction in full of each of the following conditions: (i) all agreements and obligations of Lender to make any loan or advance any credit to Mortgagor have been terminated, (ii) all indebtedness and obligations secured hereby have been paid and performed in full, including without limitation the indebtedness and obligations evidenced by the Note and any Rate Management Transaction, (iii) all Rate Management Transactions have been terminated and all breakage and other termination fees which are payable in connection therewith have been paid in full. Mortgagor agrees to reimburse Lender for all costs and expense incurred by Lender in connection with the preparation and recording of such release and, if required by Lender, shall pay such anticipated release expenses in advance.

45. Notices. Any written notice required or permitted hereunder shall be deemed effective when (a) sent by an overnight carrier which provides for return receipt or (b) mailed by certified United States mail, postage prepaid with return receipt requested, to the applicable address specified below:

If to Mortgagor at:

Cloisters Apartments Limited Partnership

1051 Perimeter Drive  
Suite 550

Schaumburg, Illinois 60175

If to Lender at:

The Amended and Restated Declaration of Trust

of John H. Cox, Dated May 2, 2002

15589 Adobe Villa Drive

Rancho Santa Fe, California 92067

or at such other address as Mortgagor or Lender may from time to time specify by notice hereunder. Any notice may be given on behalf of Lender or Mortgagor by such party's legal counsel. Any notice required to be given by Lender of a sale, lease or other disposition of the collateral or any other intended action by Lender, deposited in the United States mail, postage prepaid, duly addressed as specified above no less than ten (10) days prior to such proposed action or if sent by overnight carrier no less than five (5) days prior to such proposed action, shall constitute commercially reasonable and fair notice to Mortgagor of same.

46. Invalidity of Any Provision. It is the intent of this Mortgage to confer to Lender the rights and benefits hereunder to the full extent allowable by law. If any provision (or a portion thereof) of this Mortgage or of any other document executed in connection herewith is held invalid or unenforceable or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable (each such provision, or applicable portion thereof, is herein referred to as an "Invalid Provision"), then (i) the remainder of this Mortgage, or the application of such Invalid Provision to any other person or circumstance, shall be valid and enforceable to the fullest extent permitted by law, (ii) the Invalid Provision shall be deemed to be severable in such instance, and (iii) Mortgagor and Lender shall negotiate an equitable

adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Mortgage.

47. **Submission To Jurisdiction.** Mortgagor irrevocably agrees that any suit, action or other legal proceeding arising directly, indirectly or otherwise in connection with, out of, related to or from the Note, this Mortgage or any of the other Loan Documents may be brought in a court located within the State in which the Mortgaged Premises are located, where the real estate encumbered by this Mortgage is located. Furthermore, Mortgagor irrevocably (i) consents and submits to the jurisdiction of any local, state or federal court located within the State in which the Mortgaged Premises are located, (ii) waives any objection which Mortgagor may have to the laying of venue in any suit, action or proceeding in any such courts, and (iii) waives any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Notwithstanding anything contained in this paragraph to the contrary, Lender shall have the right to commence and litigate any suit, action or proceeding against Mortgagor or any property of Mortgagor in any court of any other appropriate jurisdiction. Nothing herein shall be deemed to limit any rights, powers or privileges which Lender may have pursuant to any law of the United States of America or any rule, regulation or order of any department or agency thereof and nothing herein shall be deemed to make unlawful any transaction or conduct by Lender which is lawful pursuant to, or which is permitted by, any of the foregoing.

48. **Governing Law.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Indiana, notwithstanding that Indiana conflicts of law rules might otherwise require the substantive rules of law of another jurisdiction to apply.

49. **USA Patriot Act Notice, Compliance.** The USA Patriot Act of 2001 (Public Law 107-56), as amended from time to time and any successor statute (herein, the "Patriot Act"), and federal regulations issued with respect thereto require all financial institutions to obtain, verify and record certain information that identifies each individual or business entity which opens an "account" or establishes a relationship with such financial institution. Consequently, Lender may from time-to-time request, and Mortgagor shall provide to Lender, (i) Mortgagor's name, address, tax identification number, date of birth, and other information that will allow Lender to identify Mortgagor, (ii) the name, address, tax identification number, date of birth, and other information that will allow Lender to identify each guarantor of the indebtedness secured hereby, (iii) the name, address, tax identification number, date of birth, and other information that will allow Lender to identify each officer, partner, member, shareholder or other stakeholder of Mortgagor, and/or (iv) such other identification information as shall be necessary for Lender to comply with federal law. Mortgagor shall provide such information and take such actions as are reasonably requested by Lender in order to assist Lender in maintaining compliance with the Patriot Act. An "account" for this purpose may include, without limitation, a deposit account, cash management service, a transaction or asset account, a credit account, a loan or other extension of credit, and/or other financial services product.

50. **Authorization To Complete Blanks and Conform to Recording Requirements.** In the event Mortgagor executes and delivers this Mortgage or any other Loan Documents to Lender with any blank incomplete, Mortgagor authorizes Lender, and its agents, to complete any such open blanks, including without limitation any blanks relating to the effective date of any

such Loan Documents, the maturity date of the Note, the address of any party to the Loan Document or the effective date of any other document referenced herein or therein. Mortgagor authorizes Lender, and its agents, to unilaterally make any modifications, adjustments or amendments necessary or appropriate to conform this Mortgage to the requirements for the county recorder in the State where the Mortgaged Premises are located in order to render it in a form acceptable for recording.

51. Interpretation. The captions or headings herein have been inserted solely for the convenience of reference and in no way define or limit the scope, intent or substance of any provision of this Mortgage. Whenever the content requires or permits the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable. This Mortgage shall be construed without regard to any presumption or other rule requiring construction against the party or parties causing this Mortgage to be drafted. When used herein, the term "gross negligence" shall be deemed to mean a conscious, voluntary act or omission in reckless disregard of a legal duty and of the consequences as affecting any other party to this Mortgage and the Mortgaged Premises.





**SIGNATURE PAGE FOR MORTGAGOR TO REAL ESTATE MORTGAGE,  
SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND FIXTURE FILING**

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

**MORTGAGOR:**

**CLOISTERS APARTMENTS LIMITED PARTNERSHIP**  
an Illinois limited partnership

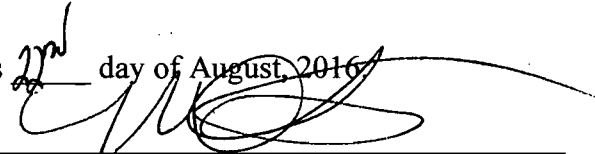
By: Cloisters Investments Limited Partnership  
an Illinois limited partnership  
Its: General Partner

By: Financial Equity Associates, Inc.  
an Illinois corporation  
Its: General Partner



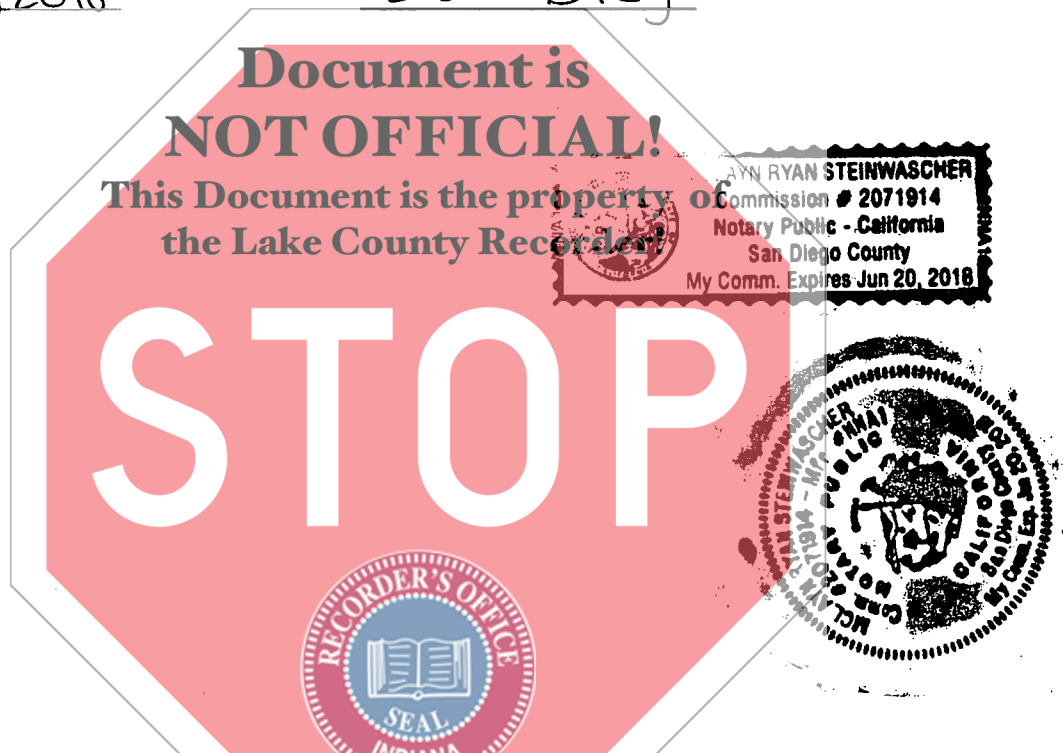
STATE OF California  
COUNTY OF San Diego ) SS:

Before me, a Notary Public in and for said County and State, personally appeared John H. Cox, the President of Financial Equity Associates, Inc., an Illinois corporation, which is the General Partner of Cloisters Investments Limited Partnership, an Illinois limited partnership, which is the General Partner of Cloisters Apartments Limited Partnership, an Illinois limited partnership, who, after having been duly sworn, acknowledged the execution of the foregoing Real Estate Mortgage, Security Agreement and Assignment of Leases and Rents and Fixture Filing, for and on behalf of said limited partnership.

WITNESS my hand and Notarial Seal this 22<sup>nd</sup> day of August, 2016  
  
(McLayn Steinwascher) Notary Public

My Commission Expires:  
June 20, 2018

My County of Residence:  
San Diego



This instrument prepared by Christopher D. Oakes, Attorney-at-Law, Cox, Oakes & Associates, Ltd., 1051 Perimeter Drive, Suite 550, Schaumburg, Illinois 60173. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Christopher D. Oakes

**EXHIBIT "A"**

**TRACT 1:**

**PARCEL 1:**

All of Block 6, Gross Park Addition, as shown in Plat Book 20, Page 59, in the Office of the Recorder of Lake County, Indiana, along with the vacated North and South alley through said Block and including also the East Half of vacated Connecticut Street and the West Half of vacated Pennsylvania Street adjoining said Block, all in Ross Township, Lake County, Indiana, EXCEPTING THEREFROM the North 160.00 feet, AND ALSO EXCEPTING THEREFROM the South 315.00 feet of the North 475.00 feet, EXCEPT the East 135.00 feet of the said 315.00 feet.

**PARCEL 1A:**

The North Half of the North Half of vacated 59th Avenue adjoining all of Block 6 on the South and adjoining the vacated North and South alley through said Block and also adjoining the East Half of vacated Connecticut Street and vacated Pennsylvania Street adjoining said Block, Gross Park Addition, as shown in Plat Book 20, Page 59, in Ross Township, Lake County, Indiana.

**PARCEL 2:**

The North 475.00 feet of the following described tract: All of Block 6, Gross Park Addition, as shown in Plat Book 20, Page 59, in the Office of the Recorder of Lake County, Indiana, along with the vacated North and South alley through said Block and including also the East Half of vacated Connecticut Street and the West Half of vacated Pennsylvania Street adjoining said Block, all in Ross Township, Lake County, Indiana; EXCEPTING from said North 475.00 feet, the North 318.00 feet thereof, ALSO EXCEPTING THEREFROM the East 316.00 feet of the South 92.00 feet thereof, AND ALSO EXCEPTING THEREFROM the East 150.00 feet of the North 65.00 feet of the South 157.00 feet thereof.

**PARCEL 3:**

An Easement for Parking Purposes as granted in Reciprocal Easement Agreement (Parking Lots) dated August 31, 1983 and recorded October 21, 1983 as Document No. 730573, made by and between Paul Jankovich, Margaret Jankovich, Nick Jankovich and Winifred Jankovich (Grantors) and Lake County Trust Company, as Trustee under a Trust Agreement dated November 21, 1977, known as Trust Number 2623 (Grantee), over, across and upon the following described real estate: The South 65.00 feet of the North 318.00 feet of Block 6, Gross Park Addition, as shown in Plat Book 20, Page 59, in Lake County, Indiana along with the vacated North and South alley through said Block and including also the halves of vacated

Connecticut Street and vacated Pennsylvania Street adjoining said Block, EXCEPTING THEREFROM the East 150.00 feet AND ALSO EXCEPTING THEREFROM the West 27.00 feet.

**PARCEL 4:**

A Non-Exclusive Easement for ingress and egress as granted in Easement Agreement dated August 31, 1983 and recorded October 21, 1983 as Document No. 730574 made by and between Michael Jankovich and Paul Jankovich (Grantors) and Paul Jankovich, Margaret Jankovich, Nick Jankovich, Winifred Jankovich and Lake County Trust Company, as Trustee under a Trust Agreement dated November 21, 1977, known as Trust No. 2623 (Grantees) over, above and across the following described real estate: Part of the Southwest Quarter of Section 3, Township 35 North, Range 8 West of the 2nd P.M., Lake County, Indiana described as beginning at the intersection of the South line of 58th Avenue and the center line of vacated Pennsylvania Street; thence South along the centerline of vacated Pennsylvania Street, 185.00 feet; thence East and parallel with said South line, 19.00 feet; thence North and parallel with said centerline, 185.00 feet; thence West along said South line (extended East), 19.00 feet to the point of beginning.

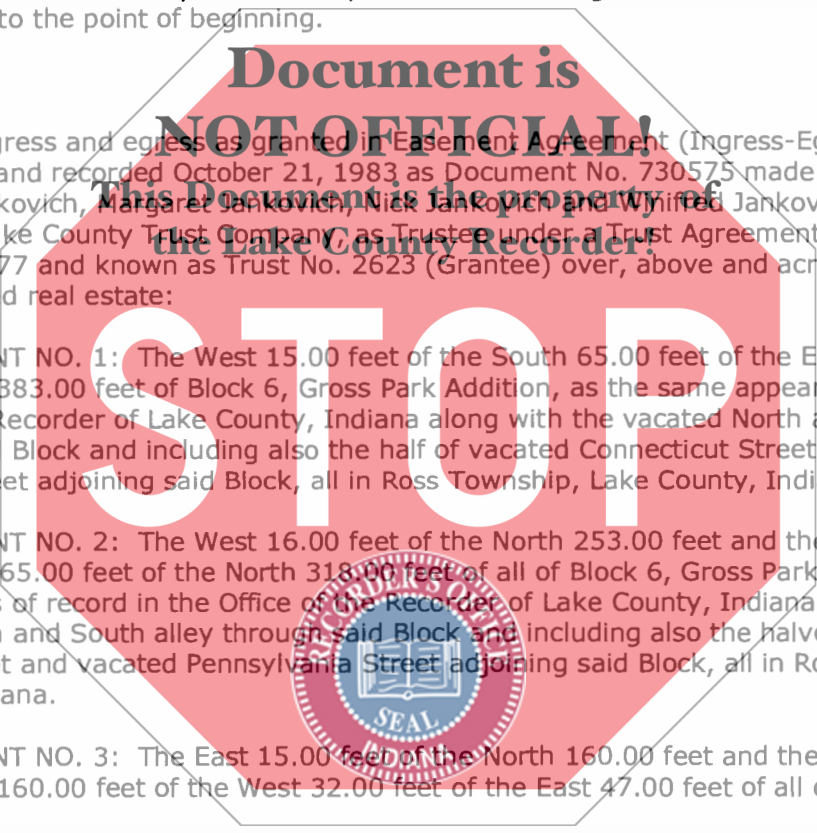
**PARCEL 5:**

Easements for ingress and egress as granted in Easement Agreement (Ingress-Egress) dated August 31, 1983 and recorded October 21, 1983 as Document No. 730575 made by and between Paul Jankovich, Margaret Jankovich, Nick Jankovich and Winifred Jankovich (Grantors) and Lake County Trust Company, as Trustee under a Trust Agreement dated November 21, 1977 and known as Trust No. 2623 (Grantee) over, above and across the following described real estate:

**ACCESS EASEMENT NO. 1:** The West 15.00 feet of the South 65.00 feet of the East 150.00 feet of the North 383.00 feet of Block 6, Gross Park Addition, as the same appears of record in the Office of the Recorder of Lake County, Indiana along with the vacated North and South alley through said Block and including also the half of vacated Connecticut Street and vacated Pennsylvania Street adjoining said Block, all in Ross Township, Lake County, Indiana.

**ACCESS EASEMENT NO. 2:** The West 16.00 feet of the North 253.00 feet and the West 27.00 feet of the South 65.00 feet of the North 318.00 feet of all of Block 6, Gross Park Addition, as the same appears of record in the Office of the Recorder of Lake County, Indiana, along with the vacated North and South alley through said Block and including also the halves of vacated Connecticut Street and vacated Pennsylvania Street adjoining said Block, all in Ross Township, Lake County, Indiana.

**ACCESS EASEMENT NO. 3:** The East 15.00 feet of the North 160.00 feet and the South 16.00 feet of the North 160.00 feet of the West 32.00 feet of the East 47.00 feet of all of Block 6,



Gross Park Addition, as the same appears of record in the Office of the Recorder of Lake County, Indiana along with the vacated North and South alley through said Block and including also the halves of vacated Connecticut Street and vacated Pennsylvania Street adjoining said Block, all in Ross Township, Lake County, Indiana.

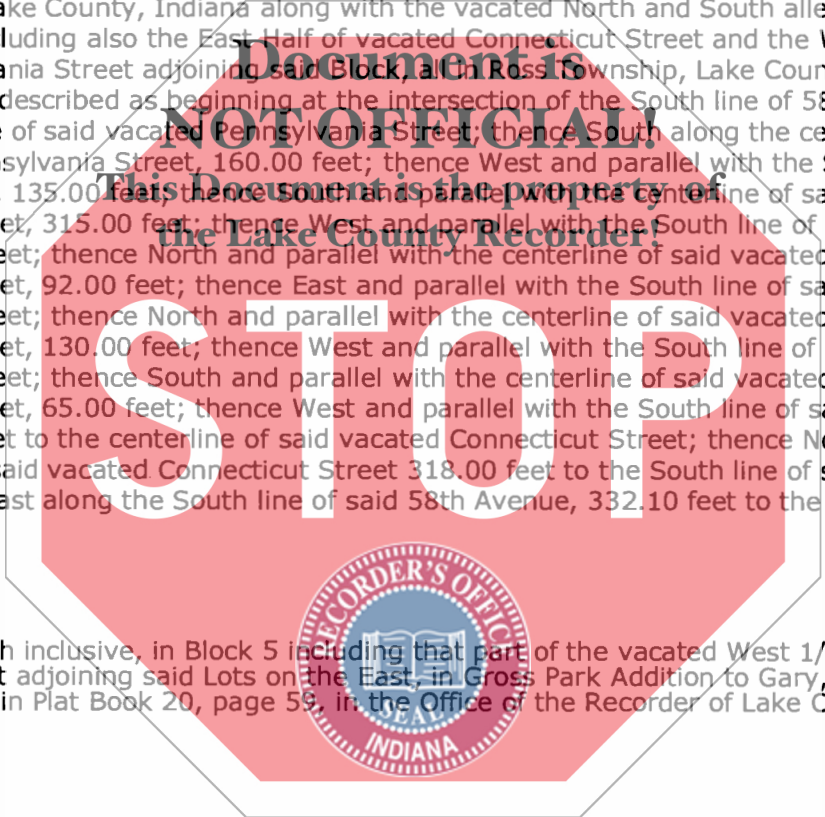
ACCESS EASEMENT NO. 4: Part of the Southwest Quarter of Section 3, Township 35 North, Range 8 West of the 2nd P.M., Lake County, Indiana described as beginning at the intersection of the South line of 58th Avenue and the centerline of vacated Pennsylvania Street; thence South along the centerline of vacated Pennsylvania Street, 185.00 feet; thence East and parallel with said South line, 19.00 feet; thence North and parallel with said centerline, 185.00 feet; thence West along said South line (extended East) ,19.00 feet to the point of beginning.

**PARCEL 6:**

That part of Block 6, Gross Park Addition, as shown in Plat Book 20, Page 59, in the Office of the Recorder of Lake County, Indiana along with the vacated North and South alley through said Block and including also the East Half of vacated Connecticut Street and the West Half of vacated Pennsylvania Street adjoining said Block, all in Ross Township, Lake County, Indiana more particularly described as beginning at the intersection of the South line of 58th Avenue and the centerline of said vacated Pennsylvania Street; thence South along the centerline of said vacated Pennsylvania Street, 160.00 feet; thence West and parallel with the South line of said 58th Avenue, 135.00 feet; thence South and parallel with the centerline of said vacated Pennsylvania Street, 315.00 feet; thence West and parallel with the South line of said 58th Avenue, 181.00 feet; thence North and parallel with the centerline of said vacated Pennsylvania Street, 92.00 feet; thence East and parallel with the South line of said 58th Avenue, 166.00 feet; thence North and parallel with the centerline of said vacated Pennsylvania Street, 130.00 feet; thence West and parallel with the South line of said 58th Avenue, 155.05 feet; thence South and parallel with the centerline of said vacated Pennsylvania Street, 65.00 feet; thence West and parallel with the South line of said 58th Avenue, 27.00 feet to the centerline of said vacated Connecticut Street; thence North along the centerline of said vacated Connecticut Street 318.00 feet to the South line of said 58th Avenue; thence East along the South line of said 58th Avenue, 332.10 feet to the point of beginning.

**TRACT 2:**

Lots 17 to 32, both inclusive, in Block 5 including that part of the vacated West 1/2 of Connecticut Street adjoining said Lots on the East, in Gross Park Addition to Gary, as per plat thereof, recorded in Plat Book 20, page 59, in the Office of the Recorder of Lake County, Indiana.



**TRACT 3:**

Parcel 1: The West Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 4, Township 35 North, Range 8 West of the 2nd P.M., in Lake County, Indiana, (except the North 215 feet thereof).

Parcel 2: The North 215 feet of the West Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 4, Township 35 North, Range 8 West of the 2nd P.M., in Lake County, Indiana.

Property Address: 5960-70 Pennsylvania Street, Merrillville, IN

Property Address: 195 E. 58th, Merrillville, IN

Property Address: 321 W. 58th Street, Merrillville, IN

