

SUBLEASE AGREEMENT

LESSOR: Board of Education of the City of Chicago  
LESSEE: Heartland/Baryl (North Parcel) Joint Venture  
PREMISES: See Exhibit A

<u>CONTENTS</u>	<u>Page</u>
ARTICLE 1 - DEFINITIONS	1
ARTICLE 2 - PREMISES AND TERM	6
ARTICLE 3 - USE	8
ARTICLE 4 - NET LEASE	12
ARTICLE 5 - [INTENTIONALLY OMITTED]	12
ARTICLE 6 - CONSTRUCTION OF PROPOSED BUILDING	12
ARTICLE 7 - RENT	18
ARTICLE 8 - DEFAULT RATE	19
ARTICLE 9 - IMPOSITIONS	20
ARTICLE 10 - MAINTENANCE, REPAIRS AND COMPLIANCE	25
ARTICLE 11 - INSURANCE	27
ARTICLE 12 - CASUALTY; RESTORATION	29
ARTICLE 13 - ALTERATIONS; OWNERSHIP OF BUILDING AND IMPROVEMENTS	36
ARTICLE 14 - LIENS	37
ARTICLE 15 - MANAGEMENT	39
ARTICLE 16 - LESSOR'S RIGHTS OF INSPECTION	41
ARTICLE 17 - OTHER COVENANTS OF LESSEE	42
ARTICLE 18 - CONDEMNATION	44
ARTICLE 19 - DEFAULTS; TERMINATION; RE-ENTRY	46
ARTICLE 20 - LESSOR'S ADDITIONAL RIGHTS AND REMEDIES	50

ARTICLE 21 - ADDITIONAL SECURITY FOR LESSEE'S OBLIGATIONS	56
ARTICLE 22 - LEASEHOLD MORTGAGES	57
ARTICLE 23 - QUIET ENJOYMENT	69
ARTICLE 24 - SURRENDER OF POSSESSION; HOLDING OVER	69
ARTICLE 25 - EXTENSION OF TERM	70
ARTICLE 26 - SUCCESSORS AND ASSIGNS	70
ARTICLE 27 - MISCELLANEOUS	71
ARTICLE 28 - NOTICES	76
ARTICLE 29 - RECORDING OF MEMORANDUM	77

#### EXHIBITS

EXHIBIT A - LEGAL DESCRIPTION OF NORTH PARCEL PREMISES	
EXHIBIT B - PERMITTED EXCEPTIONS	
EXHIBIT C - LEGAL DESCRIPTION OF JACKSON STREET PREMISES	

SUBLEASE AGREEMENT

SUBLEASE AGREEMENT (the "Lease") made April 27, 1989, between the Board of Education of the City of Chicago, a body politic and corporate, with an address at 1819 W. Pershing Road, Chicago, Illinois 60611 ("Lessor") and Heartland/Baryl (North Parcel) Joint Venture, an Illinois joint venture, with an address at 2220 South Indiana, Chicago, Illinois 60616 ("Lessee").

W I T N E S S E T H:

ARTICLE 1 - DEFINITIONS

As used in the Lease, the following terms and phrases shall have the meanings indicated:

Section 1.1. Adjacent Facilities - all sidewalks, vaults (other than utility vaults which are not within Lessee's control), alleys and curbs, in front of, adjacent to or appurtenant to the North Parcel Premises, up to the public streets.

Section 1.2. Alteration - defined in Section 13.1.

Section 1.3. Building and Improvements - the Proposed Building, or any replacement thereof constructed in accordance with the terms of this Lease, and all other structures and improvements of any nature (including all fixtures, equipment and personalty located therein or thereon and utilized in connection with the operation thereof, but excluding trade fixtures and

furniture and other personal property belonging to Lessee, the Manager or any Tenants), and all other site improvements, now or at any time hereafter located on the North Parcel Premises or the Jackson Street Premises.

Section 1.4. Casualty - defined in Section 11.1.

Section 1.5. Commencement Date - defined in Section 2.3.

Section 1.6. Construction Work - defined in Section 6.1.

Section 1.7. Default - any condition or event that constitutes or would constitute, after notice or lapse of time or both, an Event of Default.

Section 1.8. Default Rate - defined in Section 8.1.

Section 1.9. Expiration Date - defined in Section 2.3.

Section 1.10. Event of Default - defined in Section 19.1.

Section 1.11. Fixed Rent - defined in Section 7.2.

Section 1.12. Force Majeure - any act of God, war, strike, riot, civil disturbance, fire, earthquake or flood or other similar disaster, governmental act or other cause beyond the reasonable control of Lessee.

Section 1.13. Ground Lease - defined in Section 2.2.

Section 1.14. Ground Lessor - defined in Section 2.2.

Section 1.15. Guarantor(s) - Such person or persons, to be determined prior to the Commencement Date, as are reasonably acceptable to Lessor who shall provide a guaranty of completion of the Proposed Building pursuant to Section 6.2(c) of the Lease.

Section 1.16. Impositions - Defined in Section 9.1.

Section 1.17. Insurance Proceeds - defined in Section 11.3.

Section 1.18. Jackson Street Premises - defined in Section 2.2.

Section 1.19. Jackson Street Premises Lease - defined in Section 2.2.

Section 1.20. Leasehold Mortgage, Leasehold Mortgages, Leasehold Mortgagee and Leasehold Mortgagees - defined in Section 21.1.

Section 1.21. Lessee - Heartland-Baryl (North Parcel) Joint Venture, an Illinois joint venture, and any assignee (except for a collateral assignee) or transferee of Lessee's interest in this Lease, it being intended hereby that the covenants and obligations of Lessee hereunder shall be binding on Lessee, its successors and assigns, only during and in respect of their respective successive periods of ownership of the leasehold estate hereunder; provided, however, that any such assignee or ~~transferee~~ shall assume the obligations of the lessee hereunder in a document to be recorded in connection with such assignment or transfer. Notwithstanding anything in this Lease to the contrary, at all times during the Term hereof, the Lessee under

the Lease and the lessee under the Jackson Street Premises Lease shall be the same Person, and any purported assignment or transfer which violates or would violate such provision shall be void and of no effect.

Section 1.22. Lessor - the Board of Education of the City of Chicago and any assignee or transferee of Lessor's interest in this Lease, provided that in the event of any sale or transfer of Lessor's interest in the North Parcel Premises, the seller or transferor shall be and hereby is entirely freed and relieved of all covenants and obligations of lessor hereunder arising after such sale or transfer; provided that any such assignee or transferee shall assume the obligations of the lessor hereunder in a document to be recorded in connection with such assignment or transfer. Notwithstanding anything in the Lease to the contrary, at all times during the Term hereof, the Lessor under this Lease and the lessor under the Jackson Street Premises Lease shall be the same Person, and any purported assignment or transfer which violates or would violate such provision shall be void and of no effect.

Section 1.23. Manager - Such manager, marketing agent or leasing agent of the Proposed Building as is selected by Lessee and approved by Lessor in accordance with this Lease.

Section 1.24. North Parcel Premises - defined in Section 2.1.

Section 1.25. Person - any individual, proprietorship, corporation, partnership or other entity, as applicable.

Section 1.26. Proceedings - defined in Section 18.1.

Section 1.27. Proposed Building - defined in Section 2.2.

Section 1.28. Rent - defined in Section 7.1.

Section 1.29. Requirements - all present and future laws, statutes, rules, orders, ordinances, regulations, licenses, permits, approvals or other requirements having the force of law of any governmental, public or quasi-public authority (excluding Lessor) now existing or hereafter created having jurisdiction, and of any and all of their departments and bureaus, applicable to or affecting the North Parcel Premises, or, with respect to permits, licenses and governmental approvals, necessary to the conduct of Lessee's business in the Building and Improvements.

Section 1.30. Restoration - defined in Section 12.1.

Section 1.31. Sublease(s) - any and all leases or subleases of any part of the Building and Improvements.

Section 1.32. Surface Parking Lot - defined in Section 2.2.

Section 1.33. Tenant(s) - any and all lessees or sublessees of any part of the Building and Improvements.

Section 1.34. Term - defined in Section 2.3.

Section 1.35. The words "herein," "hereof", "hereunder" and words of similar import refer to the Lease as a whole and not to any particular Article, Section or Subsection thereof.

## ARTICLE 2 - PREMISES AND TERM

Section 2.1. Lessor hereby demises and leases to Lessee, upon the terms and conditions set forth in this Lease, the real property in the City of Chicago, County of Cook, State of Illinois described in Exhibit A attached hereto and made a part hereof (the "North Parcel Premises"), subject to the matters set forth in Exhibit B attached hereto and made a part hereof, together with all and singular the appurtenances, rights, easements, interests and privileges in anywise appertaining thereunto.

Section 2.2. Lessor is the owner of the parcel of real property located immediately adjacent to and to the north of the North Parcel Premises described in Exhibit C attached hereto and made a part hereof (the "Jackson Street Premises"). Lessor is entering into a certain Lease Agreement of even date herewith (the "Jackson Street Premises Lease") under which Lessor is leasing the Jackson Street Premises to Lessee, subject to the terms and conditions therein provided. Part of the North Parcel Premises and Jackson Street Premises are to be improved with a surface parking lot (the "Surface Parking Lot"). Pursuant and subject to Articles 2 and 6 of this Lease and the Jackson Street Premises Lease, Lessee subsequently may construct on part of the North Parcel Premises and the Jackson Street Premises an office and commercial building of not less than 600,000 gross square feet (the "Proposed Building"). In further consideration of and as a precondition of Lessor entering into the Jackson Street Premises



Lease, and to further assure Lessor of compliance by Lessee with the terms and conditions of the Jackson Street Premises Lease and to provide Lessor with additional remedies upon the occurrence of an Event of Default thereunder, Lessee has agreed, within the Jackson Street Premises Lease, to (i) cause the owner of the North Parcel Premises, American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated December 23, 1988, and known as Trust No. 106660-06 (the "Ground Lessor") to enter into a certain Ground Lease Agreement of even date herewith (the "Ground Lease") under which Lessor has leased the North Parcel Premises pursuant to the terms specified therein and (ii) enter into this Lease. Lessee hereby agrees to comply with and satisfy all of the obligations, covenants and conditions to be met or performed by the ground lessee under the Ground Lease (except for the payment of the Ten Dollar (\$10.00) per annum fixed rent thereunder for which Lessor shall remain responsible). The parties intend that, except for the payment of Fixed Rent hereunder, the obligations and liabilities of Lessee hereunder are also contained in the Jackson Street Premises Lease. Therefore, so long as Lessee has satisfied and paid such obligations and liabilities under the Jackson Street Premises Lease it will be deemed to be in compliance under this Lease; and, in the event of any noncompliance with, breach of or failure to pay such obligations or liabilities, it is understood that Lessor shall not be entitled to any double recovery with respect thereto by virtue of the existence of this Lease.

Section 2.3. The term of this Lease shall commence on May 9, 1990 (the "Commencement Date") and continue thereafter, unless sooner terminated in accordance herewith, until May 8, 2065 (the "Expiration Date") (the period from the Commencement Date until the termination of this Lease being the "Term" of this Lease). In the event the Ground Lessor terminates the Ground Lease pursuant to Section 1.3 of the Ground Lease, (i) this Lease shall terminate simultaneously with the termination of the Ground Lease and Lessor shall have no liability to Lessee as a result thereof, and (ii) Lessor and Lease agree to execute a memorandum in recordable form confirming the termination of this Lease and the effective date thereof.

### ARTICLE 3 - USE

Section 3.1. The North Parcel Premises may be used only for the specific purposes specified in Section 3.1 of the Jackson Street Premises Lease. The North Parcel Premises may not be used for any other purposes without the Lessor's prior written approval in accordance with and pursuant to Section 13.3 below.

Section 3.2. Lessee shall not use or permit any Person to use the North Parcel Premises or the Building and Improvements for any use or purposes in violation of any Requirements, or in any manner that violates any certificate of occupancy affecting the North Parcel Premises or the Building and Improvements, or contrary to any restriction contained in any recorded deed or plat affecting the North Parcel Premises or the Building and

Improvements, or that constitutes a public or private nuisance or waste, or for any immoral or indecent purpose.

Section 3.3. Lessee shall have the right at its own expense to contest, subject to the provisions of Section 27.8, any allegation by public authorities that Lessee, the North Parcel Premises or the Building and Improvements are in violation of any Requirements, any certificate of occupancy affecting the North Parcel Premises or the Building and Improvements, or any allegation that Lessee, the North Parcel Premises or the Building and Improvements are in violation of any restriction contained in any recorded deed or plat affecting the North Parcel Premises or the Building and Improvements.

Section 3.4. Lessee shall not permit the North Parcel Premises or the Building and Improvements or any portion thereof to be used by any Person in such manner which materially impairs Lessor's right, title and interest in the North Parcel Premises or the Building and Improvements or any portion thereof, or in such manner which gives rise to a claim or claims of adverse usage or adverse possession by any Person, which is not permitted by this Lease, or of a dedication of the North Parcel Premises or the Building and Improvements or any portion thereof for public use.

Section 3.5. [Intentionally omitted].

Section 3.6. Lessee agrees to use reasonable efforts to cause City of Chicago public high school student apprentices to

be involved in the construction of the Proposed Building (and any subsequent Restoration or Alteration in accordance herewith), and to use reasonable efforts to cause minority contracting and subcontracting firms to be hired in connection with the construction of the Proposed Building (and any subsequent Restoration or Capital Improvement).

Section 3.7. Lessee will not discriminate in the conduct and operation of its business conducted on the North Parcel Premises against any individual or group of individuals because of race, religion, color, sex, national origin or ancestry of such individual or group of individuals. Lessee agrees to include in its construction contract for the construction of the Proposed Building (or any subsequent Restoration or Alteration) a clause providing that the contractor thereunder will not discriminate against any individual or group of individuals because of their race, religion, color, sex, national origin or ancestry and requiring the contractor to include a similar clause in each subcontract. A similar non-discrimination clause shall be included in any and all agreements for the management of the Proposed Building, and in all leases to Tenants in the Proposed Building.

Section 3.8. Unless Lessor gives advance written consent, which shall not be unreasonably withheld or delayed (and if Lessor does not respond to any such request for consent within forty-five (45) days after receipt thereof, such consent shall be deemed to have been given), in each and every instance, Lessee

shall not use the Building and Improvements for housing accommodations or lodging or sleeping purposes, or use or permit to be brought into the Building and Improvements any inflammable oils or fluids such as gasoline, kerosene, naphtha and benzine, or any explosive, except for gasoline in the tanks of vehicles using parking facilities and except as may be used by Tenants of commercial space in the Proposed Building in the ordinary course of their businesses. Lessor's consent to the installation of any of the equipment referred to above shall not relieve Lessee from the obligation to use such equipment in a safe and prudent manner.

Section 3.9. Subleases of office and commercial space in the Proposed Building shall be upon such terms and conditions as are usual and customary for leases of comparable space in the immediate vicinity of the Proposed Building and at fair market rentals. Office and commercial space in the Proposed Building shall be open and available to Tenants at such times and pursuant to such restrictions as are usual and customary for office buildings in the immediate vicinity of the Proposed Building. Lessor hereby covenants to execute attornment and non-disturbance agreements when requested by Lessee with any and all Tenants who execute Subleases for office and commercial space in the Proposed Building.

Section 3.10. Any violation of this Article may be restrained by injunction.

#### ARTICLE 4 - NET LEASE

Section 4.1. Lessor and Lessee agree that this is a net lease, that Lessee accordingly shall be responsible for all obligations which are normally imposed on the owner of real estate (including obligations with respect to any Adjacent Facility undertaken by Lessee for the benefit of Lessor hereunder, provided that such undertakings shall in no event be deemed to have created any third party beneficiary rights in any other Person), and that the Rent is to be net to Lessor, without deduction, counterclaim or offset of any nature whatever. In no event shall there be any abatement or reduction in the Rent, except as may be otherwise specifically provided in this Lease.

Section 4.2. This Lease is made upon the foregoing and following covenants and agreements of Lessee, all of which Lessee agrees to perform irrespective of whether the particular provision is in the form of a covenant, an agreement, a direction or any other form of obligation under this Lease.

#### ARTICLE 5 - [INTENTIONALLY OMITTED]

#### ARTICLE 6 - CONSTRUCTION OF PROPOSED BUILDING

Section 6.1. Construction of the Proposed Building (the "Construction Work") shall be at the sole cost and expense of Lessee. Lessor in no event shall be obligated to expend any monies in connection with the Construction Work.

Section 6.2. Prior to the date upon which any portion of the Surface Parking Lot is no longer available for use as public parking as a result of construction of or preparation for construction of the Proposed Building (previously defined as the "Commencement Date"), Lessee shall:

(a) deposit with Lessor a guaranty of completion, in form and substance acceptable to Lessor, from the Guarantor(s), which guarantees, jointly and severally, the performance and completion of and payment for all of the Construction Work free and clear of all mechanics or similar liens, encumbrances and other charges (subject to Lessee's right to contest as provided in Section 27.8), and copies of current personal financial statements of the Guarantor(s) certified to be true and accurate in all material respects (which financial statements will be kept confidential by Lessor);

(b) furnish evidence reasonably satisfactory to Lessor that all governmental approvals necessary to commence and complete the Construction Work in accordance with the approved plans and specifications have been obtained, including without limitation issuance of a building permit;

(c) furnish to Lessor a copy of a fixed or guaranteed maximum contract in form reasonably satisfactory to Lessor made with a reputable and

responsible contractor reasonably satisfactory to Lessor, and providing for completion of the Construction Work within a fixed period of time, together with an assignment of such contract to Lessor, duly executed and acknowledged by Lessee and with a consent executed by the contractor, to be effective upon any termination of this Lease or upon Lessor's reentry upon the North Parcel Premises following an Event of Default prior to complete performance of such contract, and otherwise in form reasonably satisfactory to Lessor, which assignment shall be subject and subordinate to any prior assignment thereof to Lessee's mortgagee;

(d) deliver to Lessor (i) a schedule of the Construction Work to be performed, and (ii) as soon as available, the names and addresses of all subcontractors and material suppliers performing the Construction Work (copies of all subcontracts relating to the Construction Work shall be made available by Lessee for inspection by Lessor upon Lessor's reasonable request);

(e) deliver to Lessor certificates of insurance certifying the issuance of (i) a "builders all risk" insurance policy or policies, (ii) worker's compensation insurance coverage and (iii) a comprehensive general liability insurance policy or policies, in



form, content and amount reasonably satisfactory to Lessor, insuring Lessor and Lessee, and their respective agents and employees, where appropriate, against personal injury or property damage or loss or damage to third parties or their property from such hazards as are normally insured against in connection with the construction of buildings in the City of Chicago, State of Illinois; and

(f) submit to Lessor for approval plans and specifications for the Construction Work, prepared by a licensed architect reasonably approved by Lessor. Lessor shall review and approve or disapprove in whole or in part such plans and specifications submitted by Lessee as soon as practicable after their submission, and in any event within forty-five (45) working days from the date of submission. Lessor's approval of such plans and specifications, which shall not be unreasonably withheld, must be obtained in writing prior to the Proposed Building Construction Commencement Date; provided, however, that if Lessor does not provide Lessee with written approval or disapproval within forty-five (45) days from the date of submission, the requirements for Lessor's approval shall be deemed to be waived. No material change to said plans and specifications, as approved, shall be made thereafter without Lessor's prior written consent, which shall not be unreasonably withheld or delayed (and if Lessor does

not respond to any such request for consent within thirty (30) days after receipt thereof, such consent shall be deemed to have been given).

Section 6.3. Prior to commencement of the Construction Work, Lessee also shall provide Lessor with evidence reasonably satisfactory to Lessor that sufficient funds are available and committed to Lessee to pay for and complete the Construction Work. Such evidence may include an executed copy of a loan agreement and an executed copy of a binding loan commitment, reasonably acceptable to Lessor as to form and content and the identity of the lender making the loan.

Section 6.4. Lessee agrees that the Construction Work shall be undertaken, performed and completed in a good and workmanlike manner with first class materials, in compliance with all applicable Requirements (subject to Lessee's right to contest in good faith any asserted violation of such Requirements in accordance with Section 27.8 hereof) and substantially in accordance with the approved plans and specifications. Disbursements of the funds referred to in Section 6.3 shall be made through a construction escrow in form and substance, and with a title insurance company, reasonably satisfactory to Lessor. Lessee agrees to provide Lessor with copies of (a) any progress reports or certificates submitted to said lender in connection with the Construction Work and (b) any title insurance "datedown" endorsements issued by said title insurance company in connection with the disbursements from said construction escrow. During the

Construction Work, upon reasonable notice, Lessor and its agents and employees may have access to the construction site for inspection, provided that neither Lessor nor any of such agents or employees shall interfere with such construction during any such inspection and such right of inspection shall at all times be subject to applicable safety rules and execution and delivery of waivers or releases as are customary or may be generally required by Lessee or its contractors with respect to such construction. In addition, upon request by Lessor, Lessee shall request the architect in charge of the Construction Work (or the general contractor, if no architect is in charge of the Construction Work) to report in writing to Lessor as to whether the Construction Work is being done promptly and in a good and workmanlike manner and in compliance with the approved plans and specifications in all material respects.

Section 6.5. The Construction Work shall (a) be completed with reasonable dispatch after the Proposed Building Construction Commencement Date, (b) be completed substantially in accordance with plans and specifications approved by Lessor in writing prior to commencement of the Work in accordance with Section 6.2(f) above, and (c) be completed within the time period specified above free and clear of all mechanics' or similar liens, encumbrances and other charges, except those that Lessee is contesting in good faith subject to the provisions of Section 27.8. For purposes of this Section 6.5 of the Lease only, the Construction Work shall be deemed to have been completed when Lessee furnishes Lessor with (i) a certificate of substantial completion issued by

Lessee's architect, certifying that the Construction Work has been substantially completed in accordance with the approved plans and specifications and all applicable Requirements, (ii) a final certificate of occupancy from the City of Chicago, if applicable, and (iii) at Lessor's request, copies of a final and complete contractor's sworn statement, a final and complete contractor's affidavit and lien waivers (except as to matters which are being contested in good faith by Lessee in accordance with the terms of this Lease). Upon completion of the Construction Work, Lessee also shall provide Lessor with a final "as built" survey from a licensed professional surveyor showing the completed construction and no encroachments or violations of building lines except as may be reasonably required in connection with sub-surface caissons or building supports.

#### ARTICLE 7 - RENT

Section 7.1. Lessee shall pay to Lessor, at the office of the Lessor or at such other place as Lessor may designate in writing, by means of legal tender for public or private debts in the United States of America or by good check (to be received by Lessor subject to collection), the Fixed Rent provided for under this Article, and any and all other amounts required to be paid by Lessee to Lessor under this Lease, all of which, together with all other amounts payable under this Lease including without limitation all Impositions, insurance premiums, charges, costs and expenses, are herein collectively referred to as the "Rent". All Rent payable to Lessor under this Lease shall be

paid without notice or demand (except as otherwise contemplated hereby), and, as provided in Article 4 hereof, shall be paid without abatement, reduction, deduction, counterclaim, or offset. No payment by Lessee or receipt by Lessor of an amount less than the Rent due shall be deemed to be other than on account of the stipulated Rent, nor shall any endorsement or any check or any letter accompanying such payment of Rent be deemed an accord and satisfaction, but Lessor may accept such payment without prejudice to its rights to collect the balance of such Rent.

Section 7.2. Lessee agrees to pay to Lessor as "Fixed Rent" for the North Parcel Premises the sum of Ten Dollars (\$10.00) per year, payable in advance on or before the Commencement Date and each anniversary of the Commencement Date during the Term.

#### ARTICLE 8 - DEFAULT RATE

Section 8.1. If any payment of Rent payable to Lessor or any part thereof shall not be made on or prior to the expiration of any grace period provided for hereunder with respect to such payment, the same shall bear interest until paid at the rate (the "Default Rate") of Four Percent (4%) per annum in excess of the "Corporate Base Rate" announced from time to time by The First National Bank of Chicago (or, if the announcement of such Corporate Base Rate by said Bank is discontinued during the Term, such comparable rate of interest announced by any comparable financial institution, as Lessor may reasonably designate), such Default Rate to change automatically and continuously with any change in the announced Corporate Base Rate. In the event of non-payment

of any interest so accruing on any past due Rent, Lessor shall have all rights and remedies provided for in this Lease and by law in the case of non-payment of Rent. No failure by Lessor to insist upon strict performance by Lessee of its obligations to pay interest at the Default Rate shall constitute a waiver by Lessor of its rights to enforce the provisions of this Section in any instance thereafter, nor shall acceptance of any such interest be deemed to extend the time of payment of Rent or any part thereof under this Lease.

Section 8.2. The provision for interest accrual and payment on past due Rent in Section 8.1 shall not limit or affect Lessor's other remedies against Lessee under this Lease or under law, including but not limited to Lessor's right to charge Lessee for all costs and expenses (including reasonable attorney's fees) incurred in connection with the collection of Rent and interest thereon from Lessee.

#### ARTICLE 9 - IMPOSITIONS

Section 9.1. Lessee covenants and agrees to pay, before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all real estate taxes, assessments, permit and license fees and taxes, water rates and charges, sewer rents, vault rents or charges, and other governmental charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, including, but not limited to, assessments for public improvements, or benefits, which shall during the Term hereby demised become due or payable

upon the North Parcel Premises, the Jackson Street Premises, or the Building and Improvements, or any part thereof, the use or occupation thereof, or upon the owner or occupants in respect thereof or upon any owner of the North Parcel Premises, the Jackson Street Premises or the Building and Improvements, by reason of ownership thereof during the Term of this Lease. All of such taxes, assessments, permit and license fees and taxes, sewer rents, vault rents or charges, water rate or charges, levies and other governmental charges are herein called "Impositions." If, by law, any such Imposition is payable, or may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Lessee may pay the same, together with any accrued interest on the unpaid balance of such Imposition, in installments as the same respectively become due and before any fine, penalty, interest or cost may be added thereto for the non-payment of any such installment and interest. Any Imposition relating to a fiscal period of the taxing authority, a part of which period is included within the Term of this Lease, and a part of which is included within a period of time before the commencement or after the termination of the Term of this Lease (whether or not, during the Term of this Lease, such Imposition shall be laid, assessed, levied, confirmed, or imposed upon or become due or payable or a lien upon the North Parcel Premises, the Jackson Street Premises, or the Building and Improvements, or any part thereof), shall be adjusted as between Lessor and Lessee as of the termination of the Term of this Lease, so that Lessor

shall pay that proportion of such Imposition which that part of such fiscal period included in the period of time before the commencement or after the termination of this Lease bears to such fiscal period, and Lessee shall pay the remainder thereof. With respect to any Imposition for public improvements or benefits which by law is payable in installments and Lessee shall pay for those installments which become due and payable during the Term of this Lease, subject to proration as aforesaid.

Section 9.2. If, at any time during the Term of this Lease, a tax or excise on rents or other tax, however described, is assessed or levied by the State of Illinois, County of Cook, or City of Chicago, or other governmental taxing authority against Lessor or the rent expressly reserved under this Lease, as a substitute, in whole or in part, for taxes assessed or imposed on land and buildings, Lessee covenants to pay and discharge such tax or excise on rents or other tax but only to the extent of the amount thereof which, so far as is ascertainable, is a substitute, in whole or in part, for taxes assessed or imposed on land and buildings, and as lawfully assessed or imposed upon Lessor and which was so assessed or imposed as a direct result of Lessor's interest in the North Parcel Premises, or the Building and Improvements, or of this Lease or of the Rent accruing under this Lease, it being the intention of the parties hereto that the Rent to be paid hereunder to Lessor shall be paid in full and without deduction of any amount whatsoever. Lessor and Lessee each agree to notify the other if either becomes aware of any such substitute tax. In the event such tax or excise on Rent or



other tax, however described, assessed, or levied against Lessor or the Rent is a substitute in whole for taxes assessed or imposed on land and buildings as aforesaid, Lessee shall pay such tax in the manner, within the time, and otherwise in accordance with, the applicable provisions of this Article 9. In the event such tax or excise is a substitute only in part for taxes assessed or imposed on land and buildings as aforesaid, Lessee shall not be required to pay such substitute tax or excise until such time as Lessor shall have determined and notified Lessee of the amount or portion thereof that is a substitute for taxes assessed or imposed on land and buildings as aforesaid. The payment to be made by Lessee pursuant to this Section 9.2 shall be made before any fine, penalty, interest or cost may be added thereto for the non-payment thereof. Such tax or excise on Rent or other tax shall be deemed to be an "Imposition," as defined in Section 9.1.

Section 9.3. Nothing in this Lease shall require Lessee to pay any franchise, corporate, estate, inheritance, succession, capital levy or transfer tax of Lessor, or, except to the extent provided in this Article 9, any income, profits or revenue tax or any other tax, assessment, charge or levy upon the rents payable by Lessee under this Lease.

Section 9.4. Lessee shall have the right at its own expense to contest the amount or validity of any Imposition by appropriate proceedings diligently conducted in good faith, subject to the provisions of Section 27.8, but only after payment of such

Imposition unless such payment would operate as a bar to such contest or interfere with the prosecution thereof. If no notice of a Default from Lessor to Lessee has been given and is outstanding as of the conclusion of any such contest proceedings, Lessee shall be authorized to collect any refund obtained in such contest, subject to Lessee's obligation to pay Lessor's pro rata share thereof (if any) to Lessor under Section 9.1.

Section 9.5. Lessee shall furnish to Lessor within fifteen (15) days after the due date of any Imposition copies of official receipts of the proper taxing authority or other proof reasonably satisfactory to Lessor evidencing payment thereof, except that any receipt covering an installment of general real estate taxes payable in installments need not be submitted until thirty (30) days after the due date of such installment. If Lessee shall desire to retain any such receipt for purposes of contesting or obtaining a redemption or abatement of the Imposition to which it relates, Lessee may furnish a photocopy of such receipt to Lessor in lieu of the original thereof and shall thereafter exhibit such original to Lessor upon request of Lessor.

Section 9.6. A certificate, advice or bill indicating the non-payment of any Imposition, issued by the appropriate official designated by law to make or issue the same or to receive payment of such Imposition, shall be prima facie evidence that the Imposition is due and unpaid at the time of issuance of such certificate, advice or bill.

ARTICLE 10 - MAINTENANCE, REPAIRS AND COMPLIANCE

Section 10.1. Lessee at its sole expense shall take good care of the North Parcel Premises and the Building and Improvements and, if not so maintained by any other party having legal responsibility therefor, all sidewalks, alleys and curbs in front of, adjacent to or appurtenant to the North Parcel Premises up to the public streets, and will keep and maintain the same in clean, good and safe order and condition, and reasonably free from dirt, snow, ice, rubbish and undue obstruction, and shall make all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary to keep the same in such condition, excepting ordinary wear and tear and casualty or condemnation (subject to Articles 12 and 18). Lessee shall not commit or suffer, and shall use reasonable precautions to prevent, waste, damage or injury to the foregoing.

Section 10.2. Lessee at its own cost and expense shall also keep the Building and Improvements fully and adequately furnished and equipped throughout the term of this Lease with all equipment, fixtures and articles of personal property necessary for the operation thereof for the purposes herein permitted, and shall make all necessary replacements, renewals, alterations and additions required to maintain all portions of the North Parcel Premises and the Building and Improvements thereon in good condition, excepting wear and tear and casualty or condemnation (subject to Articles 12 and 18).

Section 10.3. Lessee at its own cost and expense also shall promptly comply (subject to its right to contest under Section 3.3) with any and all Requirements applicable to or affecting the North Parcel Premises or the Building and Improvements, irrespective of the nature of the work required to be done, extraordinary as well as ordinary, whether or not the same involve or require any structural changes or additions in or to the North Parcel Premises or the Building and Improvements and irrespective of whether or not such changes or additions be required on account of any particular use to which the North Parcel Premises or the Building or Improvements or any part thereof are being put.

Section 10.4. Lessor shall not be required to furnish any services or facilities whatsoever to the North Parcel Premises or the Building and Improvements. Lessee hereby assumes full and sole responsibility for condition, operation, repair, alteration, improvement, replacement, maintenance and management (subject to Article 15 hereof) of the North Parcel Premises and the Building and Improvements thereon. Lessor shall not be responsible for any loss or damage to the person or property of Lessee, any partner thereof, Manager, any concessionaire or Tenant, any guests or invitees, any Persons using or working on the Building and Improvements, or any Persons claiming by through or under, or any agents, employees, heirs, legal representatives, successors or assigns of, any of the foregoing.

ARTICLE 11 - INSURANCE

Section 11.1. In addition to the insurance policies required under other provisions of this Lease, Lessee at its own expense shall effect and maintain the following policies of insurance at all times during the Term of this Lease:

(a) Insurance covering the Building and Improvements against loss or damage by fire and from such other hazards as may be covered by the standard form of extended coverage and vandalism and malicious mischief coverage then in effect (including specifically water damage and legal liability) and such other hazards or risks which a prudent businessman would insure against, in an amount equal to the full replacement value from time to time of the Building and Improvements, without deduction for depreciation;

(b) Comprehensive general public liability insurance against claims for personal injury, death, and property damage occurring in or about the North Parcel Premises, or the Building and Improvements;

(c) Worker's Compensation insurance;

(d) Business interruption insurance; and

(e) Such other insurance against other insurance hazards that are at the time commonly insured against in the case of property similarly situated.

Section 11.2. All policies of insurance under Section 11.1 shall be written by companies licensed to do business in the State of Illinois, having a Best's Rating of A or better and a financial size category of Class VII or above, and shall name as additional insureds Lessor, Lessee and the Manager (and their respective agents and employees), as their interests may appear. Except as otherwise provided in Section 11.1, such insurance policies shall be in such amounts (which amounts shall be reviewed and adjusted, if appropriate, from time to time, but at least every three (3) years), and contain such deductible provisions, as a responsible and prudent owner or operator of property similarly situated would reasonably determine to be sufficient and adequate to protect Lessor, Lessee and the Manager against the risks insured thereunder, in light of then current market standards. Certificates, in customary and usual form and substance, evidencing such policies shall be delivered to Lessor prior to the commencement of the Term, and certificates in customary and usual form and substance, evidencing renewal policies, shall be delivered to Lessor by Lessee not less than fifteen (15) days prior to the expiration of the then current policies, together with receipts or other evidence that the premiums thereon have been paid for at least one (1) year. Each policy of insurance under this Article 11 shall bear an endorsement that such policy shall not be cancelled or modified without at least thirty (30) days' prior written notice to Lessor and shall contain a provision that no act or omission of Lessee or

Manager shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained.

Section 11.3. The proceeds of insurance paid or payable with respect to any loss insured against under the coverages referred to in Subsection 11.1(a) above are herein referred to as "Insurance Proceeds." Lessee alone shall have the right to adjust any such loss. The Insurance Proceeds shall be paid and disbursed pursuant to the provisions of Section 12.4 subject to the rights of any mortgagee holding a leasehold mortgage as contemplated by Article 22 of this Lease provided that any such mortgage shall provide for application of Insurance Proceeds to a Restoration of the Building and Improvements in the event of a casualty as provided in Article 12 hereinafter.

Section 11.4. Lessee shall not carry separate insurance concurrent in form or contributing in the event of loss with that required by this Lease unless Lessor is included therein as an additional insured with loss payable as provided in this Lease.

Section 11.5. Lessee shall perform and satisfy all requirements of the companies writing any insurance policies referred to in this Lease.

## ARTICLE 12 - CASUALTY/RESTORATION

Section 12.1. In the event that the Building and Improvements, or any part thereof, are damaged or destroyed by any fire, explosion or any other casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, insured or uninsured

(any of which is herein referred to as a "Casualty"), Lessee, at its own expense, whether or not any Insurance Proceeds are sufficient for the purpose, promptly shall repair, alter, replace and rebuild the Building and Improvements (such work being herein-after called "Restoration") at least to the extent of the value and as nearly as practicable to the utility, condition and character of the Building and Improvements existing immediately prior to such occurrence. Lessor in no event shall be called upon to do or perform any Restoration, nor to pay any of the costs or expenses thereof. Lessee shall complete the Restoration as soon as is reasonably possible.

Section 12.2. If the cost of any Restoration exceeds \$500,000 in the aggregate, Lessee agrees at least thirty (30) days prior to the commencement of any work of Restoration (including any demolition necessary in connection therewith) to furnish to Lessor the following:

(a) complete plans and specifications for the Restoration prepared by a licensed architect, which plans and specifications shall be and become Lessor's sole and absolute property in the event that this Lease shall be terminated for any reason;

(b) a certificate of said architect that following a restoration in accordance with said plans and specifications, and pursuant to the construction contract hereinafter described, the Building and Improvements will be restored as nearly as practicable to their



size, utility, condition and character, existing immediately prior to the Casualty;

(c) a copy of a fixed-sum or guaranteed maximum contract made with a reputable and responsible contractor, providing for the erection, completion and terms of payment for all work, labor and materials necessary to perform the work of Restoration within a fixed period provided for in said contract; together with an assignment to Lessor of such contract, duly executed and acknowledged by Lessee and with a consent executed by the contractor, to be effective upon any termination of this Lease or upon Lessor's reentry upon the North Parcel Premises following an Event of Default prior to complete performance of such contract, and otherwise in form reasonably satisfactory to Lessor, which assignment shall be subject and subordinate to any prior assignment thereof to Lessee's mortgagee; and

(d) a surety company completion bond, or other security reasonably satisfactory to Lessor, guaranteeing the full completion of the Restoration and payment therefor within a reasonable time, free and clear of all mechanics' or similar liens, encumbrances or other charges, in accordance with the aforesaid plans and specifications.

Section 12.3. In connection with any Restoration, irrespective of the cost thereof:

(a) Lessee at its expense shall carry or cause to be carried necessary worker's compensation insurance and a "builder's all risk" insurance policy; and

(b) Lessee shall procure all necessary permits of all governmental departments having jurisdiction.

Lessee shall deliver evidence of compliance with the foregoing requirements to Lessor prior to the commencement of the Restoration. Whenever reasonably requested by Lessor during the period of Restoration, Lessee shall cause the architect in charge of the Restoration (or if there is no architect in charge, the general contractor performing the work) to report in writing to Lessor as to whether the work is being done promptly and in a good and workmanlike manner and in substantial compliance with the plans and specifications for Restoration. Lessee also shall deliver to Lessor (i) copies of any and all interim or progress certificates or other reports submitted by Lessee's architect, engineer or contractor to any third party, such as (but not limited to) mortgagees or banks, and, (ii) copies of any title insurance "date-down" endorsements issued by a reputable title insurance company in connection with the Restoration.

Section 12.4. If the cost of any Restoration exceeds \$500,000 in the aggregate, the Insurance Proceeds shall be deposited in an escrow with (i) a reputable title company or (ii) other depository mutually acceptable to Lessor and Lessee, to be disbursed to or at the direction of Lessee in respect of such

Restoration upon such reasonable conditions as may be imposed in the escrow agreement with said escrowee, including without limitation the following:

(a) To the extent that the construction contract price exceeds the net Insurance Proceeds received by Lessor, no Insurance Proceeds shall be payable to Lessee until Lessee shall have performed and paid for so much of the Restoration that the cost or estimated cost of the remaining Restoration shall not exceed the Insurance Proceeds then held by said escrowee.

(b) Each request by Lessee shall be accompanied by:

(i) a certificate of the architect in charge of the Restoration, stating that the sum requested is justly due to the contractors, subcontractors, materialmen, laborers, engineers, architects and other persons supplying services or materials in connection with the work or is justly required to reimburse Lessee for expenditures made by it in connection with the Restoration, and that the remaining Insurance Proceeds after honoring such request will be sufficient to complete and pay for the Restoration in full, lien-free;

(ii) a sworn statement by the general contractor supporting and consistent with the foregoing certificate;

(iii) waivers of lien from all contractors, subcontractors and materialmen who are shown by the last, previous or final sworn statement to have furnished labor or materials in connection with the Restoration; and

(iv) an official search or a certificate of a reputable title insurance company showing that no liens have been filed affecting the North Parcel Premises or the Building and Improvements in connection with the Restoration or otherwise.

In connection with each disbursement of Insurance Proceeds, said escrowee shall withhold an amount as a retention as determined by Lessee in its reasonable judgment to be customary and appropriate at the time the construction contract is executed. Upon substantial completion of and payment for the entire Restoration by Lessee, said escrowee shall pay over any amounts so withheld to Lessee. Any and all costs and expenses incurred in connection with disbursements, including without limitation all attorneys fees, title charges and costs of said escrowee, shall be borne by Lessee.

- If the Insurance Proceeds are paid to any mortgagee as permitted under Section 11.3, such mortgagee shall make such Insurance Proceeds available to Lessee for Restoration upon terms and conditions, and in accordance with disbursement procedures, which

are comparable to those set forth above for disbursement hereunder; and the leasehold mortgage held by any such mortgagee shall contain a provision substantially to the foregoing effect.

Section 12.5. If any Restoration is not carried on or completed in accordance with the provisions of this Article 12, or if a Default under this Lease shall have occurred with respect to which Lessor shall have given notice to Lessee, Lessor shall have the right (whether or not this Lease shall then be terminated) to cause any remaining Insurance Proceeds to be applied to the completion of the Restoration or curing of the Default.

Section 12.6. This Lease shall not be affected in any manner by reason of the total or partial damage or destruction of the Building and Improvements on the North Parcel Premises or any part thereof, or by reason of the untenantability of any part or all of the North Parcel Premises for any reason whatsoever (except for condemnation as hereinafter provided), and Lessee waives any and all rights to quit or surrender the North Parcel Premises or any part thereof by reason of such damage, destruction or untenantability, notwithstanding any law or statute, present or future. Lessee's obligations hereunder, including the obligation to pay Rent, shall continue as though none of said events had occurred, without abatement, suspension, diminution or reduction of any kind.

ARTICLE 13 - ALTERATIONS; OWNERSHIP  
OF BUILDING AND IMPROVEMENTS

Section 13.1. Except for the Construction Work contemplated by Article 6 hereof, and subject to Section 13.3 below, Lessee shall not remove, demolish, replace, alter or repair the Building and Improvements, or any part thereof (any such action being hereinafter referred to as an "Alteration") unless Lessee shall comply with the following requirements, which shall be applicable to all Alterations, except those involved in a Restoration (as to which Article 12 shall apply):

(a) If the estimated cost of any single Alteration shall exceed \$500,000, Lessee shall deposit the funds necessary to complete the Alteration with (i) a reputable title company or (ii) other depository mutually acceptable to Lessor and Lessee, or provide to Lessor a surety bond, marketable securities or such other security for completion of the Alteration as Lessor shall reasonably require, and comply with the same requirements as though such Alteration were a Restoration under Sections 12.2 and 12.4.

(b) Regardless of the cost of the Alteration, Lessee shall comply with the same requirements as though such Alteration were a Restoration under Section 12.3.

(c) The Alteration shall be made promptly, in a good and workmanlike manner, in compliance with all Requirements and plans and specifications, and shall not lessen the value of the North Parcel Premises.

Section 13.2. Throughout the Term, the ownership of the Building and Improvements shall be governed by the provisions of the Jackson Street Premises Lease, but that portion of the Building and Improvements located on the North Parcel Premises shall be subject to Lessor's reversionary interest under this Lease and Ground Lessor's reversionary interest under the Ground Lease.

Section 13.3 Lessee may desire to use the North Parcel Premises and the Jackson Street Premises for a lawful use other than those specifically allowed pursuant to Section 3.1 hereof. It is understood that such new use is subject to the prior written approval of Lessor and to such reasonable terms and conditions as Lessor may impose in connection therewith, including, for example, those imposed for construction in connection with the Construction Work under Article 6 hereof and a Restoration under Article 12.

#### ARTICLE 14 - LIENS

Section 14.1. Lessee shall not create or permit to be created, or to remain, and shall promptly discharge, any lien (including but not limited to any mechanic's, materialman's or similar lien, but excluding any leasehold mortgage permitted

under Article 22 and any lien arising solely from Lessor's acts or Lessor's failure to act) upon the North Parcel Premises or the Building and Improvements or any part thereof or the income therefrom or any personal property used in connection with the operation thereof, and Lessee shall not suffer any other matter or thing whereby the estate, rights and interest of Lessor in the North Parcel Premises or the Building and Improvements or any part thereof might be impaired, except as permitted by this Lease. Notwithstanding the foregoing prohibitions, Lessee shall have the right to contest in good faith any such lien, subject to compliance with the provisions of Section 27.8.

Section 14.2. If Lessee shall fail to cause any such lien to be discharged of record, or contested in the foregoing manner, then Lessor, in addition to any other right or remedy, may, but shall not be obligated to, discharge such lien either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or bonding proceedings. Any amount so paid by Lessor and all costs and expenses incurred by Lessor in connection therewith shall constitute Rent under this Lease, payable to Lessor within thirty (30) days of demand therefor, with interest at the Default Rate from the date of such payments by Lessor.

Section 14.3. This Lease shall constitute notice that Lessor shall not be liable for any work performed or to be performed, or any materials furnished or to be furnished, at the North Parcel Premises or the Building and Improvements for Lessee



or any other Person (including without limitation any Tenant) upon credit, and that no mechanic's or other lien for such work or materials shall attach to or affect the estate or interest of Lessor in and to the North Parcel Premises or the Building and Improvements, unless specifically ordered by Lessor in writing.

Section 14.4. Lessor's right, title and interest in and to the North Parcel Premises and the Building and Improvements shall in no event be subordinate or inferior to any lien, mortgage or other encumbrance; and Lessee shall have no power to do any act or make any contract that may create or be the foundation for any lien, mortgage or other encumbrance upon the reversion or other interest of Lessor in the North Parcel Premises or the Building and Improvements or any part thereof.

#### ARTICLE 15 - MANAGEMENT

Section 15.1. Subject to Lessor's approval pursuant to Section 15.2, Lessee may contract to have the operation of the Proposed Building managed by a Manager. Lessee shall deliver to Lessor an assignment to Lessor of any such management contract, duly executed and acknowledged by Lessee and Manager, to be effective upon any termination of this Lease or reentry upon the North Parcel Premises following an Event of Default, and otherwise in form reasonably satisfactory to Lessor, which assignment shall be subject and subordinate to any such prior assignment in favor of Lessee's mortgagee.

Section 15.2. Lessee shall not enter into nor amend any contract for the management of the Proposed Building without the prior written consent of Lessor. Lessor hereby agrees that it will consent to a contract for the management of the Proposed Building if the Manager (a) has been in the business of managing office buildings for at least the previous ten years, (b) has managed office buildings with at least a cumulative total of 500,000 rentable square feet within a fifty (50) mile radius of the Proposed Building during such ten-year period, and (c) has no principals (a full and complete list of which shall be furnished by Lessee to Lessor at the time of the request for Lessor's approval of such management contract) who have been convicted of any felony or misdemeanor (other than traffic or other similar minor violations) criminal offense. Notwithstanding anything in the immediately preceding sentence to the contrary, Lessor agrees that it will also consent, which consent will not be withheld or delayed except for good cause, to the management of the Proposed Building by Lessee itself or an entity affiliated with Lessee if (a) the fees for such management services charged by Lessee or such affiliate are competitive at all times with those charged by other office building managers operating comparable facilities in the vicinity of the Proposed Building, as evidenced by at least three (3) bids for such management services from unaffiliated office building managers and such other evidence as Lessor reasonably requests; but in no event shall the fees charged by Lessee or such affiliate for such management services at any time exceed five percent (5%) of the Gross Receipts from the operation

of the Proposed Building, and (b) no principal of Lessee or any such affiliate (a full and complete list of which shall be furnished by Lessee to Lessor at the time of request for Lessor's approval of such management contract) shall have been convicted of any felony or misdemeanor (except for traffic or other similar minor violations) criminal offense.

Section 15.3. Lessee shall promptly deliver to Lessor true, correct and complete copies of any management contracts or amendments to such contracts approved by Lessor as provided in Section 15.2, together with assignments of such agreements similar to that described in Section 15.1.

#### ARTICLE 16 - LESSOR'S RIGHTS OF INSPECTION

Section 16.1. During the Term, Lessor shall have the right during usual business hours and upon reasonable notice to Lessee (except as hereinafter provided) to enter the North Parcel Premises and the Building and Improvements:

(a) for purposes of inspection to determine Lessee's compliance with this Lease; or

(b) if an Event of Default occurs, for purposes of curing such Default (except that if a Default occurs which results in a situation that is, in Lessor's reasonable judgment, an emergency jeopardizing the safety of the North Parcel Premises or the Building and Improvements, Lessor shall not be required to give any notice before entry).

Section 16.2. Lessor's rights under this Article 16 may be exercised on its behalf by any authorized agents designated by Lessor.

ARTICLE 17 - OTHER COVENANTS OF LESSEE

Section 17.1. If any excavation or other building operation shall be made upon the North Parcel Premises or any adjoining property, Lessee agrees to assume all obligations of both the owner and the occupant of the North Parcel Premises with respect to shoring and lateral support to do all things necessary to preserve and protect the North Parcel Premises for the same purpose to the extent provided or required by law.

Section 17.2. Lessee shall not sign any petition, consent or other instrument in writing whereby any party other than Lessee, or those claiming under it, shall hereafter directly or indirectly acquire the right to use or occupy any portion of any street, driveway or alley that abuts the North Parcel Premises, or the space above or under the surface thereof, which instrument, or any actions taken pursuant to or in accordance with such instrument, has or may have an adverse affect on the interest of the titleholder of the North Parcel Premises or the income, proceeds or avails therefrom, or which instrument extends beyond the termination (by expiration or otherwise) of the term of this Lease or of Lessee's possession of the North Parcel Premises, without Lessor joining in such instrument or consenting in writing to the execution thereof, which consent shall not

unreasonably be withheld or delayed (and if Lessor does not respond to any such request for consent within forty-five (45) days after receipt thereof, such consent shall be deemed to have been given).

Section 17.3. Lessee shall not enter into any party wall or similar agreement affecting the North Parcel Premises or the Building and Improvements without Lessor's prior written consent, which consent shall not unreasonably be withheld or delayed (and if Lessor does not respond to any such request for consent within forty-five (45) days after receipt thereof, such consent shall be deemed to have been given).

Section 17.4. Neither Lessee nor Lessor shall enter into any easement agreements affecting the North Parcel Premises, the Jackson Street Premises, any Adjacent Facility or the Building and Improvements without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed (and if Lessor does not respond to any such request for consent within forty-five (45) days after receipt thereof, such consent shall be deemed to have been given); provided, however, that Lessee need not obtain Lessor's consent to any easement agreement which does not extend beyond the termination (whether by expiration or otherwise) of the Term of this Lease or of Lessee's possession of the North Parcel Premises. Within a reasonable period of time after Lessor's request therefor (such period of time not to exceed forty-five (45) days), Lessor shall join in such utility easement agreements as are necessary or appropriate in connection

with the construction and implementation of the Proposed Building, and in easement agreements to be applicable during the Term of the Lease only providing for access from Jackson Boulevard to the property south of the North Parcel Premises.

Section 17.5. Lessee shall have the right to enter into an agreement for the lease, license or other disposition of air rights appurtenant to the North Parcel Premises, the Jackson Street Premises or the Building and Improvements, or any part thereof, provided that (a) Lessee shall pay to Lessor a percentage of any and all receipts, revenues, rents, proceeds or avails of every kind or nature whatsoever received in respect of such lease, license or other disposition of such air rights, as provided in Section 17.5 of the Jackson Street Premises Lease, such amount to be payable immediately after receipt thereof by Lessee, and (b) no such agreement may be entered into without Lessor's prior written consent (and if Lessor does not respond to any such request for consent within forty-five (45) days after receipt thereof, such consent shall be deemed to have been given) if such proposed agreement extends beyond the termination (whether by expiration or otherwise) of the Term of this Lease or of Lessee's possession of the North Parcel Premises.

#### ARTICLE 18 - CONDEMNATION

Section 18.1. If during the Term, as the result of the exercise of the right of condemnation or eminent domain by a competent authority (hereinafter called "Proceedings"), either (a) all of the North Parcel Premises, the Jackson Street Premises

and the Building and Improvements shall be taken or (b) such portion thereof shall be taken such that the remaining portion thereof cannot practicably be rehabilitated to permit substantial business operations by Lessee thereon, this Lease, and all interest of Lessee in the North Parcel Premises, shall terminate on the date that Lessee discontinues business operations by reason thereof, and Lessee shall pay to Lessor all Rent and other charges payable by Lessee, justly apportioned to the date of such termination. The condemnation award shall be apportioned as provided in Section 18.2 of the Jackson Street Premises Lease.

Section 18.2. [Intentionally omitted].

Section 18.3. If during the Term as the result of Proceedings a portion of the North Parcel Premises, Jackson Street Premises or the Building and Improvements shall be taken, but the portion thereof not so taken can practicably be rehabilitated to permit substantial business operations by Lessee thereon, this Lease shall terminate only as to the portion so taken on the date of payment of the award in the Proceedings, but shall continue in full force and effect as to the part not so taken. If the rehabilitation required to permit substantial business operations by Lessee involves construction work to repair or restore the Building and Improvements, such rehabilitation promptly shall be commenced and completed by Lessee in accordance with the provisions of Article 12 as though such rehabilitation were a Restoration thereunder.

Any award made in any such proceeding shall be divided, and if the taking results in diminished income from the operations in the Building and Improvements, Rent will be abated, as provided in Section 18.3 of the Jackson Street Premises Lease.

Section 18.4. Except as provided hereinafter with respect to the Building and Improvements, the security interest of any Leasehold Mortgagee then holding a Leasehold Mortgage as contemplated by Article 22 of this Lease shall attach only to Lessee's portion of any such condemnation award and Lessor shall be entitled to receive its portion of any such award free of any claim or interest of any such mortgagee.

ARTICLE 19 - DEFAULTS; TERMINATION; RE-ENTRY

Section 19.1. Each of the following shall be an "Event of Default":

(a) Lessee's failure to pay any installment of Fixed Rent when due, and the continuance of such failure for a period of ten (10) days after written notice from Lessor specifying such failure, or for a period of sixty-five (65) days after the due date of such payment whether or not such written notice is given;

(b) Lessee's failure to pay any other amounts required to be paid by Lessee under this Lease when due, and the continuance of such failure for a period



of twenty (20) days after written notice from Lessor specifying such failure;

(c) Lessee's failure to observe or perform one or more of the other terms, conditions, covenants or agreements of this Lease and the continuance of such failure for a period of thirty (30) days after written notice from Lessor specifying such failure (unless such failure relates to work required to be performed, acts to be done, or conditions to be removed that cannot by their nature reasonably be performed, done or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist so long as Lessee shall have commenced curing the same within such thirty (30) day period and shall diligently and continuously prosecute the same to completion within one hundred fifty (150) days after such written notice);

(d) filing or execution or occurrence of:

(i) a petition in bankruptcy by or against Lessee;

(ii) a petition or answer by or against Lessee, seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or other relief of the same or different kind under any provision of any bankruptcy act;

(iii) entry of an order of relief in a bankruptcy proceeding against Lessee under the United States Bankruptcy Code, 11 U.S.C. Sections 301, 302 or 303, or any successor provisions thereto;

(iv) an assignment by Lessee for the benefit of creditors;

(v) a petition or other proceeding by or against Lessee for, or the appointment of, a trustee, receiver, guardian, conservator or liquidator of Lessee with respect to all or substantially all of its properties; or

(vi) a petition or other proceeding by or against Lessee for dissolution or liquidation or the taking of possession of its properties by any governmental authority in connection with dissolution or liquidation;

and, in the case of petitions filed against Lessee under (i), (ii), (v) or (vi), the entry of any order, whether interlocutory or final, and whether appealable or not, granting any of the relief sought by the petitioner as described in (i), (ii), (v) or (vi) above;

(e) filing or execution or occurrence of any of the events listed in Subsections 19.1(d)(i) - (vi) by or against the Manager if, within ninety (90) days

after such filing or execution or occurrence (and non-dismissal if applicable), Lessee has not replaced such Manager by another operator meeting the standards set forth in, and otherwise in accordance with, Article 15;

(f) abandonment of the North Parcel Premises or the Building and Improvements; or

(g) the taking by any Person of Lessee's interest in this Lease, or any general partnership interest in Lessee, upon execution, attachment or other process of law or equity; or

(h) the occurrence of an Event of Default under the Jackson Street Premises Lease.

Section 19.2. If any Event of Default shall occur, Lessor may at its option at any time thereafter upon notice to Lessee terminate this Lease or, without terminating the Lease, terminate Lessee's right to possession of the North Parcel Premises. Upon any such termination, Lessee (and at Lessor's option any or all Tenants or other persons claiming under Lessee with the exception of those Tenants with whom Lessor has executed attornment and non-disturbance agreements pursuant to Section 3.9 of this Lease) shall quit and surrender the North Parcel Premises to Lessor, but Lessee shall remain liable as hereinafter provided. Lessor agrees that if it becomes entitled to exercise its remedies under this Lease and the Jackson Street Premises Lease following an Event of Default hereunder or thereunder, whatever remedy Lessor

elects to exercise under one of such leases also shall be exercised under the other lease, such that the remedies so exercised under such leases shall not be inconsistent.

Section 19.3 If Lessor shall terminate this Lease, or shall terminate Lessee's right of possession, as provided in Section 19.2, in addition to any other remedies it may have under this Lease, the Jackson Street Premises Lease or under law or in equity, Lessor in either event shall be entitled to recover damages from Lessee in an amount equal to the Rent for the remainder of the Term.

Section 19.4. [Intentionally omitted].

Section 19.5. If an Event of Default occurs, Lessor shall be entitled to enjoin any such Default and shall, in addition to the rights and remedies provided hereunder, have the right to invoke any right or remedy allowed at law or in equity or by statute or otherwise.

#### ARTICLE 20 - LESSOR'S ADDITIONAL RIGHTS AND REMEDIES

Section 20.1. If an Event of Default occurs, Lessor may at its option (but shall not be required to) make any payment or perform any act to cure any such Default, and for such purpose Lessor may enter in and upon the North Parcel Premises and the Building and Improvements, and take all such action thereon as may be necessary therefor, provided that if such a Default results in a situation that is, in Lessor's reasonable judgment, an emergency jeopardizing the safety of the North Parcel Premises

or the Building and Improvements, Lessor shall not be required to deliver any notices prior to entry.

Section 20.2. Lessee agrees to indemnify, defend and save Lessor harmless from and against any and all liabilities, claims, suits, fines, penalties, damages, losses, fees, costs and expenses (including attorney's fees) that may be imposed upon, incurred by or asserted against Lessor arising out of or in connection with the North Parcel Premises, the Buildings and Improvements, Lessee's tenancy under the Lease or occupancy of the North Parcel Premises and the Buildings and Improvements, or the operation of any and all businesses in the Buildings and Improvements (except for claims arising solely out of the acts of Lessor or its representatives), including without limitation any claims relating to:

(a) any work or thing to be done in, on or about the North Parcel Premises or the Building and Improvements or any part thereof (except for such work or thing done by Lessor or its representatives);

(b) any use, occupation, condition, or operation of the North Parcel Premises or the Building and Improvements or any part thereof or of any Adjacent Facility or any occurrence on any of the same;

(c) any action or omission on the part of Lessee, any partner thereof, Manager or any other Person, including without limitation any sublessee, or any of

their respective agents, contractors, servants,  
employees, licensees or invitees;

(d) any accident, injury (including death) or damage, regardless of the cause thereof, to any person or property occurring in or on the North Parcel Premises or the Building and Improvements or any part thereof or any Adjacent Facility;

(e) any failure on the part of Lessee, any general partner thereof, Manager or any other Person (other than Lessor or its representatives) to perform or comply with any of the covenants, agreements, terms or conditions in this Lease or in any other agreements affecting the North Parcel Premises or the Building and Improvements, including without limitation any management agreement, sublease, license or concession, but excluding any agreements, liens or encumbrances solely created by, through or under Lessor;

(f) the execution and delivery of this Lease by Lessee;

(g) any contest permitted to be conducted by Lessee pursuant to the provisions of this Lease.

The provisions of this Section 20.2 shall survive the expiration or earlier termination of this Lease.

Section 20.3. Lessee agrees to pay, and to indemnify Lessor against, all costs and expenses (including reasonable attorney's fees) incurred by or imposed upon Lessor by or in connection with any litigation to which Lessor becomes or is made a party without fault on its part, whether commenced by or against Lessee, or any other Person, or that may be incurred by Lessor in enforcing any of the covenants and agreements of this Lease with or without the institution of any action or proceeding relating to the North Parcel Premises or this Lease, or in obtaining possession of the North Parcel Premises after Lessee's Default or upon expiration or earlier termination of this Lease. The provisions of this Section 20.3 shall survive the expiration or earlier termination of this Lease.

Lessor shall notify Lessee in writing within ninety (90) days after Lessor's receipt of any written claim made against Lessor and indemnified hereunder by Lessee, if any such claim is made against Lessor, specifying the nature and details of such claim and enclosing a copy thereof, whereupon Lessee shall undertake to defend against such claim and to indemnify and hold Lessor harmless therefrom. Lessee shall have the right to select such legal counsel and attorneys as it may deem necessary or advisable to retain, at Lessee's sole expense, in order to fulfill Lessee's obligations hereunder. Lessor shall not pay or settle any such claim without Lessee's prior written consent.

Section 20.4. All sums expended and all costs and expenses incurred by Lessor pursuant to the provisions of this Lease or on

account of any Default by Lessee under this Lease shall bear interest from the respective dates when expended or incurred by Lessor at the Default Rate until repaid by Lessee to Lessor, and all such sums, together with such interest, shall become Rent under this Lease, payable by Lessee to Lessor within ten (10) days after demand.

Section 20.5. All Rent and other amounts payable by Lessee under this Lease shall be and are hereby declared to be a valid first lien upon Lessee's interest in the North Parcel Premises, and upon the rents, issues and profits in any manner arising or growing out of the same, and upon Lessee's interest in this Lease.

Section 20.6. No receipt of monies by Lessor from Lessee after termination of this Lease, or termination of Lessee's right of possession, or after the giving of any notice of termination of this Lease, or termination of Lessee's right of possession, shall reinstate, continue or extend the Term or affect any notice theretofore given to Lessee, or operate as a waiver of Lessor's right to enforce the payment of Rent and any other payments or charges herein reserved and agreed to be paid by Lessee then or thereafter falling due, or operate as a waiver of Lessor's right to recover possession of the North Parcel Premises by proper remedy, it being agreed that after the service of notice to terminate this Lease, or terminate Lessee's right of possession, or the commencement of suit or summary proceedings, or after final order or judgment for the possession of the North Parcel



Premises, Lessor may demand, receive and collect any monies due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such monies collected being deemed payments on account of the use and occupation of the North Parcel Premises, or at Lessor's election, on account of Lessee's liability hereunder.

Section 20.7. Lessor's granting of any consent under this Lease, or Lessor's failure to object to any action taken by Lessee without Lessor's consent required under this Lease, shall not be deemed a waiver by Lessor of its rights to require such consent for any further similar act by Lessee. No waiver by Lessor of any other breach of the covenants of this Lease shall be construed, taken or held to be a waiver of any other breach or to be a waiver, acquiescence in or consent to any further or succeeding breach of the same covenant. None of Lessee's covenants under this Lease, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Lessor.

Section 20.8. No remedy conferred upon or reserved to Lessor under this Lease or under law shall be considered exclusive of any other remedy, but such remedies shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and every power and remedy given by this Lease to Lessor may be exercised from time to time and as often as occasion may arise or as may be deemed expedient, without precluding

Lessor's simultaneous or later exercise of any or all other rights or remedies. No delay or omission of Lessor to exercise any right or power arising from any Default shall impair any such right to power or shall be construed to be a waiver of any such default of an acquiescence therein.

ARTICLE 21 - ADDITIONAL  
SECURITY FOR LESSEE'S OBLIGATIONS

Section 21.1. To further secure the performance of Lessee's obligations under this Lease, Lessee hereby grants to Lessor a security interest in and to all of Lessee's equipment, furniture, furnishings, appliances, goods, trade fixtures, inventory, chattels and personal property, which are brought upon the North Parcel Premises by Lessee, or used in the operation of the business in the Building and Improvements, and all after-acquired property, replacements and proceeds thereof. Upon Lessor's request, Lessee shall execute Uniform Commercial Code Financing Statements (including amendments and continuations thereof) covering the security described above. In addition to all other rights or remedies of Lessor under this Lease or under law, Lessor shall have all the rights and remedies of a secured party under the Uniform Commercial Code of the State of Illinois. Lessor's security interest hereunder shall be subordinate to the lien or security interest of any Leasehold Mortgagee holding a Leasehold Mortgage as contemplated by Article 22 of this Lease, and to the lien or security interests of any vendor or lessor of equipment or chattel upon the North Parcel Premises or in the Building and Improvements, and upon Lessee's written request, if

no Event of Default has occurred, Lessor shall execute an instrument confirming such subordination. The security interest hereby created shall survive the termination of this Lease if such termination results from Lessee's Default under this Lease. The above-described security interest and lien of Lessor shall be in addition to and cumulative of the Lessor's lien provided in Section 20.5 above and by the laws of the State of Illinois.

#### ARTICLE 22 - LEASEHOLD MORTGAGES

Section 22.1. Lessee is hereby given the right, at any time and from time to time, without Lessor's consent, to mortgage its interest in this Lease, or any part or parts thereof, under leasehold mortgages and/or purchase money leasehold mortgages in connection with any sale of such interest, and to assign, pledge or hypothecate its interest under this Lease, or any part or parts hereof, and any Subleases, as collateral security for such mortgage (each such Mortgage being a "Leasehold Mortgage" and all such mortgages being collectively called "Leasehold Mortgages", and the holders thereof being each a "Leasehold Mortgagee" and collectively referred to as "Leasehold Mortgagees"), but upon and subject to the condition that any such Leasehold Mortgage shall contain such provisions as are required by Sections 11.3, 12.4 and 18.4 of this Lease and a provision reading substantially as follows:

"This Mortgage is executed and delivered upon the condition that no party shall acquire any possessory interest in the lease in which a lien is hereby granted

unless: (a) the instrument transferring such interest obligates such party to perform and observe the covenants and conditions in such lease required to be performed by the lessee thereunder, subject to Sections 22.1(g) and 27.11 of such lease; (b) such instrument is executed by such party in the manner required to entitle a deed to recordation and (c) before such party shall take possession of the leased property an executed copy of such transfer and assumption shall be delivered to the lessor under such lease."

If Lessee shall mortgage its leasehold, or any part or parts thereof, and if Lessee or any Leasehold Mortgagee shall send to Lessor a copy of the Leasehold Mortgage, together with written notice specifying the address of the Leasehold Mortgagee thereunder, Lessor agrees that so long as such Leasehold Mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by each Leasehold Mortgagee to Lessor, the following provisions shall apply:

(a) Lessor will give each Leasehold Mortgagee a copy of any notice or other communication from Lessor to Lessee relating to or alleging a Default under this Lease at the time of giving such notice or communication to Lessee. Lessor agrees not to exercise any right, power or remedy with respect to any Default under this Lease, and no notice to Lessee of any such Default and no termination of this Lease in connection

therewith shall be effective, until Lessor shall have so given to each Leasehold Mortgagee written notice or a copy of its notice to Lessee of such Default or termination. In addition, Lessor will not exercise any right, power or remedy with respect to any Default under this Lease until the expiration of any grace period provided in this Lease with respect thereto if (i) any Leasehold Mortgagee shall give to Lessor within such grace period written notice that it intends to undertake the cure of such Default or to cause the same to be cured; (ii) the Leasehold Mortgagee thereafter, in the case of any Default that may be cured by the payment of money, shall cure such Default within such grace period or within an additional period of thirty (30) days after the expiration of such grace period; and (iii) the Leasehold Mortgagee thereafter, in the case of any Default that may not be cured by the payment of money, shall prosecute diligently the cure of such default, whether by performance on behalf of Lessee of its obligations hereunder, entry on the North Parcel Premises, foreclosure, sale or otherwise.

(b) Any Leasehold Mortgagee may make any payment or perform any act required under this Lease to be made or performed by Lessee with the same effect as if made or performed by Lessee but no entry by any Leasehold Mortgagee upon the North Parcel Premises for such purpose shall constitute or be deemed to be an eviction

of Lessee and shall not waive or release Lessee from any obligation or Default hereunder in accordance with the terms hereof (except for any obligation or Default which shall have been performed or cured by such payment or performance by a Leasehold Mortgage).

(c) In the event of the termination of this Lease, or of any succeeding lease made pursuant to the provisions of this subparagraph (c), in either case prior to its stated expiration date, Lessor will enter into a new lease of the North Parcel Premises with the Leasehold Mortgagee or its designee or, if there be more than one Leasehold Mortgagee, then with the Senior Leasehold Mortgagee (as hereinafter defined), or, at the request of the Senior Leasehold Mortgagee, to a corporation formed by or on behalf of the Senior Leasehold Mortgagee or by or on behalf of the holders of bonds or notes secured by the Leasehold Mortgage held by the Senior Leasehold Mortgagee, for the remainder of the Term, effective as of the date of such termination, at the Fixed Rent and upon the other covenants, agreements, terms, provisions and limitations herein contained (including without limitation the provisions of this Article 22 and Section 27.11), provided:

(i) the Leasehold Mortgagee makes written request of Lessor for the new lease within sixty (60) days after the date it receives from Lessor

notice of such termination, which written request shall be accompanied by a payment to Lessor of all sums then due to Lessor under this Lease, and the new lease is executed within thirty (30) days after submission thereof by Lessor to the Leasehold Mortgagee (which submission may not be made until the Leasehold Mortgagee requests the new lease); and

(ii) the Leasehold Mortgagee pays or causes to be paid to Lessor at the time of the execution and delivery of the new lease any and all sums due thereunder in addition to those which would at the time of execution and delivery thereof be due and owing under this Lease but for such termination, and pays or causes to be paid any and all expenses, including reasonable attorney's fees, court costs and disbursements incurred by Lessor in connection with any such Default and termination and in connection with the execution and delivery of the new lease (less the net income, if any, collected by Lessee subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Rent thereafter becoming due under the new lease); and

(iii) on or before the execution and delivery of such new lease, the Leasehold Mortgagee shall perform all the other obligations and conditions under the Lease required to be performed by Lessee to the extent that Lessee shall have failed to perform such obligations or conditions (other than pursuant to Sections 19.1 (d) or (g)); and

(iv) if more than one Leasehold Mortgagee makes written request upon Lessee in accordance with the provisions of this subparagraph (c), the new lease shall be delivered pursuant to the request of the Leasehold Mortgagee whose Leasehold Mortgage is prior in lien (the "Senior Leasehold Mortgagee"), and the written request of any Leasehold Mortgagee whose Leasehold Mortgage is subordinate in lien shall be void and of no force or effect. The new lease executed and delivered in accordance with the provisions of this subparagraph (c) shall provide that, with respect to each and every sublease which, immediately prior to the termination of the term of this Lease, was prior to the lien of the Leasehold Mortgage held by the Leasehold Mortgagee who obtains the new lease or causes the new lease to be obtained, by entering into the new lease the tenant thereunder thereby shall be deemed to have recognized the tenant



under the sublease pursuant to the terms of the sublease as though the sublease had never terminated but had continued in full force and effect after the commencement of the new Lease and to have assumed all of the obligations of the sublessor under the sublease accruing from and after the termination of the Term of this Lease, except that the obligation of the tenant under such new lease on any covenant of quiet enjoyment, expressed or implied, contained in the sublease shall be limited to the acts of such tenant and those claiming by, under or through it.

(d) Upon the execution and delivery of a new lease in accordance with the provisions of subparagraph (c) of this Section 22.1, any and all subleases which theretofore may have been assigned and transferred to Lessor shall thereupon be assigned and transferred, without recourse by the Lessor, to the tenant under such new lease.

(e) Lessor and Lessee each shall give each Leasehold Mortgagee notice of any arbitration or judicial proceedings by or between them and each Leasehold Mortgagee shall have the right to intervene therein and be made a party to such proceedings and shall receive notice and a copy of any award or decision made in such proceedings.

(f) Lessor agrees that the name of each Leasehold Mortgagee may be added to the "loss payable endorsement" of each insurance policy required to be carried by Lessee under this Lease on condition that the insurance proceeds are to be applied in the manner specified in this Lease.

(g) No Leasehold Mortgagee or its designee shall become personally liable under the agreements, terms, covenants or conditions of this Lease or any new lease entered into in accordance with the provisions of subparagraph (c) of this Section 22.1 unless and until it becomes, and then only for as long as it remains, the owner of the leasehold estate thereby created. Subject to Section 1.22 of this Lease, upon any assignment of this Lease or such new lease by any owner of the leasehold estate whose interest shall have been acquired by, through or under any Leasehold Mortgagee, the assignor shall be relieved of any further liability which may accrue under this Lease or said new lease from and after the date of such assignment.

(h) There shall be no merger of this Lease nor of the leasehold estate created by this Lease with the fee estate in the North Parcel Premises or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly, (i) this Lease or the leasehold

estate created by this Lease or any interest in this Lease or in any such leasehold estate, and (ii) the fee estate in the North Parcel Premises or any part thereof or any interest in such fee estate, and no such merger shall occur unless and until all persons, corporations, firms and other entities, including each Leasehold Mortgagee, having any interest in (x) this Lease or the leasehold estate created by this Lease and (y) the fee estate in the North Parcel Premises or any part thereof or any interest in such fee estate shall join in a written instrument effecting such merger and shall duly record the same.

(i) There shall be no voluntary cancellation, surrender or modification of this Lease or attornment of any subtenant without the prior written consent of each Leasehold Mortgagee which would be entitled to enter into a new lease of the North Parcel Premises pursuant to the provisions of subparagraph (c) of this Section 22.1, and no such cancellation, surrender or modification shall be effective without each such prior written consent.

(j) The word "mortgage", whenever used in this Lease, shall include whatever security instruments are used in the locale of the North Parcel Premises (including, without limitation, deeds of trust, security deeds and conditions deeds, as well as

financing statements, security agreements and other documentation required pursuant to or appropriate in connection with the Uniform Commercial Code), and shall also include any instruments required in connection with a "sale-leaseback" transaction.

(k) Notwithstanding any provisions of this Lease to the contrary, if Lessor shall elect to terminate this Lease by reason of Lessee being in default pursuant to either Section 19.1(d) or Section 19.1(g) above, then each Leasehold Mortgagee who shall be entitled to notice as above provided for shall have and be subrogated to any and all rights of Lessee and shall also have the right to postpone and extend the specified date for the termination of this Lease, fixed by Lessor in a notice given pursuant hereto, for a period of not more than six (6) months, provided such Leasehold Mortgagee shall make all payments required hereunder and shall promptly cure those defaults capable of being cured by it and shall then be pursuing the cure, as hereinafter provided, of any other then existing defaults by Lessee under this Lease (other than the defaults under Sections 19.1(d) and (g)) and shall forthwith take steps to acquire Lessee's interest in this Lease by foreclosure of its Leasehold Mortgage or otherwise. If, before the date specified for the termination of this Lease as extended by the Leasehold Mortgagee as aforesaid, Lessee shall be duly removed

from possession, or proceedings have been instituted and are pending for such removal, and if the Leasehold Mortgagee shall have made all payments required hereunder and shall have delivered to Lessor its agreement to perform and observe the other obligations to be performed by Lessee in this Lease contained, then, in such event, each such default under Sections 19.1(d) or (g) shall be and shall be deemed to be cured, provided, further, that if at the end of said six (6) month period said Leasehold Mortgagee shall be actively engaged in steps to acquire Lessee's interest herein, the time of said Leasehold Mortgagee to comply with the provisions of this Section 22.1(k) shall be extended for such period as shall be necessary to complete such steps with diligence and continuity, provided that nothing herein shall preclude Lessor from exercising any rights or remedies under this Lease with respect to any other default hereunder thereafter occurring during such extension period.

Section 22.2. Provided that this Lease is in full force and effect, Lessor shall, without charge, at any time and from time to time, within thirty (30) days after request by Lessee, certify by written instrument, in form submitted by Lessee, duly executed, acknowledged and delivered by Lessor: that this Lease is in full force and effect and is unmodified (or, if it has been modified, that the same is in full force and effect as modified and what modifications there have been); whether Lessee has or

has not, as the case may be, faithfully and fully made all payments then and theretofore due Lessor; whether there has been any change in ownership of title of the North Parcel Premises affecting the right of Lessor to receive or continue to receive payments under this Lease; the dates to which Rent payable to Lessor has been paid; and whether Lessor knows or does not know, to the best of its knowledge, of any Default by Lessee in the performance by Lessee of any of the covenants, conditions and agreements on Lessee's part to be performed, such instrument to include reasonable detail as to any such Default believed to exist, including the amount of money, if ascertainable, required to cure any such default.

Section 22.3. All rights granted any leasehold mortgagee in this Article 22 shall also apply and inure to the benefit of any first mortgagee of the Jackson Street Premises.

Section 22.4. In the event a Leasehold Mortgagee shall request an amendment to this Lease and/or the Ground Lease to comply with laws, regulations or established policies required of said Leasehold Mortgagee, Lessor shall agree to amend this Lease and the Ground Lease accordingly; provided that, in Lessor's reasonable judgment, any such proposed amendment does not materially affect Lessor's rights and protections under this Lease or the Ground Lease.

## ARTICLE 23 - QUIET ENJOYMENT

Section 23.1. Lessor covenants that if and so long as Lessor's right to possession of the North Parcel Premises under the Ground Lease is not disturbed and, subject to the provision set forth in the last sentence of Section 2.2, Lessee shall faithfully perform the covenants and agreements of this Lease, Lessee shall and may (subject to the exceptions, reservations, terms and conditions of this Lease) peaceably and quietly have, hold and enjoy the North Parcel Premises for the Term free of any encumbrance created by Lessor or anyone claiming through or by Lessor, except for the matters set forth in Exhibit B attached hereto and any other encumbrances permitted by or created in accordance with this Lease.

## ARTICLE 24 - SURRENDER OF POSSESSION; HOLDING OVER

Section 24.1. On the last day of the Term or upon any sooner termination thereof, whether by lapse of time or by reason of Lessee's Default or otherwise, Lessee shall surrender and deliver to Lessor the North Parcel Premises and that portion of the Building and Improvements located thereon, in clean, good and safe order and condition and in good repair, excepting ordinary wear and tear and casualty or condemnation (subject to Articles 12 and 18 hereof).

Section 24.2. If Lessee holds over or occupies the North Parcel Premises or that portion of the Building and Improvements located thereon, beyond the Term of the Lease (it being agreed

that there shall be no permitted holding over or occupancy without Lessor's prior written consent), Lessee shall pay to Lessor, for each day of such holding over, the sum provided for in Section 24.2 of the Jackson Street Premises Lease. In the event of such holding over, Lessee shall occupy the North Parcel Premises on a tenancy from month to month and all other terms and provisions of this Lease shall be applicable to such period.

#### ARTICLE 25 - EXTENSION OF TERM

Section 25.1. In the event the term of the Jackson Street Premises Lease is extended pursuant to Section 25.1 of the Jackson Street Premises Lease, Lessor and Lessee agree to extend the term of this Lease and the term of the Ground Lease for a period coextensive with the period of the extension of the Jackson Street Premises Lease.

#### ARTICLE 26 - SUCCESSORS AND ASSIGNS

Section 26.1 All covenants, agreements, conditions and undertakings contained in this Lease shall extend and inure to and be binding upon Lessor's successors and assigns and Lessee's successors and assigns as if such successors and assigns were in each case specifically named. Wherever reference is made in this Lease to either party, it shall be held to include and apply to such successors and assigns.



ARTICLE 27 - MISCELLANEOUS

Section 27.1. Lessor has made no representations whatever with respect to the North Parcel Premises, and Lessee accepts the North Parcel Premises in an "as is" condition.

Section 27.2. Each of Lessor and Lessee hereby represents and warrants to the other that it has neither caused nor incurred any claims for brokerage commissions or finders fees in connection with the execution of this Lease, and each shall indemnify, defend and hold the other harmless from and against all liabilities arising from any such claims caused or incurred by it, including without limitation any costs or expenses (including attorneys fees) in connection therewith.

Section 27.3. This Lease contains the entire agreement between the parties and shall not be modified in any manner except by a writing signed by Lessor and Lessee.

Section 27.4. Lessor is not, and shall not be deemed to be, in any way or for any purpose, the partner, employer, principal, master, agent or joint venturer of or with Lessee.

Section 27.5. The table of contents and captions of this Lease are for convenience of reference only and in no way define, limit or describe the scope or intent of this Lease nor any way affect this Lease.

Section 27.6. If any term or provision of this Lease or any application thereof to any person or circumstance shall to

any extent be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 27.7. Lessee acknowledges that it is aware of the provisions of Chapter 122 §34-21 of the Illinois Revised Statutes, providing that Lessor may not consummate any transaction involving the transfer of an interest in real estate in which there may be an undisclosed principal. Lessee represents to Lessor that it has by separate instrument made a full and accurate disclosure of its principals.

Section 27.8. Any right of contest reserved to Lessee under the terms of this Lease shall be diligently conducted in good faith, but shall be permitted only so long as:

(a) neither the North Parcel Premises, nor the Building and Improvements, nor any part thereof, would by reason of such contest be, in Lessor's reasonable judgment, in danger of being forfeited or lost;

(b) Lessor shall not in its reasonable judgment be in imminent danger of being subject to criminal liability or penalty by reason of such contest; and

(c) Lessee shall have deposited with Lessor cash or marketable securities reasonably satisfactory to Lessor

with appropriate assignments or endorsements or shall have indemnified and shall continue to indemnify Lessor with a surety bond, or other means reasonably satisfactory to Lessor, in an amount sufficient to pay any contested amount and all interest, fines, penalties or other charges that may or might be assessed against or become a charge on the North Parcel Premises or the Building and Improvements if such contest is unsuccessful; and if Lessor at any time during the contest, as a result of subsequent events, deems the amount of deposit or other security insufficient, Lessee shall deposit with Lessor such additional amounts or security as Lessor may reasonably request.

Any such contest may be made in the name of Lessor or Lessee or both, as Lessee shall determine. If Lessee upon conclusion of any contest proceedings shall fail to pay any amount contested, interest, fines, penalties or other charges thereby determined to be due, or if prior thereto either condition (a) or (b) of this Section is no longer satisfied, Lessor may apply all or any part of any deposit or security provided under this Section to the payment, removal and discharge of such amounts and any costs, fees (including reasonable attorney's fees) and other liabilities accruing in such proceedings, and shall refund to Lessee the balance of any security not so applied, or Lessee, immediately upon demand, shall pay any deficiency resulting from such application.

Section 27.9. Any approvals required to be given by Lessor under this Lease shall be addressed to and be given by the Chief Financial Officer of the Board of Education of the City of Chicago, or if that position shall ever be abolished, by such other officer designated in writing by Lessor. Said Chief Financial Officer shall respond to any such written request for approval under this Lease within fifteen (15) business days after receipt of such written request, unless another period of time is specified in this Lease with respect to such approval. If no response from said Chief Financial Officer or such other officer is given within said fifteen (15) business days (or such other period of time as specified in this Lease), such approval shall be presumed to have been given.

Section 27.10. Lessor hereby represents to Lessee that it has the power and authority to enter into this Lease and demise the North Parcel Premises as provided herein and that all necessary action has been taken to authorize the execution of this Lease by Lessor.

Section 27.11. Notwithstanding anything contained in this Lease to the contrary, neither Lessee nor any partner of Lessee, nor their respective successors or permitted assigns, shall have any personal liability whatsoever, hereunder (that is, the recourse of Lessor against Lessee shall be limited to the interest of Lessee under this lease and the proceeds arising therefrom), including without limitation any personal obligation for any payment, performance or observance of any amount, obligation,

liability or provision to be paid, performed or observed under this Lease, and Lessor agrees not to seek or obtain a deficiency or money judgment against any of Lessee or its partners; provided, however, that nothing herein contained shall be construed to impair the ability of Lessor to exercise all other rights and remedies contained in this Lease or to relieve the personal liability of each of the Guarantors as provided herein or to impair the ability of Lessor to exercise any and all rights and remedies contained in any other document or instrument securing Lessee's obligations hereunder.

Section 27.12. [Intentionally deleted.]

Section 27.13. Lessee represents and warrants as follows:

(a) Lessee is a joint venture duly organized and validly existing in good standing under the laws of the State of Illinois; (b) Lessee's joint venturers are (i) Heartland Development Company, Lessee's managing partner and a corporation duly organized and validly existing in good standing under the laws of the State of Illinois, and (ii) Baryl Limited Partnership, a limited partnership duly organized and validly existing in good standing under the laws of the State of Illinois; (c) the general partner of Baryl Limited Partnership is FJB Corporation, a corporation duly organized and validly existing under the laws of the State of Illinois; (d) Lessee has taken all necessary joint venture action, and Lessee's joint venturers have taken all necessary corporate or partnership action, to authorize the execution and performance of this Lease by Lessee's joint venturers on behalf

of Lessee; (e) the signatories executing this Lease on behalf of Lessee have full power and authority to execute this Lease on behalf of Lessee.

Section 27.14. Lessor represents and warrants as follows:

(a) Lessor is a body politic and corporate under the laws of the State of Illinois; (b) execution of this Lease by Lessor was approved by the Board of Education of the City of Chicago by adoption of Board Report No. 88-0713-RE19 at the regular meeting of the Board held on July 13, 1988; and (c) the signatories executing this Lease on behalf of Lessor have full power and authority to execute this Lease on behalf of Lessor.

#### ARTICLE 28 - NOTICES

Section 28.1. All notices or demands under this Lease shall be in writing and shall be served by registered or certified mail, return receipt requested, addressed to:

Lessor: Board of Education of the City of Chicago  
1819 West Pershing Road  
Chicago, Illinois 60611

Attention: Chief Financial Officer

With copies to: Office of the General Counsel  
Board of Education of the City of Chicago  
1819 West Pershing Road  
Chicago, Illinois 60611

and

Miller, Shakman, Nathan & Hamilton  
Suite 1200  
208 S. LaSalle Street  
Chicago, Illinois 60604

Attention: Ronald S. Miller

Lessee: Baryl/Heartland (North Parcel)  
Joint Venture  
2220 South Indiana  
Chicago, Illinois 60616

With copies to: Hopkins & Sutter  
Three First National Plaza  
Chicago, Illinois 60602  
  
Attention: Michael Morrison

Gottlieb & Schwartz  
200 East Randolph Drive  
Suite 6900  
Chicago, Illinois 60601

Attention: Stanton Schuman

or to such other address as may be designated by either party by written notice served in the foregoing manner. Each such notice shall be deemed served on the third day after mailing thereof.

ARTICLE 29 - RECORDING OF MEMORANDUM

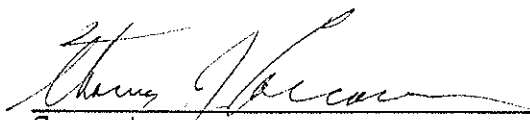
Section 29.1. Lessor and Lessee shall join in the execution of a Memorandum of Lease in proper form for recording or filing in the appropriate office therefor, setting forth the existence and Term, and the provisions of Sections 14.3 and 14.4, and shall take such further action as may be necessary to effect such recording promptly after the execution of this Lease.

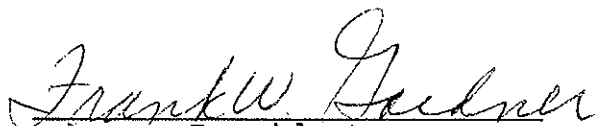
IN WITNESS WHEREOF, the parties have executed this Lease the day and year first above written.

LESSOR:

ATTEST:

BOARD OF EDUCATION OF THE CITY OF  
CHICAGO

  
Secretary

By:   
President

LESSEE:

HEARTLAND/BARYL (NORTH PARCEL)  
JOINT VENTURE, an Illinois joint  
venture

By: HEARTLAND DEVELOPMENT COMPANY,  
an Illinois corporation,  
Its: Managing Partner

By: *P.H.J. J*  
Its: TREASURER  
Attest: *J. E. LeCom*  
Its: ~~SECRETARY~~ SECRETARY

By: BARYL LIMITED PARTNERSHIP, an  
Illinois limited partnership  
Its: Partner

By: FJB CORPORATION, an  
Illinois corporation  
Its: General Partner

By: *Frederick H. Baryl*  
Its: President  
Attest: *Thomas J. Baryl*  
Its: Asst Secretary

APPROVED AS TO LEGAL FORM: *juw*

*Patricia J. Whitten*  
Attorney

Board Report: 88-6713-RE 19  
Date: *July 13, 1988*



EXHIBIT "A"

A PARCEL OF LAND COMPRISED OF ALL OF LOTS 3 AND 4 AND ALSO A PART OF LOTS 5 AND 6; ALL IN THE ASSESSOR'S DIVISION OF BLOCK 52 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, SAID PARCEL OF LAND IS BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF BLOCK 52 (SAID EAST LINE BEING ALSO THE WEST LINE OF SOUTH CANAL STREET) SAID POINT BEING 289.56 FEET, AS MEASURED ALONG SAID EAST LINE, NORTH OF THE SOUTHEAST CORNER OF SAID BLOCK 52, AND RUNNING THENCE WESTWARDLY ALONG A LINE PERPENDICULAR TO SAID EAST LINE, A DISTANCE OF 319.90 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID BLOCK 52; THENCE NORTHWARDLY ALONG SAID WEST LINE (SAID WEST LINE BEING ALSO THE EAST LINE OF SOUTH CLINTON STREET) A DISTANCE OF 60.30 FEET TO AN INTERSECTION WITH THE NORTH LINE OF LOT 4 IN SAID BLOCK 52; THENCE EASTWARDLY ALONG THE NORTH LINE OF SAID LOT 4 AND ALSO ALONG THE NORTH LINE OF LOT 5, A DISTANCE OF 319.95 FEET TO AN INTERSECTION WITH SAID EAST LINE OF BLOCK 52; THENCE SOUTHWARDLY ALONG SAID EAST LINE, A DISTANCE OF 58.15 FEET, TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

EXHIBIT B

PERMITTED EXCEPTIONS

1. General real estate taxes for the year 1989 and subsequent years.
2. Terms, powers, provisions and limitations of the trust under which title to the land is held.

EXHIBIT "C"

LOTS 1 AND 2 IN ASSESSOR'S DIVISION OF BLOCK 52 OF SCHOOL SECTION  
ADDITION TO CHICAGO OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14  
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.