



2004 00013139

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Recorded: 05/13/2004 11:24 AM

COMMERCIAL REAL ESTATE MORTGAGE



I. GRANT OF MORTGAGE: OBLIGATIONS MORTGAGED PREMISES.

KNOW ALL PERSONS BY THESE PRESENTS THAT Barry G. Goldberg and Annette E. Goldberg

of 320 Greenhill Road, Longmeadow, Massachusetts 01106

(hereinafter, jointly and severally if more than one, called "Mortgagor") for valuable consideration, GRANTS unto FLORENCE SAVINGS BANK, a Massachusetts Banking corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts and having a principal place of business at 85 Main Street, Florence, Commonwealth of Massachusetts 01062 or its assignee, affiliates, or successor-in-interest, (hereinafter called "Mortgagee"), with MORTGAGE COVENANTS, the land with all buildings, improvements, and structures now, or hereafter standing (hereinafter called "premises" or "property") in the City/Town of Northampton in the County of Hampshire and Commonwealth of Massachusetts, having a street address of 135 and 137 King Street and bounded and described as follows:

The property is further and more particularly described in Exhibit A attached hereto and made a part hereof.

To secure: (A) the payment of a promissory note, (if other obligation, state:)

Dated May 13, 2004 in a principal amount of SEVEN HUNDRED THOUSAND and 00/100

DOLLARS, (\$ 700,000.00), with interest thereon; (B) to secure payment and performance of all the covenants and agreements herein and in said instrument(s) contained; and (C) also to secure the payment and performance of any and all charges, claims, debts, agreements, liabilities and obligations of Mortgagor, or if more than one, any of them, to Mortgagee, all whether now existing or hereafter arising, and whether arising out of this present financial transaction, or separate and unrelated thereto, absolute or contingent direct or indirect, and whether as maker, endorser, or otherwise; (all hereinafter, in the aggregate, called the "Obligation").

IT IS THE TRUE, CLEAR, AND EXPRESS INTENTION OF MORTGAGOR that the continuing grant of this mortgage remain as security, and as collateral, for payment and performance of the Obligation whether now existing, or which may hereinafter be incurred by future advances, or otherwise; and whether, or not, such Obligation are related to the transaction described in this mortgage, by class or kind, or whether or not contemplated by the parties at the time of the granting of this mortgage. The notice of the continuing grant of this mortgage therefore and for valuable consideration provided shall not be required to be stated on the face of any document representing any such Obligation, nor otherwise be required to identify it as being secured hereby; and if such Obligation shall remain or become that of less than all of the Mortgagors herein, any Mortgagor not liable therefore hereby expressly hypothecates his, her, its, or their, ownership interest in the mortgaged premises to the extent required to satisfy said Obligation, without restriction, or limitation.

II. TAXES AND INSURANCE.

Mortgagor covenants and agrees: (A) to pay together with and in addition to the Obligation secured by this mortgage (if a first mortgage), an amount equal to one-twelfth (1/12th) of the known or estimated yearly taxes and assessments levied or to be levied, against the subject premises; said amount is to be paid monthly to Mortgagee, on the same day of each month that a payment of principal and interest is due hereunder; Mortgagee shall hold all such monthly payments, without obligation to pay interest thereon except as required by any applicable statute, to pay such taxes and when due, but only to the extent said monies are paid to it, and with right to apply said sums, wholly or in part, in its sole and exclusive discretion, to the Obligation of Mortgagor to Mortgagee, at any time and even prior to default hereof, without enforcing any other right of the Mortgagee as against any guarantors, or endorsers or the mortgaged property, insofar as the same is not in contravention of law and then to the extent so allowed; that if the total monthly payments as made under this paragraph shall exceed the amounts of payments actually made by Mortgagee for taxes and assessments, as the case may be, such excess shall be credited on subsequent monthly payments of the same nature, but if the total of such monthly payments so made under this paragraph shall be insufficient to pay taxes and assessments when due, then Mortgagor will, upon demand, pay to Mortgagee an amount necessary to make up the deficiency; nothing in this paragraph contained shall be construed as in any way limiting the right of Mortgagee, as its option, to pay any or all taxes and assessments when due.

B. To pay, when required and in any event not less than (5) days prior to the last day upon which the same may be paid without penalty or interest, all charges for insurance premiums and all charges for the use of water or electricity upon said premises now or hereafter due, and all other charges that may now or hereafter be laid or assessed upon, or imposed on, the mortgaged premises, whenever or by whomsoever laid or assessed; and that, should any charges for the use of water or insurance premiums or other assessments remain unpaid after the date fixed for the payment of

135-137 King Street, Northampton, MA

the same without penalty or interest, Mortgagee shall have the right, in addition to any remedy provided by law or otherwise provided for herein, to pay such assessments, water charges or insurance premiums, and the amount paid shall be added to the principal sum hereby secured, payable on demand. Any such payment shall not act to cause a waiver or estoppel of the right of Mortgagee to accelerate said mortgage and Obligation.

C. That no fixture on the premises which is, or may be, used as an appurtenance to the building or buildings on the said premises is, or will become subject to any security agreement and that in case there shall be hereafter placed on said premises such property under a security agreement, without the consent of Mortgagee, Mortgagor or those claiming title under him will make all payments under such agreement as and when due and payable.

D. To pay all sums as and when due and payable to the holder hereof and covenants and agrees to keep at all times the buildings now or hereafter standing on said premises insured against fire and such other casualties, hazards and perils as Mortgagee shall require in a company or companies and in sums satisfactory to Mortgagee, in its sole and exclusive discretion. All such insurance is to be for the benefit of, and policies deposited with, and made payable in case of loss, to Mortgagee. In case of collection of insurance for damage by fire or otherwise, Mortgagee shall have the right to apply the same either in repair of said premises, or in reduction of the mortgage claim, or to both of such purposes as it at its sole and exclusive option decides. In the event of foreclosure of this mortgage by exercise of the statutory power of sale or otherwise, all such insurance shall become the property of and belong to Mortgagee, without claim on the part of Mortgagor and all persons claiming under Mortgagor for compensation therefor; together with full irrevocable authority as attorney-in-fact for Mortgagor and all persons claiming under Mortgagor to cancel such insurance and retain return premiums thereof to and for the sole use and benefit of Mortgagee or to transfer such insurance to the purchaser at foreclosure. If any law or ordinance now or hereafter requires the demolition of any portion of any building remaining on said premises after a partial or total loss by fire before the same may be rebuilt, Mortgagor shall keep said Mortgagee insured against loss by reason of such demolition, reasonable wear and tear and damage by fire only excepted. If the fee title to the mortgaged premises is acquired by Mortgagee, all right, title and interest of Mortgagor in and to any insurance policies and in and to the proceeds thereof resulting from damage to the mortgaged premises prior to the sale or acquisition shall pass to Mortgagee to the extent of the Obligation secured by this mortgage immediately prior to such sale or acquisition.

E. To keep the buildings now or hereafter standing on said premises in good and first rate repair and condition and not to commit, permit or suffer any strip, waste, impairment, deterioration or alteration of the premises or any part thereof; not to use or permit the premises to be used in violation of any law or municipal ordinance or regulation; or for any unlawful or improper purpose; and any action taken by a public official or Court denying, prohibiting or enjoining the right to use said premises in whole or in part shall be conclusive evidence of such violation.

III. DEFAULT.

Mortgagor covenants and agrees that a default in this mortgage shall occur: (a) upon failure of any payment, or performance, when due, of the Obligations (or any of them), to Mortgagee; or (b) upon failure of payment of any tax, water, sewer or other assessment after the same becomes payable, it being understood and agreed that an assessment which has been made payable in installments at the application of Mortgagor or lessee of the premises, shall nevertheless for the purpose of this paragraph be deemed due and payable in its entirety on the day the first installment becomes due or payable; or (c) upon failure in keeping the building(s) and personal property covered by this mortgage insured against loss by fire, or such other hazards as Mortgage may require, or (d) upon failure to furnish, after request, a statement of the amount due on any other mortgage and whether any offsets or defenses exist against any mortgage debt or in furnishing an operating or rent statement; or (e) upon failure to exhibit to Mortgagee receipts showing payment when due of all taxes, water, sewer, or other assessments and interest and principal on any other mortgage; or (f) upon the actual or threatened alteration, demolition, destruction or removal of any building on the premises without the written consent of Mortgagee; or (g) upon the sale, transfer, vesting of the title, or mortgaging of any or all of the mortgaged premises, or the assignment of the rents of the premises or any part thereof; without the written consent of Mortgagee, to be given only in its sole and exclusive discretion; or (h) the building(s) on said premises are not maintained in good repair and in rentable condition, as Mortgagee, in its sole judgment shall determine; or (i) upon failure to comply with any requirement or order or notice of violation of law, regulation or ordinance issued by any governmental department claiming jurisdiction over the premises within twenty (20) days from the issuance thereof; or (j) if two or more fire insurance companies refuse to issue policies insuring the buildings on the premises, or (k) if Mortgagor fails to keep, observe, and perform any of the covenants, conditions, or agreements contained in this mortgage, or in any document reflecting the Obligation secured hereby, or by any other mortgage, whether between Mortgagor and Mortgagee or prior third parties; or (l) upon failure to pay any installment of principal or interest on any other mortgage after the same is due or failure to repay to Mortgagee on demand any amount which Mortgagee may have paid on such mortgage with interest hereon, or upon the institution of proceedings to foreclose any other mortgage; or (m) if proceedings under any Bankruptcy, or insolvency law are commenced by, or against Mortgagor, or if a general assignment for the benefit of creditors is made by Mortgagor, or if a trustee, trust mortgagee, custodian, or receiver of Mortgagor's property be appointed; or (n) if Mortgagor refuses to permit Mortgagee, its agents or employees to inspect the premises at any time; or (o) if any lien should be claimed which, in the sole opinion of counsel for Mortgagee, would create a valid obligation having priority over this mortgage, unless otherwise referred to herein as a senior lien to which this mortgage remains subject; or (p) if any levy or sale upon execution or other proceeding of any nature is begun whereby the owner of said premises shall or may be deprived of title or right of possession of said premises or any part thereof; or (q) upon the destruction by fire or otherwise, in whole or in part, of the buildings now or hereafter standing on said premises; THEN, IN ANY OF THESE EVENTS, the entire Obligation then remaining unpaid shall immediately become due and payable, without notice or demand, and at the sole and exclusive option of Mortgagee, and Mortgagee may start such proceedings as may be necessary to protect its interest in the premises; and that in case proceedings to foreclose this mortgage by exercise of the power of sale are instituted, the holder of this mortgage shall be entitled to collect all cumulative costs, charges, interest at the highest rate set upon the Obligation (or any of them), counsel fees, and expenses allowed by this mortgage, document(s) representing the Obligation, and in addition thereto, the same which may be due under the statutory power of sale up to the time of full payment of the Obligation.

In the event this mortgage shall include more than one (1) parcel of property, or several subdivisions or parcels thereof (hereinafter called the "portion"): Mortgagee shall, in its sole and exclusive discretion, be hereby empowered to foreclose up any such portion(s) thereof, at any time after default, reserving its right to subsequently commence, or continue foreclosure upon any other portion, or the entirety of said mortgaged premises, pursuant to this mortgage, from time-to-time thereafter.

IV. FEES.

In case of a foreclosure sale to a party other than Mortgagee, Mortgagee shall be entitled to five (5%) per cent as a fee and not as a penalty, of the purchase money (exclusive of prior liens), in addition to the costs, fees, charges, and expenses allowed under the Statutory Power of Sale. In case redemption is had by the Mortgagor after foreclosure proceedings have been begun, Mortgagee shall be entitled to collect all costs, charges, and expenses including reasonable attorneys' fees, incurred up to the time of redemption plus a fee, and not a penalty, of (5%) per cent of the Obligation secured hereby.

V. NOTICE

Any notice required or permitted to be given hereunder to, or served upon Mortgagor shall be deemed to have been duly given or served if delivered to Mortgagor, or deposited in the United States mail, by certified or registered mail, postage prepaid, and addressed to Mortgagor at any one or more of the following locations as Mortgagee may elect:

1. the last known address according to Mortgagee's books and records of any maker of any note secured hereby;
2. all, or some portion of, the mortgaged premises;
3. any address at which Mortgagor resides or has a place of business; or
4. any address which Mortgagor may designate in a written notice to Mortgagee.

VI. RIGHTS OF MORTGAGEE - OTHER THAN DEFAULT.

Mortgagor hereby authorizes Mortgagee with respect to the mortgaged premises, or any portion thereof, to pay all costs and expenses determined by Mortgagee as being required or desirable to effectuate compliance with the covenants of Mortgagor hereof. Such authorization shall be in addition to and not in limitation of, the rights of Mortgagee under law and under other applicable provisions hereof, if any. There shall be included in such authorization, without limitation, the rights of Mortgagee:

A. To pay all taxes, assessments, and water and sewer fees, with interest, costs, and charges accruing thereon, which may at any time be or become a lien on the mortgaged premises, or any part thereof;

B. To pay the premiums for any insurance required hereunder;

C. To incur and pay expenses in protecting its rights hereunder and in the security hereby granted, and in preserving and protecting the mortgaged premises; and

D. In the discretion of Mortgagee, to pay any installment and/or balance due under any mortgage(s) affecting the mortgaged premises, in whole or in part, if such mortgage(s) would otherwise be in default, and/or under any security agreement on any articles and/or fixtures included in or added to the mortgaged premises; and Mortgagor hereby covenants to notify Mortgagee promptly of the existence, and the exact details of any such mortgage(s) and/or security agreement(s), and shall at any time at the express request in writing of Mortgagee assign to Mortgagee any and all right, title and interest that Mortgagor may have in and to any and all such mortgage(s) or security agreement(s) and any tax or other escrow accounts established or held in connection therewith; and Mortgagor hereby grants the power and authority to and constitutes and appoints Mortgagee, or such persons as may be designated by it, the irrevocable attorney of Mortgagor, if Mortgagee shall so elect, to make such assignments, and such power shall be deemed irrevocable and coupled with an interest so long as any Obligation remains unpaid.

Any amounts paid in accordance with this mortgage, may be added to the Obligation secured hereby, such amounts to bear interest at the highest rate of interest provided for in any of the documents reflecting the Obligation, until the same are paid. Any sums paid hereunder by Mortgagor, as interest or otherwise, may be applied to the repayment of any amount so paid by Mortgagee.

Should the legal or equitable ownership of any portion of the mortgaged premises be transferred or become vested in a party or entity other than Mortgagor, then (1) the whole of the Obligation may be declared immediately due and payable without notice at any time, if Mortgagee so elects; and Mortgagee shall have such option of acceleration upon each and every subsequent transfer of ownership as aforesaid; and (2) Mortgagee may, without notice to consent of Mortgagor, or any guarantor or endorser, deal with such successor-in-interest with reference to Mortgage and the Obligation hereby secured in the same manner as with Mortgagor, without in any way vitiating or discharging Mortgagor's liability hereunder or upon the Obligation. No sale of the mortgaged premises and no forbearance, with or without consideration therefor, on the part of Mortgagee and no extension of the time for payment of the Obligation, or any part thereof, and no change in terms and conditions of the Obligation shall operate to release, discharge, modify or change, or affect the original liability of Mortgagor, its guarantors or endorsers, either in whole or in part. The execution of a bond for deed, or other promise to convey the mortgaged premises shall constitute such a transfer or vesting sufficient to accelerate the mortgage.

Any waiver(s) by Mortgagee of any breach(es) hereof in any singular or continuing instance shall not be deemed, nor shall the same constitute, a waiver or estoppel as to any such subsequent breach on the part of Mortgagor.

Mortgagee shall have the right, but not the duty, to commence, appear in or defend any action or proceeding purporting to affect the mortgaged premises and, in connection therewith, to incur and pay all costs and expenses, including its attorneys' fees in a reasonable amount, in any such action in which the Mortgagee shall appear. The Mortgagor agrees to pay to Mortgagee, on demand, any and all such expenses, including reasonable attorneys' fees and such expenses shall become part of the Obligation.

Upon default thereof, Mortgagor hereby grants the power and authority to Mortgagee and constitutes and appoints Mortgagee or such persons as may be designated by Mortgagee, the attorney irrevocable of any Mortgagor, to make assignments of then existing leases or subleases (subject to the rights of any Mortgagee prior to this mortgage) and agrees that, after such assignments, the Mortgagee may modify and otherwise deal with all such leases or subleases or enter into new leases or subleases with the same power and discretion which said Mortgagee would have if it were the owner, free from any trust including, without limitation, the right to modify and extend such leases beyond the present term, and beyond the term of this mortgage.

VII. MORTGAGOR'S COVENANTS.

Mortgagor agrees not to amend, modify, extend or recast the terms and conditions of any prior mortgage(s) affecting the mortgaged premises or any note, claim, or obligation secured thereby and not to permit the holder of any prior mortgage(s) covering any or all of the mortgaged premises to advance any additional sums pursuant to said mortgage(s) which would constitute a lien superior to the lien of this mortgage.

Mortgagor shall, upon receiving any knowledge or notice of any default under any other mortgage, or security agreement, upon this or other property, real or personal, give immediate written notice thereof to Mortgagee and shall give to Mortgagee a true copy of each and every notice, summons, legal process, legal paper, or other communication relating in any way to the same, immediately upon receipt thereof.

Mortgagor hereby authorizes and empowers Mortgagee, its agents, attorneys, employees, successors and assigns to enter upon said premises without prior notice and remove secured personal property or collect rental payments due to Mortgagor at any time without cost or expense to it and without first making entry upon said premises under this mortgage. Mortgagor also agrees that Mortgagee may, without first making entry upon said premises under this mortgage, maintain exclusive possession and occupation of the premises without liability for payment of use and occupation, and without prior notice, for such time may be necessary to foreclose and sell such personal property collateral.

VIII. ADDITIONAL SECURITY.

As collateral security for the payment of the Obligation secured hereby, Mortgagor grants to Mortgagee a security interest in, and right of offset upon all cash, choses-in-action, and deposit accounts of Mortgagor now or at any time hereafter in possession, custody, or control of Mortgagee, whether in trust or otherwise. The rights herein shall permit Mortgagee to transfer such funds or property as may be deemed by Mortgagee to be appropriate so as to reduce or extinguish any Obligations of Mortgagor to Mortgagee.

As additional collateral security for payment of the Obligation, Mortgagor hereby also assigns and grants a security interest to Mortgagee in all presently owned and hereinafter acquired securities, debentures, and other documents representing value, all inventory, equipment, fixtures, or other personal property of Mortgagor, whether or not affixed to the premises at any time, as well as all leases, tenancies-at-will, licenses, to construct

building(s) or condominium unit(s) architects plans and drawing, contracts for lease, contract rights, accounts and accounts receivable, arising from the use and occupation, lease or tenancy by any party upon the mortgaged premises, whether now or in the future, in all of Mortgagor's right, title and interest in any and all claims to rebates, refunds, and abatement of real estate taxes pertaining to the mortgaged premises or any portion thereof. Mortgagee is hereby granted and shall at all times hereinafter have all rights of secured party and Mortgagor shall have all duties of a debtor, as to all fixtures, (as defined by Section 9-313 of the Uniform Commercial Code) and all rents, income and leases, now in existence or hereinafter acquired. At any time, Mortgagor authorizes Mortgagee to execute any and all financing statements on its behalf, and in its name, as its agent and attorney in fact for such purposes as Mortgagee may require and file the same where required.

IX. CONDEMNATION.

The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the mortgaged premises or any part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Mortgagee. In the event of a total taking of the premises, the proceeds shall be applied to the Obligation secured by this Mortgage with the excess, if any, paid to Mortgagor. In the event of a partial taking of the premise, unless Mortgagor and Mortgagee otherwise agree in writing, that proportion of the proceeds as is equal to the proportion of the original Obligation to the appraised value of the mortgaged premises at the time of the granting of this mortgage shall be paid to Mortgagee and applied to the Obligation. Any balance of the proceeds shall be paid to Mortgagor. If the premises is abandoned by Mortgagor, or if, after notice by Mortgagee to Mortgagor, that the condemnor has offered to make an award or settle a claim for damages, and Mortgagor's failure to respond to Mortgagee within thirty (30) days after the date such notice is mailed, Mortgagee is authorized, as Mortgagor's attorney-in-fact, to collect the proceeds and to grant releases without further liability or Mortgagee and to apply the proceeds, at Mortgagee's sole and exclusive option, either to restoration or repair of the mortgaged premises or to the Obligation.

X. HAZARDOUS WASTES.

Mortgagor covenants and agrees to comply strictly and in all respects with the requirements of Chapter 21E of Massachusetts General Laws, as the same may be amended from time-to-time, and to notify Mortgagee promptly in the event of any "release" of "oil" or "hazardous materials", as those terms are defined in said statute, upon the mortgaged premises. Mortgagor covenants and agrees that Mortgagor is not and will not become involved in operations at the mortgaged premises or at other locations which could lead to the imposition on Mortgagor of liability under said Chapter 21E or under any similar applicable Federal laws or regulations. In the event Mortgagor fails to comply with the requirements of said Chapter 21E, Mortgagee, may at its election, but without the obligation so to do, give such notices or cause such work to be performed at the mortgaged premises, or take any and all other actions as Mortgagee deems necessary, as shall cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the rate of interest set forth in the promissory note which is secured by this Mortgage per annum from the date of payment, shall be immediately due and payable by Mortgagor to Mortgagee, and until paid shall be added to and become a part of the principal debt secured hereby, and the same may be collected as part of said principal debt in any suit hereon or upon the Note; or Mortgagee, by the payment of any assessment, claim or charge, may, if it sees fit, be thereby subrogated to the rights of the Commonwealth of Massachusetts, but no such advance shall be deemed to relieve Mortgagor from any default hereunder or impair any right or remedy consequent thereon.

Mortgagor hereby, agrees to and hereby does indemnify, defend and hold harmless Mortgagee and its assigns, successors and grantees, of and from any and all liabilities, assessments, suits, damages, costs and expenses, attorneys' or judgments arising out of the handling and disposal of hazardous wastes and/or toxic substances including clean-up thereunder, including without limitation, the assertion of any lien pursuant to Section 13 of said Chapter 21E taking priority over the lien; and the undersigned further indemnifies and holds harmless Mortgagee and its assigns, successors and grantees from any and all infractions and liens arising from any liability or indebtedness to the Commonwealth of Massachusetts arising pursuant to the provisions thereof.

XI. CONSTRUCTION.

All remedies in this mortgage are separate, distinct and cumulative to any other right or remedy under this mortgage or afforded by law or equity and each may be exercised concurrently, independently, or successively.

In the event that any provision or clause of this mortgage or any document evidencing the Obligation conflicts with applicable law, such conflict shall not affect other provisions of this mortgage which can be given effect without the conflicting provision and, to that extent the provisions of this mortgage and any such other document are declared to be severable.

If this mortgage is on a unit in a condominium or a planned unit development, Mortgagor shall perform all of Mortgagor's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development and constituent documents.

Mortgagor herein covenants that the underlying Obligation secured by this mortgage is not a consumer transaction, or otherwise subject to the provisions of M.G.L., Chapter 140D, Federal Reserve Board Regulation Z, or other consumer statutes or regulations and restrictions, without exception.

Any provision of this mortgage or other instruments executed in connection with the Obligation that shall be contrary to the Servicemen's Readjustment Act as amended or to the regulations thereunder shall be null and void to the extent that such provisions are so contrary; provided, however, that such regulations be or become applicable to the aforesaid Obligation.

This mortgage is upon the STATUTORY CONDITION and upon the further express condition that all covenants and agreements on the part of Mortgagor herein contained shall be kept and fully performed and for any breach of any of the aforementioned conditions the holder hereof shall have the STATUTORY POWER OF SALE. In the exercise of the Power of Sale herein given, Mortgagee may elect to sell the mortgaged premises in two or more parcels, as may be determined by Mortgagee in its sole and exclusive discretion, and if Mortgagee elects to sell in parcels, said sales may be held from time-to-time and the power shall not be exhausted until all the granted premises not previously released, shall have been sold and the Obligation paid in full.

The word "Mortgagor" shall, if more than one person executes this mortgage, include all such persons executing this mortgage (excluding witnesses) and the covenants and agreements herein contained shall be binding upon them jointly and severally, and shall bind the heirs, executors, administrators, successors, grantees and assigns of such person or persons, subject to the limitations of law and of this instruments. If the context requires, the word, "Mortgagor" and "Mortgagee" and the pronouns referring to them shall be construed as singular, plural, neuter, masculine or feminine, as may be applicable.

This mortgage shall be construed as a Massachusetts contract for all purposes.

This mortgage is intended to take effect as a Sealed Instrument.

XII. JURY TRIAL WAIVER.

ALL PARTIES HERETO, AS WELL AS MORTGAGEE, HEREBY EXPRESSLY WAIVE ALL RIGHTS TO TRIAL BY JURY, AS TO ALL ISSUES, INCLUDING ANY COUNTERCLAIMS, WITHOUT EXCEPTION, IN ANY ACTION OR PROCEEDING DIRECTLY, OR INDIRECTLY, RELATING HERETO, OR ANY OTHER LOAN DOCUMENTS EXECUTED IN CONNECTION HEREWITH, IF ANY.

Executed as a sealed instrument as of May 13, 2004.

WITNESS

WITNESS

Barry G. Goldberg

Annette E. Goldberg

COMMONWEALTH OF MASSACHUSETTS

HAMPSHIRE, ss.

May 13, 2004

Then personally appeared the above named Barry G. Goldberg and acknowledged the foregoing instrument to be his/her/their free act and deed, before me.

Notary Public
My Commission Expires:

GARY G. BRETON
Notary Public
Commonwealth of Massachusetts
My Commission Expires
January 8, 2010

COMMONWEALTH OF MASSACHUSETTS

HAMPSHIRE, ss.

May 13, 2004

Then personally appeared the above named Annette E. Goldberg and acknowledged the foregoing instrument to be his/her free act and deed, before me.

Notary Public
My Commission Expires:

GARY G. BRETON
Notary Public
Commonwealth of Massachusetts
My Commission Expires
January 8, 2010

EXHIBIT "A"

PARCEL ONE:

A certain tract of land situated in said Northampton, at the junction of King Street and North Street, and known as lot number one (1) on plan of lots on King Street belonging to Frank C. Magranis, recorded in Hampshire Registry of Deeds, Plan Book 6, Page 4, further bounded and described as follows:

Commencing at said junction of King Street and North Street; thence Easterly along said North Street two hundred sixty four and twenty two one hundredths (264.22) feet to land now or formerly of N.Y., N.H. & H. R.R.; thence Northerly along land of said Railroad sixty three and five tenths (63.5) feet to lot number two (2) on said plan, now or formerly owned by Frank C. Magranis; thence Westerly along lot number two (2) on said plan and land now or formerly of said Frank C. Magranis two hundred sixty eight and twenty two one hundredths (268.22) feet to said King Street; thence Southerly along said King Street sixty nine and fourteen one hundredths (69.14) feet to the place of beginning.

EXCEPTING therefrom a taking in fee simple by Commonwealth of Massachusetts Department of Public works for alteration and layout of King Street, shown as Parcel 13-19-C on Plan Book 147-45, dated June 24, 1987 and recorded in the Hampshire County Registry of Deeds in Book 3005, Page 54.

SUBJECT to a Temporary Easement until June 25, 1990 by Commonwealth of Massachusetts Department of Public Works for alteration and layout of King Street, shown as Parcel 13-TE-60 on Plan Book 147-45, dated June 25, 1987 and recorded in the Hampshire County Registry of Deeds in Book 3005, Page 68.

SUBJECT to a fifteen (15) foot setback from sidewalk, as set forth in instrument dated February 17, 1947 and recorded in the Hampshire County Registry of Deeds in Book 1013, Page 278.

PARCEL TWO:

A certain tract or parcel of land, with the buildings thereon, situate on the Easterly side of King Street, in said Northampton, and being Lot #2 on a plan of lots recorded in Hampshire Registry of Deeds, Plan Book 6, Page 4, more particularly bounded and described as follows:

Beginning at an iron pin at the Southwesterly corner of the land herein conveyed, said pin being sixty-nine and fourteen one-hundredths (69.14) feet Northerly from the intersection of King and North Streets, and running thence Northerly along said King Street sixty-nine and fourteen one-hundredths (69.14) feet to Lot #3 on said plan; thence turning and running Easterly along said Lot #3 two hundred seventy-two and twenty-two one-hundredths (272.22) feet to the Westerly side of the location of the New York, New Haven & Hartford Railroad Company; thence turning and running Southerly along the said Westerly line of the railroad location sixty-three and five-tenths (63.5) feet to Lot #1 on said plan; thence turning and running Westerly along said Lot #1 two hundred sixty-eight and twenty-two one-hundredths (268.22) feet to the iron pin at the point of beginning.

Deed in Book 3371, Page 342 &
Book 3863, Page 160.

ATTEST: HAMPSHIRE, Marianne L. Donohue, REGISTER
MARIANNE L. DONOHUE

Property Address: 135 King Street
Northampton, Massachusetts

Property Address: 137 King Street, Northampton, MA