

Record and Return To:

Bank One, N.A.
Attn.: Kimberly Usher
Bronzeville Loan Center
Mail Code IL1-2205
1 Bank One Plaza
Chicago, Illinois 60670-2205



Prepared by:
Eugene A. Kosla
Commercial Real Estate Loan
Administration Documentation

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SECOND MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND CONTRACTS, SECURITY AGREEMENT AND FINANCING STATEMENT

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THIS SECOND MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND CONTRACTS, SECURITY AGREEMENT AND FINANCING STATEMENT is made this 27th day of OCTOBER 2000, by Craig E. Burton and Renea S. Burton, jointly and severally, (herein called "Mortgagor"), with a mailing address of 6737 South Creiger Avenue, Chicago, Illinois 60649-1019, to **BANK ONE, N.A.** (the "Mortgagee"), a national banking association, organized and existing under the laws of THE UNITED STATES OF AMERICA, having its main office at 1 BANK ONE PLAZA, CHICAGO, ILLINOIS 60670.

WITNESSETH:

WHEREAS, the Mortgagor is indebted to Mortgagee in the principal sum of TWENTY -TWO THOUSAND and NO / 100ths Dollars (\$22,000.00) or so much thereof as may be disbursed and outstanding from time to time pursuant to a Loan Agreement between Mortgagor and Mortgagee of even date herewith (as amended or modified from time to time, herein called the "Loan Agreement") plus interest in the amount as provided in and evidenced by the Loan Agreement and a promissory note of even date herewith for said amount and payable in accordance with the terms thereof executed by Mortgagor and payable to the order of Mortgagee (such promissory note, and all renewals, replacements, modifications of or substitutions for such note being hereinafter referred to as the "Note") (which indebtedness, including principal and all interest thereon as set forth in the Loan Agreement and the Note, is hereinafter called the "Indebtedness").

NOW, THEREFORE, to secure

- (a) the payment of the Indebtedness,
- (b) the repayment of any advances or expenses of any kind incurred by Mortgagee pursuant to the provisions of or on account of the Note, the Loan Agreement or this Mortgage,
- (c) the repayment of future advances, if any, disbursed by Mortgagee to Mortgagor in accordance with the terms of the Mortgage or in excess of the principal of the Indebtedness, all of the foregoing not to exceed the principal amount of \$44,000.00, and
- (d) the performance and observance of all of the terms, covenants, provisions and agreements of this Mortgage, the Note, the Loan Agreement and any and all other documents executed or delivered by the Mortgagor in connection therewith (collectively, the "Loan Documents"), the parties agree as follows:

BOX 333-CTI

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ARTICLE I GRANT

1.01 The Mortgagor hereby grants, bargains, sells, releases, conveys, assigns, transfers, mortgages and confirms unto the Mortgagee, and grants a security interest in, the real estate described in **Exhibit A** attached hereto and made a part hereof (the "Real Estate"), which with the property, estates and interests hereinafter described is referred to herein as the "Property".

Together with, all rents, issues, profits, royalties, income and other benefits derived from the Real Estate subject to the right, power and authority hereinafter given to Mortgagor to collect and apply such rents;

Together with, all leasehold estate, right, title and interest of Mortgagor in and to all leases or subleases covering the Real Estate or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Mortgagor thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

Together with, all right, title and interest of Mortgagor in and to any greater estate in the Real Estate owned or hereafter acquired;

Together with, all interests, estate or other claims in law and in equity which Mortgagor now has or may hereafter acquire in the Real Estate;

Together with, all easements, rights-of-way and rights pertaining thereto or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto;

Together with, all right, title and interest of Mortgagor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Real Estate, and any and all sidewalks, alleys and strips and gores or land adjacent to or used in connection with the Real Estate;

Together with, any and all buildings and improvements now or hereafter erected thereon, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery, and other articles attached to said buildings and improvements;

Together with, all machinery, apparatus, equipment, fittings, fixtures, and articles of personal property of every kind and nature whatsoever, other than consumable goods, now or hereafter located in or upon the Real Estate or any part thereof and used or useable in connection with any present or future operation of said Real Estate (hereinafter called "Equipment") and now owned or hereafter acquired by the Mortgagor, including, but without limiting the generality of the foregoing, all heating, lighting, laundry, incinerating, and power equipment, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire-prevention, fire-extinguishing, refrigerating, ventilating, and communications apparatus, air-cooling and air-conditioning apparatus, elevators, escalators, shades, awnings, screens, storm doors and windows, stoves, wall beds, refrigerators, attached cabinets, partitions, ducts and compressors and all of the right, title and interest of the Mortgagor in and to any Equipment which may be subject to any title retention or security agreement superior in lien to lien of this Mortgage; provided however, that "Equipment" shall not include machinery, apparatus, equipment, fittings, fixtures, and articles of personal property used in the business of the Mortgagor whether the same are annexed to the Real Estate or not, unless the same are also used in the operation of any building located thereon. It is understood and agreed that all Equipment is appropriated to the use of the Real Estate and, whether affixed or annexed or not, shall for the purpose of this Mortgage be deemed conclusively to be conveyed hereby. The Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by the Mortgagee to confirm the lien of this Mortgage on any Equipment;

Together with, all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance, which Mortgagor now has or may hereinafter acquire in the Real Estate, and any and all awards made for the taking of eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Real Estate, including without limitation any awards resulting from a change of grade of streets and awards for severance damages.

To have and hold the Property unto the Mortgagee, and its successors and assigns forever, for the uses and purposes herein set forth.

ARTICLE II REPRESENTATIONS

2.01 Mortgagor represents it has good and marketable title to the Property. Mortgagor represents that it has good right and full power to sell and convey the same and that it has duly executed and delivered this Mortgage pursuant to proper directions and that Mortgagor will make any further assurances of title that the Mortgagee may require and will defend the Property against all claims and demands whatsoever.

2.02 Mortgagor represents that the proceeds of the loan evidenced by the Note and the Loan Agreement and the Indebtedness will be used for the purposes specified in Paragraph 205/4 of Chapter 815 of the Illinois Compiled Statutes and that the principal sum evidenced by the Note and the Loan Agreement constitutes a business loan which comes within the purview of such paragraph.

2.03 Mortgagor represents that the proceeds of the loan evidenced by the Note and the Loan Agreement have been or will be used to acquire, or to refinance a loan used to rehabilitate, the Property.

2.04 Neither Mortgagor nor, to the best of Mortgagor's knowledge, any previous owner of the Property or any third party, has used, generated, stored or disposed of any Hazardous Substances on the Property. For the purposes of this representation and warranty, "Hazardous Substances" shall include, but shall not be limited to, any toxic or hazardous wastes, pollutants or substances, including, without limitation, asbestos, PCBs, petroleum products and by-products, substances defined or listed as hazardous substances or toxic substances or similarly identified in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. section 9601 et seq., hazardous materials identified in or pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. section 1802 et seq., hazardous wastes identified in or pursuant to The Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. section 2601 et seq., any toxic pollutant under the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq., any hazardous air pollutant under the Clean Air Act, 42 U.S.C. section 7401 et seq., and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local environmental health or safety laws, regulations or rules of common law. Mortgagor shall indemnify and hold Mortgagee harmless from and against all liability, including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage or disposal of Hazardous Substances, including, without limitation, the cost of any required or necessary repair, clean-up or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following transfer of title to the Property, to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage or disposal of Hazardous Substances on the Property.

ARTICLE III WAIVER OF REDEMPTION

3.01 The Mortgagor releases and waives all rights to retain possession of the Property, after any default in payment or breach of any of the obligations, covenants, undertakings or agreements herein or in the Loan Agreement or the Note; Mortgagor hereby releases and waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on its own behalf and on behalf of each and every person, except decree and judgment creditors of the Mortgagor, including any and all persons acquiring any interest in or title to the Property or any beneficial interest in Mortgagor. Mortgagor shall not, and will not, apply for or avail itself of any appraisal, valuation, stay, extension or exemption law, or so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the Property, and any estates comprising the Property, marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety.

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ARTICLE IV MORTGAGOR'S COVENANTS

4.01 Mortgagor covenants and agrees to pay the Indebtedness and the other sums secured hereby in the manner and at the times provided for in the Note, the Loan Agreement, this Mortgage and the other Loan Documents.

4.02 Mortgagor covenants releases and agrees to pay, or causes to be paid, when due and payable by Mortgagor:

- (a) all real estate taxes, personal property taxes, assessments, license fees, water and sewer rates and charges, and all other governmental levies and charges, of every kind and nature whatsoever, general and special, ordinary and extraordinary, unforeseen as well as foreseen, which shall be assessed, levied, confirmed, imposed or become a lien upon or against the Property or any portion thereof, and all taxes, assessments and charges upon the rents, issues, income or profits of the Property, or which shall become payable with respect thereto or with respect to the occupancy, use or possession of the Property, whether such taxes, assessments or charges are levied directly or indirectly (hereinafter collectively called the "Impositions"); and
- (b) all other payments or charges required to be paid to comply with the terms and provisions of this Mortgage.

Unless Mortgagor is diligently pursuing the procedures provided for in **Section 12.01** hereof, within ten (10) days after written demand therefor, Mortgagor shall deliver to Mortgagee the original, or a photostatic copy, of the official receipt evidencing payment of Impositions or other proof of payment satisfactory to Mortgagee. Failure of Mortgagor to deliver to Mortgagee said receipts or to submit other proof satisfactory to Mortgagee as aforesaid shall constitute a default hereunder.

4.03 Mortgagor covenants and agrees to promptly comply, and cause all persons to comply with, all present and future laws, ordinances, rules, regulations and other requirements of all governmental authorities having or claiming jurisdiction of or with respect to the Property or any portion thereof or the use or occupation thereof.

4.04 Mortgagor covenants and agrees to keep and maintain, or cause to be kept and maintained, the Property (including all improvements thereon and the sidewalks, sewers, and curbs) in good order and condition and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen repairs and all maintenance necessary to that end. Furthermore, and without limiting the generality of the foregoing, Mortgagor will suffer no waste. All repairs and maintenance required of Mortgagor shall be (in the reasonable opinion of Mortgagee) of first-class quality.

4.05 Mortgagor shall not make or cause to be made any Improvements to the Property unless written approval is first obtained from Mortgagee.

4.06 Mortgagor covenants and agrees that this Mortgage is and will be maintained as a valid mortgage lien on the Property and that Mortgagor will not, directly or indirectly, create or suffer or permit to be created, or to stand against the Property, or any portion thereof, or against the rents, issues and profits therefrom, any lien (including any liens arising with respect to the payment of Impositions), security interest, encumbrance or charge whether prior to or subordinate to the lien of this Mortgage unless written approval is first obtained from Mortgagee, **other than the First Mortgage executed in favor of Bank One, N.A., as further described in EXHIBIT B attached hereto and incorporated herein by reference ("First Mortgage")**. Mortgagor will keep and maintain the Property free from all liens of persons supplying labor and materials for the construction, modification, repair or maintenance of any building or site improvement whether on the Property or not. If any such liens shall be filed against the Property, Mortgagor agrees to discharge the same of record within twenty (20) days after the liens are filed or, if not filed, within twenty (20) days after Mortgagor has notice thereof, provided that in connection with any such lien or claim which Mortgagor may in good faith desire to contest, Mortgagor may contest the same by appropriate legal proceedings, diligently prosecuted, but only if Mortgagor shall furnish to a title insurance company approved by Mortgagee such security or indemnity as the title insurance company may require to induce it to issue its preliminary or interim report on title, or its title insurance policy, insuring against all such claims or liens. In no event shall Mortgagor do, or permit to be done, or omit to do, or permit the omission of, any act or thing, the doing or omission of which would impair the security of this Mortgage.

4.07 Mortgagor covenants and agrees, so long as the Indebtedness remains outstanding, to comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to the Mortgagor or applicable to the Property or any part thereof.

4.08 Mortgagor covenants and agrees that all awards heretofore or hereafter made by any public or quasi-public authority to the present and all subsequent owners of the Property by virtue of an exercise of the right of eminent domain by such authority, including any award for a taking of title, possession or right of access to a public way, or for any change of grade of streets affecting the Property, are hereby assigned to the Mortgagee.

(a) Subject to the provisions of clause (b) of this **Section 4.08**, the Mortgagee, at its option, is hereby authorized, directed and empowered to collect and receive the proceeds of any such award or awards from the authorities making the same and to give proper receipts and acquittances therefor, and may, at the Mortgagee's election, use such proceeds in any one or more of the following ways:

- (i) apply the same or any part thereof upon the Indebtedness, whether such Indebtedness shall then be matured or unmatured,
- (ii) use the same or part thereof to fulfill any of the covenants contained herein as the Mortgagee may determine,
- (iii) use the same or any part thereof to replace or restore the Property to a condition satisfactory to the Mortgagee or
- (iv) release the same to the Mortgagor;

(b) Notwithstanding the provisions of clause (a) above, so long as Mortgagor is not in default hereunder or under the Note or the Loan Agreement,

- (i) Mortgagor may conduct any negotiations of an award, subject to Mortgagee's reasonable consent, and
- (ii) Mortgagor may use the proceeds of such an award solely to rebuild or restore the Property or the improvements thereon, provided that the proceeds shall be delivered to Mortgagee and disbursed to Mortgagor for use in rebuilding or restoration. If Mortgagor intends to so use the proceeds of a condemnation award it shall notify Lender in writing within (60) days after Mortgagor first has notice of a proposed condemnation. If Mortgagor does not notify Mortgagee of its election to so use the proceeds of a condemnation award or cannot comply with Mortgagee's said administrative requirements then clause (a) shall be applicable and Mortgagee's election shall not be subject to this clause (b). Mortgagor hereby covenants and agrees to and with the Mortgagee, upon request by the Mortgagee, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning all such awards to the Mortgagee free, clear and discharged of any and all encumbrances of any kind or nature whatsoever.

4.09 Mortgagor covenants and agrees that it will promptly perform and observe, or cause to be performed or observed, all of the terms, covenants and conditions of all instruments of record affecting the Property, noncompliance with which might affect the security of this Mortgage or impose any duty or obligation upon Mortgagor, and Mortgagor shall do or cause to be done, all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and right to, in favor of, or constituting any portion of the Property.

4.10 Mortgagor covenants and agrees that neither the value of the Property nor the lien of this Mortgage will be diminished or impaired in any way by any act or omission of the Mortgagor, and the Mortgagor agrees it will not do or permit to be done to, in, upon or about said Property, or any part thereof, anything that may in any way otherwise impair the value thereof, or weaken, diminish, or impair the security of this Mortgage.

4.11 Subject to the rights granted Mortgagor in **Section 12.01** of this Mortgage, Mortgagor covenants and agrees to promptly pay and discharge any and all license fees or similar charges, with penalties and interest thereon, which may be imposed by the municipality or county in which the Property is situated or any other governmental body having jurisdiction thereof and will promptly cure any violation of law and comply with any order of said municipality, county or other governmental body in respect of the repair, replacement or condition of the Property and any governmental regulations concerning environmental control and improvements, and that in default thereof, Mortgagee may, but shall not be required to, pay any and all such license fees or similar charges

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or comply with such regulations with penalties and interest thereon, or pay such charges of the municipality, county or other governmental body for such repair or replacement. All amounts so paid shall thereupon be liens upon the Property and secured by this Mortgage, and Mortgagor will repay the same upon demand, with interest thereon, from the date of such payment by Mortgagee.

4.12 Mortgagor covenants and agrees that if any action or proceeding is commenced in which Mortgagee in good faith deems it necessary to defend or uphold the validity, enforceability or priority of the lien and interest of this Mortgage or to preserve the value of the security for this Mortgage, all sums paid by Mortgagee for the expense of any such litigation to prosecute or defend the rights, lien and security interest created by this Mortgage (including reasonable attorneys' fees) shall be paid by Mortgagor, together with interest thereon at the rate then applicable under the Note and the Loan Agreement and any such sums and the interest thereon shall be a lien and security interest on the Property prior to any right or title to, interest in or claim upon the Property attaching or accruing subsequent to the lien and security interest of this Mortgage, and shall be secured by this Mortgage.

4.13 Mortgagor covenants to furnish from time to time within fifteen (15) days after Mortgagee's request, a written statement duly acknowledged, of the amount due upon this Mortgage, whether any alleged offsets or defenses exist against the Indebtedness and whether any defaults exist under the Loan Documents.

4.14 Mortgagor covenants to furnish to Mortgagee such financial statements and other information regarding the financial condition of Mortgagor as required by the Loan Agreement and such detail regarding the Property and its operation as Mortgagee may require.

4.15 If, by the law of the United States of America, or of any state having jurisdiction over Mortgagor, any stamp tax or similar tax is due or becomes due in respect of the issuance of the Note, or recording of this Mortgage, Mortgagor covenants to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agrees to indemnify Mortgagee, its successors or assigns, against any liability incurred by reason of the imposition of any stamp tax or similar tax on the issuance of the Note, or recording of this Mortgage.

4.16 Mortgagor shall cause the Property to comply with all Environmental Laws. All required governmental permits and licenses shall remain in effect or shall be renewed in a timely manner, and Mortgagor shall comply therewith. All Hazardous Substances present, handled or generated on the Property will be disposed of in a lawful manner. Mortgagor will satisfy all requirements of applicable Environmental Laws for the registration, operation, maintenance and removal of all underground storage tanks on the Property, if any. Without limiting the foregoing, all Hazardous Substance shall be handled in compliance with all applicable Environmental Laws.

ARTICLE V TRANSFER OR MORTGAGE OF PROPERTY

5.01 Mortgagor will not, without the prior written consent of Mortgagee, further mortgage, grant a deed of trust, pledge or otherwise dispose of or further encumber, whether by operation of law or otherwise, any or all of its interest in the Property, **other than the First Mortgage and as permitted encumbrances as described as Exhibit B.** Mortgagor will not, without the prior written consent of Mortgagee, sell, assign, or transfer the Property or any interest therein. Any sale, assignment, transfer, mortgage, deed of trust, pledge, change or other disposition or encumbrance made in violation of the above provisions shall be null and void and of no force and effect and the making thereof shall constitute a default under this Mortgage.

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ARTICLE VI PERFORMANCE OF MORTGAGOR'S OBLIGATIONS

6.01 If Mortgagor shall fail to pay any Impositions or to make any other payment required to be paid by Mortgagor under this Mortgage at the time and in the manner provided in this Mortgage, or if Mortgagor shall be in default in the performance or observance of any other term, covenant, condition or obligation required to be performed or observed by Mortgagor under this Mortgage, the Note, the Loan Agreement or any instrument of record, then, after the expiration of any applicable grace period as set forth in any such document or instrument, and without limiting the generality of any other provision of this Mortgage, and without waiving or releasing Mortgagor from any of its obligations hereunder, Mortgagee shall have the right, but shall be under no obligation, to pay any Impositions or other payment, or any sums due under this Mortgage, and may perform any other act or take such action as may be appropriate to cause such other term, covenant, condition or obligation to be promptly performed or observed on behalf of Mortgagor. In any event, Mortgagee and any person designated by Mortgagee shall have, and is hereby granted, the right to enter upon the Property at any time and from time to time for the purposes of performing any such act or taking any such action, and all moneys expended by Mortgagee in connection with making such payment or performing such act (including, but not limited to, legal expenses and disbursements), together with interest thereon from the date of each such expenditure, shall be paid by Mortgagor to Mortgagee within ten (10) days after written notice to Mortgagor demanding such payment, and shall be secured by this Mortgage, and Mortgagee shall have same rights and remedies in the event of nonpayment of any such sums by Mortgagor as in the case of a default by Mortgagor in the payment of the Indebtedness. Nothing in this Section or in any other part of this Mortgage shall be construed to require Mortgagee to make any payment or perform any obligation of Mortgagor or any of them. Any action taken by Mortgagee hereunder or in relation to the Property is for the sole benefit of Mortgagee and no other person shall rely upon any action, inaction, inspection or other act of Mortgagee in dealing with the Property or Mortgagor. Mortgagee in making any payment hereby authorized

- (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof, or
- (b) for the purchase, discharge, compromise or settlement of any other lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

ARTICLE VII ASSIGNMENT OF LEASES, RENTS AND CONTRACTS

7.01 Mortgagor hereby assigns to Mortgagee all of Mortgagor's interest in all rents, issues and profits of the Property, as further security for the payment of the Indebtedness and other sums secured hereby. Mortgagor grants to Mortgagee the right to enter the Property and to let the Property, or any part thereof, and to apply said rents, issues, profits and proceeds after payment of all charges and expenses, on account of the Indebtedness and other sums secured hereby. This assignment and grant shall continue in effect until the Indebtedness and other sums secured hereby are paid in full. Mortgagee hereby agrees not to exercise the right to enter the Property for the purpose of collecting said rents, issues or profits and Mortgagor shall be entitled to collect and receive said rents, issues, profits and proceeds until the occurrence of a default by Mortgagor under the terms and provisions hereof; provided that any rents, issues and profits collected and received by Mortgagor after the occurrence of a default hereunder which is not cured within the applicable grace period provided hereby shall be deemed collected and received by Mortgagor in trust for Mortgagee and Mortgagor shall account to Mortgagee for the full amount of such receipts. Mortgagor agrees to apply said rents, issues and profits, whenever received, to payment of the Indebtedness, all Impositions on or against the Property and other sums secured hereby. The right of Mortgagor to collect and receive said rents, issues and profits in trust for Mortgagee during the continuance of any default by Mortgagor under the terms and provisions of this Mortgage may be revoked by Mortgagee's giving written notice of such revocation to Mortgagor.

7.02 Mortgagor will, from time to time after notice and demand, execute and deliver to Mortgagee, in form satisfactory to Mortgagee, further agreements evidencing its willingness to comply and its compliance with the provisions of this Article VII. Mortgagor shall pay Mortgagee the expenses incurred by Mortgagee in connection with the recording of any such agreement.

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7.03 The assignment contained in this Article VII is given as collateral security and the execution and delivery hereof shall not in any way impair or diminish the obligations of the Mortgagor, nor shall this assignment impose any obligation on Mortgagee to perform any provision of any contract pertaining to the Property or any responsibility for the non-performance thereof by Mortgagor or any other person. The assignment under this Article VII is given as a primary pledge and assignment of the rights described herein and such assignment shall not be deemed secondary to the security interest and Mortgage of Mortgagor in the Property. Mortgagee shall have the right to exercise any rights under this Article VII before, together with, or after exercising any other rights under this Mortgage.

7.04 Mortgagor shall observe and perform all covenants, conditions and agreements in each lease to which it is a party, now or hereafter affecting any portion of the Property. Mortgagor shall not, without the prior written consent of Mortgagee,

- (a) accept any installments of rent for more than one month in advance or any security deposit for more than an amount equal to two months' rent, or
- (b) take any action or fail to take any action or exercise any right or option which would permit the tenant under any lease to cancel or terminate such lease, or
- (c) amend or modify any lease in a manner which would
 - (i) decrease the rent payable per unit of time under the lease,
 - (ii) decrease the payments to be made by the tenant under the lease for rent, taxes, insurance or other expenses,
 - (iii) decrease the term of the lease
 - (iv) impose any additional obligations on the landlord under the lease, or
 - (v) consent to a sublease or a substitution of tenants under the lease. Mortgagor agrees that hereafter it shall not assign any of the rents or profits of the Property.

7.05 Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the taking of actual possession of the Property by Mortgagee pursuant to Article X hereof. In the exercise of the powers herein granted Mortgagee, no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor.

ARTICLE VIII **CHANGES IN TAX LAWS; PAYMENT OF OTHER TAXES**

8.01 In the event of the passage after the date of this Mortgage of any law applicable to the Property deducting from the value of land for the purposes of taxation any lien thereon, or changing in any way materially adverse to Mortgagee the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes, or the manner of the collection of any such taxes, the holder of this Mortgage and of the Indebtedness secured hereby shall have the right to give thirty (30) days' written notice to the then owner of the Property requiring the payment of the Indebtedness. If such notice be given, said Indebtedness shall become due, payable and collectible at the expiration of said thirty (30) days, provided, however, that such requirement of payment shall be ineffective if the Mortgagor is permitted by law to pay the whole of such tax in addition to all other payments required hereunder, without any penalty thereby, and if the Mortgagor pays such tax prior to the date upon which payment is required by such notice.

8.02 In the event that hereafter it is claimed by any governmental agency that any tax or other governmental charge or imposition is due, unpaid or payable by Mortgagor or Mortgagee upon the Indebtedness (other than income tax on the interest or premium receivable by Mortgagee thereunder), including any recording tax, documentary stamps or other tax or imposition on the Note or Mortgage, Mortgagor will forthwith either

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- (a) pay such tax and, within a reasonable time thereafter, deliver to Mortgagee satisfactory proof of payment thereof or
- (b) deposit with Mortgagee the amount of such claimed tax or other governmental charge or imposition, together with interest and penalties thereon, or other security reasonably satisfactory to Mortgagee, pending an application for a review of the claim for such tax or other governmental charge or imposition and, within a reasonable time, deliver to Mortgagee either
 - (i) evidence satisfactory to Mortgagee that such claim has been withdrawn or defeated, in which event any such deposit shall be returned to Mortgagor, or
 - (ii) a direction from Mortgagor to Mortgagee to pay the same out of the deposit above mentioned, with any excess due over the amount of said deposit to be paid by Mortgagor directly to the taxing authority and any excess of such deposit over such payment by Mortgagee to be returned to Mortgagor provided Mortgagor is not in default under the provisions of the Mortgage. Upon the failure of Mortgagor to comply with the provisions of this Section, the entire Indebtedness shall, at the option of Mortgagee, become due and payable ten (10) days after written notice from Mortgagee. If liability for such tax or other governmental charge or imposition is asserted against Mortgagee, Mortgagee will give to Mortgagor prompt notice of such claim and Mortgagor upon complying with the provisions of this Section, shall have full right and authority to contest such claim.

ARTICLE IX DEFAULT

9.01 The entire Indebtedness shall become due, at the option of Mortgagee, if any one or more of the following events of default shall occur:

- (a) failure of Mortgagor to observe or perform any of the covenants or conditions by Mortgagor to be performed under the terms hereof.
- (b) any default shall occur (as defined in the Loan Agreement) or any default shall occur under the terms of any other Loan Document.
- (c) any warranty or representation of Mortgagor made hereunder was inaccurate or misleading in any material respect when made.
- (d) if Mortgagor or any guarantor of the Note shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidation of Mortgagor or any guarantor of the Note, or of all or any substantial part of their respective properties or of the Property; or if within sixty (60) days after the commencement of any proceeding against Mortgagor, or any guarantor of the Note seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act or any present or future applicable federal, state or other statute or law, such proceeding shall not be dismissed; or if, within thirty (30) days after the appointment of any trustee, receiver or liquidation of the Mortgagor or any guarantor of the Note (without the consent or acquiescence of such party) or of all or any substantial part of their respective properties or of the Property, such appointment shall not have been vacated or stayed on appeal or otherwise; or if, within sixty (60) days after the expiration of any such stay, such appointment shall not have been vacated.
- (e) the assignment, pledge, hypothecation, or other disposition of the Property in violation of the provisions of **Section 5.01** hereof.
- (f) **Any default shall occur or any default and the expiration of any applicable cure period shall occur under the terms of any agreements, documents, instruments, guaranties evidencing or executed in connection with the First Mortgage.**

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9.02 If an event of default shall occur which is not cured within any applicable grace period provided for, Mortgagee may, at its option, exercise any and all of the following remedies:

- (a) declare the unpaid portion of the Indebtedness to be immediately due and payable, without further notice or demand (each of which hereby is expressly waived by Mortgagor), whereupon the same shall become immediately due and payable.
- (b) enter upon the Property and take possession thereof and of all books, records and accounts relating thereto.
- (c) appoint a receiver for the Property, or any part thereof, and of the net income, rents, issues and profits thereof, without regard to the sufficiency of the Property covered by this Mortgage or any other security, and without the showing of insolvency on the part of Mortgagor or fraud or mismanagement, and without the necessity of filing any judicial or other proceeding for appointment of a receiver.
- (d) hold, lease operate or otherwise use or permit the use of the Property, or any portion thereof, in such manner, for such time and upon such terms as Mortgagee may deem to be in its best interest (making such repairs, alterations, additions and improvements thereto, from time to time, as Mortgagee shall deem necessary or desirable) and collect and retain all earnings, rentals profits, or other amounts payable in connection therewith.
- (e) Sell the Property, in whole or in part:
 - (i) under the judgment or decree of a court of competent jurisdiction, or
 - (ii) at public auction (if permitted by law) in such manner, at such time and upon such terms as Mortgagee may determine, or as provided by law, and/or sell any personal property, in whole or in part, at one or more public or private sales, in such manner, at such time or times, and upon such terms as Mortgagee may determine or as provided by law.
- (f) Foreclose this Mortgage.
- (g) Exercise any other remedy or now or hereafter existing in equity, at law, by virtue of statute or otherwise.

9.03 In case Mortgagee shall have proceeded to enforce any right under the Note, the Loan Agreement or this Mortgage and such proceedings shall have been discontinued or abandoned for any reason, then in every such case Mortgagor and Mortgagee shall be restored to their former positions and the right, remedies and powers of Mortgagee shall continue as if no such proceedings had been taken.

9.04 In the event Mortgagee:

- (a) grants an extension of time on any payments of the Indebtedness,
- (b) takes other or additional security for the payment thereof, or
- (c) waives or fails to exercise any right granted herein;

said act or omission shall not release Mortgagor, subsequent purchasers of the Property covered by this Mortgage or any part thereof, or any guarantor of the Note.

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ARTICLE X FORECLOSURE

10.01 In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree of sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee, or holders of the Note, for reasonable attorneys' fees, court costs, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring title insurance policies (which fees, charges and costs may be estimated as to items to be expended after entry of the decree), and all other expenses as Mortgagee or holders of the Note may deem reasonably necessary to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Property. All expenditures and expenses of such nature in this Article mentioned shall become so much additional indebtedness secured hereby and shall be immediately due and payable with interest thereon at the rate in effect under the Note and the Loan Agreement when paid or incurred by Mortgagee or holders of the Note. In addition to foreclosure proceedings, the above provisions of this paragraph shall apply to

- (a) any proceeding to which Mortgagee or the holders of the Note shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any Indebtedness hereby secured;
- (b) preparations for the commencement of any suit for foreclosure hereof after accrual of such right to foreclosure whether or not actually commenced; or
- (c) preparation for the defense of or investigation of any threatened suit, claim or proceeding which might affect the Property or the security hereof, whether or not actually commenced.

10.02 Upon or at any time after the filing of a bill to foreclose this Mortgage, the court in which such bill is filed may appoint a receiver of the Property. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency at the time of application for such receiver of the person or persons, if any, liable for the payment of the Indebtedness and other sums secured hereby and without regard to the then value of the Property and the Mortgagee hereunder may be placed in possession of the Property. The receiver shall have power to collect the rents, issues and profits of the Property during the pendency of such foreclosure suit, as well as during any further times when Mortgagee, its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of the Indebtedness and other sums secured hereby, or in payment of any tax, special assessment or other lien which may be or become superior to the lien hereof or superior to a decree foreclosing this Mortgage, provided such application is made prior to foreclosure sale.

10.03 The proceeds of any sale of all or any portion of the Property and the earnings of any holding, leasing, operating or other use of the Property shall be applied by Mortgagee in the following order:

- (a) first, to the payment to Mortgagee of the costs and expenses of taking possession of the Property and of holding, using, leasing, repairing, improving and selling the same;
- (b) second, to the payment of Mortgagee's attorneys' fees and other legal expenses;
- (c) third, to the payment of accrued and unpaid interest on the Note;
- (d) fourth, to the payment of the balance of the Indebtedness;
- (d) any surplus shall be paid to the parties entitled to receive it.

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ARTICLE XI INSPECTION

11.01 Mortgagor covenants and agrees that Mortgagee, or its agents or representatives, may make such inspections of the Property as Mortgagee may deem necessary or desirable, at all reasonable times and that any such inspections shall be solely for the benefit of Mortgagee and shall not be relied upon by Mortgagor for any purpose.

ARTICLE XII CONTESTING LIENS AND IMPOSITIONS

12.01 Mortgagor at its expense, may contest, after prior written notice to Mortgagee, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application in whole or in part, of any Impositions described in **Section 4.02**, any license fees or similar charges, or any mechanic's lien filed against the Property, provided that

- (a) Mortgagor shall first make all contested payments, under protest if it desires, unless such proceedings shall suspend the collection thereof,
- (b) neither the Property nor any part thereof or interest therein are at any time in any danger of being sold, forfeited, lost or interfered with, and
- (c) Mortgagor shall have furnished such security, if any, as may be required in the proceedings or reasonably requested by Mortgagee.

ARTICLE XIII ASSIGNMENT BY MORTGAGEE

13.01 Mortgagee may assign all or any portion of its interest hereunder and its rights granted herein and in the Note and the Loan Agreement to any person, trust, financial institution or corporation as Mortgagee may determine and upon such assignment, such assignee shall thereupon succeed to all the rights, interests, and options of Mortgagee herein and in the Note and the Loan Agreement contained and Mortgagee shall thereupon have no further obligations or liabilities hereunder.

ARTICLE XIV INSURANCE

14.01 (a) Mortgagor will procure, deliver to and maintain for the benefit of Mortgagee during the continuance of this Mortgage and until the same is fully satisfied and released, a policy or policies of insurance insuring the buildings, structures and improvements now existing or hereafter created on said Property against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, and such other hazards, casualties, and contingencies as Mortgagee may designate. All policies of insurance required hereunder shall be in such form, companies, and amounts as may be acceptable to Mortgagee, and shall contain a mortgagee clause acceptable to Mortgagee, with loss payable to Mortgagee. Mortgagor will promptly pay when due, any premiums on any policy or policies of insurance required hereunder, and will deliver to Mortgagee renewals of such policy or policies at least ten (10) days prior to the expiration dates thereof; the said policies and renewals to be marked "paid" by the issuing company or agent. Upon Mortgagor's failure to comply with the requirements of this paragraph, Mortgagee may, in its discretion, effect any insurance required hereunder and pay the premiums due therefor, and any amounts so paid by Mortgagee shall become immediately due and payable by Mortgagor with interest as described in **Section 6.01** hereof, and shall be secured by this Mortgage. The delivery to Mortgagee of any policy or policies of insurance hereunder, or renewals thereof, shall constitute an assignment to Mortgagee of all unearned premiums thereon as further security for the payment of the indebtedness secured hereby. In the event any foreclosure action or other proceeding hereunder is instituted by Mortgagee, all right, title and interest of Mortgagor in any or to any policy or policies of insurance then in force shall vest in Mortgagee.

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(b) Mortgagor shall obtain and keep in force during the term of this Mortgage public liability insurance, flood Insurance, if applicable, and such other types of insurance in such amounts and in such form as Mortgagee shall require. Such insurance shall name Mortgagee as a co-insured and shall provide that it may not be cancelled or materially modified except after 30 days' prior written notice to Mortgagee. Mortgagor shall deliver evidence of such insurance to Mortgagee in such form and at such times as Mortgagee may reasonably require.

14.02 (a) In case of damage to or the destruction of the improvements on the Property by fire or other casualty, Mortgagor, at Mortgagor's election exercised within thirty (30) days after the occurrence of loss or casualty, may (provided Mortgagor is not in default hereunder) cause all proceeds of insurance to be applied to the Indebtedness or the restoration to their former condition of the improvements damaged or destroyed; provided, however, Mortgagor's right to elect to have the proceeds applied to restoration of the improvements shall be conditioned upon the Mortgagor's presenting to Mortgagee concurrently with notice of Mortgagor's election, evidence reasonably satisfactory to Mortgagee that

- (i) the proceeds of insurance are sufficient to repair or restore improvements, or, if such proceeds are insufficient, that Mortgagor has deposited with Mortgagee funds which, when added to the proceeds of insurance, shall be sufficient to repair or restore, and
- (ii) Mortgagor can complete such repairs or restoration prior to the date when the Note becomes due and payable. In the event Mortgagor does not or is not entitled to make the election aforesaid, Mortgagee may decide whether the insurance proceeds shall be applied against the debt secured hereby or in the repair or restoration of the improvements.

(b) In the event the insurance proceeds are to be applied to the Indebtedness, Mortgagee may collect all proceeds of insurance after deduction of all reasonable expense of collection and settlement including attorneys' and adjustors' fees and charges, and apply same against the Indebtedness. If the proceeds are insufficient to pay such Indebtedness in full, Mortgagee may declare the balance remaining unpaid immediately due and payable, and avail itself of any of the remedies provided for in the event of any default. Any proceeds remaining after application upon the Indebtedness shall be paid by Mortgagee to Mortgagor.

(c) In the event the insurance proceeds are to be used to rebuild the improvements, Mortgagee may collect and retain the insurance proceeds and disburse same. Mortgagor shall proceed with diligence to make settlement with insurers and cause the proceeds of the insurance to be deposited with Mortgagee.

ARTICLE XV SECURITY AGREEMENT

15.01 Mortgagor hereby grants to Mortgagee, in addition to and not in substitution for, any interest granted hereinabove, an express security interest in, and mortgages to the Mortgagee, all goods, types and items of property owned by the Mortgagor which are described on pages 2 and 3 of this Mortgage and in **Section 15.02** below (hereinafter the "Collateral") whether now or hereafter erected on or placed in or upon the Real Estate or any part thereof, and all replacements thereof and accessions thereto and proceeds thereof to further secure the payment of the Indebtedness, the payment of all other sums due from the Mortgagor to the Mortgagee, and the performance by Mortgagor of all the covenants and agreements set forth herein. Mortgagor warrants and covenants that, except for the security interest granted hereby, Mortgagor is the owner of the Collateral free from any adverse lien, security interest or encumbrance and Mortgagor warrants that Mortgagor has made payment in full for all such Collateral. Mortgagor will upon request from Mortgagee deliver to Mortgagee such further security agreements, chattel mortgages, financing statements and evidence of ownership of such items as Mortgagee may request.

15.02 The security interest granted to the Mortgagee hereby shall cover the following types or items of property now or hereafter owned by the Mortgagor and used in connection with, and located upon, the Real Estate: the Property and all machinery, apparatus, Equipment, goods, systems, fixtures and property of every kind and nature whatsoever now or hereafter located in or upon or affixed to the Real Estate, or any part thereof, and used or usable in connection with any present or future operation of the Real Estate, and now owned or hereafter acquired by Mortgagor, including, but without limitation of the generality of the foregoing, all building permits plans and specifications, the construction contract with the General Contractor, all sub-contracts and all other rights, licenses, permits, and agreements related to construction, leasing and management of the Project, heating,

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lighting, incinerating, refrigerating, ventilating, air-conditioning, air-cooling, lifting, fire-extinguishing, plumbing, cleaning, communications, power, equipment, systems and apparatus; and all elevators, escalators, switchboards, engines, motors, tanks, pumps, screens, storm doors, storm windows, shades, blinds, awnings, floor coverings, ranges, stoves, refrigerators, washers, dryers, cabinets, partitions, conduits, ducts and compressors; and all other items of personal property used in connection with the Real Estate. In addition, the Mortgagor hereby grants to the Mortgagee an express security interest in all tenements, hereditaments, easements, appendages, licenses, privileges and appurtenances belonging or in any way appertaining to the Real Estate, and all interests in property, rights and franchises or any part thereof together with all the reversions and remainders, and to the extent permitted by laws, all rents, tolls, issues and profits from the Real Estate, and all the estate, right, title, interest and claims whatsoever, at law and in equity which the Mortgagor now has or may hereafter acquire with respect to the Real Estate and the Collateral.

15.03 Upon default hereunder and acceleration of the Indebtedness pursuant to the provisions hereof, Mortgagee may at its discretion require Mortgagor to assemble the Collateral and make it available to Mortgagee at a place reasonably convenient to both parties to be designated by Mortgagee.

15.04 Mortgagee shall give Mortgagor notice, by registered mail, postage prepaid, of the time and place of any public sale of any of the Collateral or of the time after which any private sale or other intended disposition thereof is to be made by sending notice to Mortgagor at least five (5) business days before the time of the sale or other disposition, which provisions for notice Mortgagor and Mortgagee agree are reasonable; provided, however, that nothing herein shall preclude Mortgagee from proceeding as to both Real Estate and personal property in accordance with Mortgagee's rights and remedies in respect to the Real Estate as provided in Section 5/9-501(4) of Chapter 810 of the Illinois Compiled Statutes.

15.05 Mortgagor shall reimburse Mortgagee for all costs, charges and fees, including legal fees incurred by Mortgagee in preparing and filing the Loan Documents, note, mortgage, security agreements, extension agreements, financing statements, continuation statements, termination statements and chattel searches.

15.06 The Collateral described herein shall be considered for all purposes a part of the Property as described herein; all warranties and covenants contained in this mortgage made by Mortgagor shall be deemed as having been made with reference to the Collateral; all agreements, undertakings and obligations of Mortgagor stated herein shall apply to the Collateral, including without limitation, obligations regarding insurance, freedom from adverse lien or encumbrance, repair and maintenance; and all remedies of the Mortgagee in the event of any default by Mortgagor under the terms of this Mortgage or any other instrument evidencing or securing the Indebtedness shall be available to the Mortgagee against the Collateral.

15.07 This Mortgage constitutes a Security Agreement as that term is used in the Illinois Uniform Commercial Code, Chapter 810, Illinois Compiled Statutes.

15.08 This Mortgage also constitutes a "financing statement" filed as a "fixture filing" pursuant to the Illinois Uniform Commercial Code.

ARTICLE XVI MISCELLANEOUS

16.01 The rights of Mortgagee arising under the provisions and covenants contained in this Mortgage, the Note, the Loan Agreement and other documents securing the Indebtedness or any part thereof shall be separate, distinct and cumulative and none of them shall be in exclusion of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision, anything herein or otherwise to the contrary notwithstanding.

16.02 A waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof, or of the Note, the Loan Agreement or any other documents given by Mortgagor to secure the Indebtedness, or any part thereof, shall apply to the particular instance or instances and at the particular time or times only, and no such waiver shall be deemed a continuing waiver but all of the terms, covenants, conditions and other provisions of this Mortgage and of such other documents shall survive and continue to remain in full force and effect. No waiver shall be asserted against Mortgagee unless in writing signed by Mortgagor.

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16.03 No change, amendment, modification, cancellation or discharge hereof, or any part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

16.04 All notices, demands and requests given or required to be given by either party hereto to the other party shall be in writing. All notices, demands and requests by Mortgagee to Mortgagor shall be deemed to have been properly given if sent by U.S. registered or certified mail, postage prepaid, addressed to Mortgagor at the address set forth above or to such other address as Mortgagor may from time to time designate by written notice to Mortgagee given as herein required.

All notices, demands and requests by Mortgagor to Mortgagee shall be deemed to have been properly given if sent by U.S. registered or certified mail, postage prepaid, addressed to Mortgagee at the address set forth or to such other address as Mortgagee may from time to time designate by written notice to Mortgagor.

16.05 If any action or proceeding shall be instituted to evict Mortgagor or recover possession of the Property or any part thereof, or for any other purpose affecting the Property or this Mortgage, or if any notice relating to a proceeding or a default is served on Mortgagor, Mortgagor will immediately, upon service thereof on or by Mortgagor, deliver to Mortgagee a true copy of each notice, petition, or other paper or pleading, however designated.

16.06 In the event a portion of the Property is released from the lien of this Mortgage by Mortgagee, or added to this Mortgage by Mortgagor, the "Property" as herein defined shall refer only to that portion from time to time subject to the lien of this Mortgage.

16.07 Each and all of the covenants and obligations of this Mortgage shall be binding upon and inure to the benefit of the parties hereto, and except as herein otherwise specifically provided, their respective successors and assigns, subject at all times nevertheless to all agreements and restrictions herein contained with respect to the transfer of Mortgagor's interest in the Property covered by this Mortgage.

16.08 If one or more of the provisions of this Mortgage shall be invalid, illegal or unenforceable in any respect, such provision shall be deemed to be severed from this Mortgage and the validity, legality and enforceability of the remaining provisions contained herein, shall not in any way be affected or impaired thereby. Without limiting the generality of the foregoing, any provision herein, or in the Note or the Loan Agreement to the contrary notwithstanding, Mortgagee shall in no event be entitled to receive or collect, nor shall or may amounts receive hereunder be credited, so that Mortgagee shall be paid, as interest, a sum greater than the maximum amount permitted by law. If any construction of this Mortgage, the Note or the Loan Agreement indicates a different right given to Mortgagee to ask for, demand or receive any larger sum, as interest, such as a mistake in calculation or in wording, which this clause shall override any control, and proper adjustment shall automatically be made accordingly.

16.09 If any terms and provisions of the Loan Agreement are inconsistent with any of the terms of this Mortgage, the provisions of the Loan Agreement shall prevail. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Loan Agreement. This Mortgage shall be governed by and construed in accordance with the internal laws of the state of Illinois applicable to contracts made and performed in Illinois by an Illinois borrower and a national banking association located in Illinois, as lender.

16.10 This is a second mortgage on the Property and is subject and subordinate in each and every respect to any and all rights of any kind created by the First Mortgage, securing a note (as maybe amended, modified or replaced) ("Senior Note") dated October 13, 1999 in the original principal amount of \$288,000.00 payable to Lender.

As long as the First Mortgage is in effect, in the event of any conflict between the provisions of this Mortgage and the First Mortgage, the provisions of the First Mortgage shall prevail. Any waiver or forbearance by the Lender under the Senior Note shall not impair the priority of its lien under the First Mortgage. Notwithstanding any other provision herein to the contrary, the failure by Mortgagor to comply with any provision hereof (other than the payment of amounts or the provision of documents to Mortgagee) due to conflict between the provisions of the First Mortgage and the provisions hereof shall not be deemed an "Event of Default" hereunder; provided, however, that Mortgagor shall promptly provide to Mortgagee written notice of such conflict and of the actions taken by Mortgagor pursuant to the First Mortgage.

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16.11 JURY WAIVER. THE MORTGAGOR AND THE MORTGAGEE (BY ITS ACCEPTANCE HEREOF) HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) BETWEEN THE MORTGAGOR AND THE MORTGAGEE ARISING OUT OF OR IN ANY WAY RELATED TO THIS MORTGAGE OR THE TRANSACTIONS CONTEMPLATED BY THIS MORTGAGE. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE MORTGAGEE TO PROVIDE THE FINANCING EVIDENCED BY THIS MORTGAGE.

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed on the day and year first above written.

MORTGAGOR


Craig E. Burton, jointly and severally



Renea S. Burton, jointly and severally

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EXHIBIT A

LEGAL DESCRIPTION of real estate commonly known as:

5124-26 South Michigan Avenue, Chicago, Illinois 60615

Real Estate Tax PIN # 20--10--301--039--0000

THE SOUTH 63 FEET OF THE NORTH 113 FEET OF LOT 1 IN JAMES D. LYNCH'S ADDITION TO HYDE PARK, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

EXHIBIT B

Permitted Encumbrances

That certain Construction Mortgage, Security Agreement and Assignment of Leases and Rents and Contracts, dated October 13, 1999 from Mortgagor in favor of Bank One, N.A., and recorded October 15, 1999 as Document No. 99969750 in the office of the Cook County Recorder of Deeds, (as may be amended, modified or replaced) securing a note of even date therewith in the original principal amount of \$288,000.00 (as may be amended, modified or replaced) payable to Bank One, N.A..

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