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MORTGAGE AND SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND LEASES

Dated as of

August 30, 1999

GRANTED BY

SANBELL LIMITED PARTNERSHIP, a Delaware limited partnership

TO

SUNTRUST BANK, SOUTH FLORIDA, NATIONAL ASSOCIATION

Prepared by and after recording, return to:

Michael S. Greene, Esq.
Sachs, Sax & Klein, P.A.
Post Office Box 810037
Boca Raton, Florida 33481-0037



Date: 08/30/99
State: Illinois
Kin #: 3276

This instrument prepared by
and return to:
Michael S. Greene, Esquire
Sachs, Sax & Klein, P.A.
301 Yamato Road, Suite 4150
Boca Raton, Florida 33431

**MORTGAGE
AND SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND LEASES**

THIS MORTGAGE AND SECURITY AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES ("**Mortgage**"), dated August 30, 1999, by and between SANBELL LIMITED PARTNERSHIP, A DELAWARE LIMITED PARTNERSHIP c/o Kin Properties, Inc., 77 Tarrytown Road, Suite 100, White Plains, New York 10607 (hereinafter called "**Mortgagor**") and SUNTRUST BANK, SOUTH FLORIDA, NATIONAL ASSOCIATION, having an office at 501 East Las Olas Boulevard, Fourth Floor, Fort Lauderdale, Florida 33301, its successors, nominees and assigns, Attention: Real Estate Finance Department (hereinafter called "**Lender**").

WITNESSETH:

That for and in consideration of the premises and in order to secure (i) the payment of both the principal of, and interest and any other sums payable on the Note (as hereinafter defined) or this **Mortgage**, and (ii) the payment and performance of any other indebtedness, liabilities or obligations, now existing or hereafter arising, due or to become due, absolute or contingent of Mortgagor to Lender or any affiliate of Lender and (iii) the performance and observance of all of the provisions hereof and of said Note, Mortgagor hereby grants, sells, warrants, conveys, assigns, transfers, mortgages and sets over and confirms unto Lender, all of Mortgagor's estate, right, title and interest in, to and under all that certain real property situate in Cook County, Illinois, more particularly described in **Exhibit "A"** attached hereto and made a part hereof (the "**Real Property**");

TOGETHER WITH all improvements now or hereafter located on said Real Property and all buildings, structures, easements, rights of way, sewer rights, water rights, fixtures,

Date: 08/30/99
State: Illinois
Kin #: 3276

appliances, apparatus, equipment, furnishings, heating and air conditioning equipment, machinery and articles of personal property and replacement thereof (other than those owned by lessees of said Real Property) now or hereafter affixed to, attached to, placed upon, or used in any way in connection with the complete and comfortable use, occupancy, or operation of the said Real Property, all licenses and permits used or required in connection with the use of said Real Property, all leases of said Real Property now or hereafter entered into and all right, title and interest of Mortgagor thereunder, including without limitation, cash or securities deposited thereunder pursuant to said leases, and all rents, issues, proceeds, and profits accruing from said Real Property and together with all proceeds of the conversion, voluntary or involuntary of any of the foregoing into cash or liquidated claims, including without limitation, proceeds of insurance and condemnation awards. Mortgagor hereby grants to Lender a security interest in the foregoing described tangible and intangible personal property;

TOGETHER WITH all building permits, surveys, architectural plans and specifications, governmental approvals, licenses, agreements with any utility companies and any other consents and approvals which it may now or hereafter own with respect to or in connection with the Property, and all warranties and guaranties covering any and all improvements, structures, facilities, furniture, equipment, machinery, building supplies and materials, appliances, fixtures and other property now or hereafter located on or placed upon the Property, including, without limitation, air conditioning, heating and other appliances, and equipment;

TOGETHER WITH all other governmental licenses, permits, approvals, allocations, contract rights related to the operation or design of any improvements thereon, and similar matters and documents obtained or to be obtained in the future which are necessary or appropriate for the operation and management of the improvements, including but not limited to plats and plat approvals, and all prints, licenses, certificates, and approvals required for or otherwise obtained in connection with the use and operation of the Property, including but not limited to, occupational licenses, restaurant licenses, alcoholic beverage licenses;

TOGETHER WITH all contracts, written or oral, express or implied, now existing or hereafter entered into or arising, in any manner related to the improvement, use, operation, sale, conversion or other disposition (voluntary or involuntary) of the Real Property, tangible property, the rents or any interest therein, or any combination, including any and all deposits, prepaid items and payments due and to become due thereunder, and further including construction contracts, service contracts, purchase contracts, repurchase agreements, management agreements, marketing agreements, labor agreements, advertising contracts, purchase orders and equipment leases; and

TOGETHER WITH all other contract rights, accounts, instruments and general intangibles, as such terms from time to time are defined in the Florida Uniform Commercial Code, in any manner related to the use, operation, sale, conversion or other disposition

Date: 08/30/99
State: Illinois
Kin #: 3276

(voluntary or involuntary) of the Land, Improvements, tangible property or Rents or any interest therein, including all permits, licenses, insurance policies and choses in action.

All of the above-described property is hereinafter referred to as the "Mortgaged Property".

TO HAVE AND TO HOLD the Mortgaged Property, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions thereof and all the estate, right, title, interest, homestead, dower and right of dower, separate estate, possession, claim and demand whatsoever, as well in law as in equity, of Mortgagor and unto the same, and every part thereof, with the appurtenances of Mortgagor in and to the same, and every part and parcel thereof unto Lender.

Mortgagor warrants and covenants that Mortgagor has a good and marketable title to an indefeasible fee estate in the Real Property comprising the Mortgaged Property subject to no lien, charge or encumbrance except such as Lender has agreed to accept in writing and Mortgagor covenants that this Mortgage is and will remain a valid and enforceable mortgage on the Mortgaged Property subject only to the exceptions herein provided. Mortgagor has full power and lawful authority to mortgage the Mortgaged Property in the manner and form herein done or intended hereafter to be done. Mortgagor will preserve such title and will forever warrant and defend the same to Lender and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever.

Mortgagor warrants and covenants that Mortgagor has not assigned nor shall it assign to any other person or entity any interest in such leases, licenses, permits, approvals, allocations, contract rights, or similar matters or documents and that Mortgagor shall take whatever reasonable action, including, but not limited to, the payment of fees and charges, necessary or required to keep this Mortgage and such leases, licenses, permits, approvals, allocations, contract rights, and similar matters or documents in full force and effect during the entire term of the Mortgage.

Mortgagor will, at the cost of Mortgagor, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as Lender shall from time to time require in order to preserve the priority of the lien of this Mortgage or to facilitate the performance of the terms hereof.

PROVIDED, HOWEVER, that if Mortgagor shall pay to Lender the indebtedness as evidenced by the Revolving Loan and Amortization Promissory Note made by Jeffrey Sandelman, Sanford Sandelman, Susan Sandelman, and other corporations, partnerships and

Date: 08/30/99
State: Illinois
Kin #: 3276

trusts (each person or entity executing the Note being an "Obligor") and "Obligor" shall include the Mortgagor whether or not Mortgagor has executed the Notes in the original principal sum of **Twenty-Five Million and 00/100 Dollars (\$25,000,000.00)** (the "Note"), of even date herewith, or any renewal or replacement of such Note, executed by Mortgagor and payable to order of Lender, with interest and upon the terms as provided therein, and together with all other sums advanced by Lender to or on behalf of Mortgagor pursuant to the Note or this Mortgage, and Mortgagor shall pay to Lender all indebtedness due or to become due, absolute or contingent of Mortgagor to Lender, on or before the final maturity date of the Note and this Mortgage as specified in the Note and shall perform all other covenants and conditions of the Note, all of the terms of which Note are incorporated herein by reference as though set forth fully herein, and of any renewal, extension or modification, thereof and of this Mortgage, then this Mortgage and the estate hereby created shall cease and terminate.

Mortgagor further covenants and agrees with Lender as follows:

1. To pay all sums, including interest secured hereby when due, as provided for in the Note and any renewal, extension or modification thereof and in this Mortgage, all such sums to be payable in lawful money of the United States of America at Lender's aforesaid principal office, or at such other place as Lender may designate in writing.
2. To pay when due, and without requiring any notice from Lender, all taxes, assessments of any type or nature and other charges levied or assessed against the Mortgaged Property or this Mortgage and produce receipts therefore upon demand. To immediately pay and discharge any claim, lien or encumbrance against the Mortgaged Property which may be or become superior to this Mortgage and to permit no default or delinquency on any other lien, encumbrance or charge against the Mortgaged Property.
3. As provided in the Loan Agreement of even date herewith ("Loan Agreement"), Lender may require that Mortgagor also make monthly deposits with Lender, in a non-interest bearing account, together with and in addition to interest and principal, of a sum equal to one-twelfth of the yearly taxes and assessments which may be levied against the Mortgaged Property, and one-twelfth of the yearly premiums for insurance thereon. The amount of such taxes, assessments and premiums, when unknown, shall be estimated by Lender. Such deposits shall be used by Lender to pay such taxes, assessments and premiums when due. Any insufficiency of such account to pay such charges when due shall be paid by Mortgagor to Lender on demand. If, by reason of any default by Mortgagor under any provision of this Mortgage, Lender declares all sums secured hereby to be due and payable, Lender may then apply any funds in said account against the entire indebtedness secured hereby. The enforceability of the covenants relating to taxes, assessments and insurance premiums herein otherwise provided shall not be affected except insofar as those obligations have been met by compliance with this paragraph. Lender may from time to time at its option waive, and after any such waiver reinstate, any or all provisions hereof requiring such deposits, by notice to

Date: 08/30/99
State: Illinois
Kin #: 3276

Mortgagor in writing. While any such waiver is in effect, Mortgagor shall pay taxes, assessments and insurance premiums as herein elsewhere provided.

4. To promptly pay all taxes and assessments assessed or levied under and by virtue of any state, federal or municipal law or regulation hereafter passed, against Lender upon this Mortgage or the debt hereby secured, or upon its interest under this Mortgage, provided however, that the total amount so paid for any such taxes pursuant to this paragraph together with the interest payable on said indebtedness shall not exceed the highest lawful rate of interest in Illinois and provided further that in the event of the passage of any such law or regulation imposing a tax or assessment against Lender upon this Mortgage or the debt secured hereby, that the entire indebtedness secured by this Mortgage shall thereupon become immediately due and payable at the option of Lender. Alternatively, if such would enable Borrower and Lender to not pay any such tax, Borrower may exercise the substitution option set forth in the Loan Agreement.

5. As provided in the Loan Agreement, to keep the Mortgaged Property insured against loss or damage. Upon exercise of the power of sale given in this Mortgage or other acquisition of the Mortgaged Property or any part thereof by Lender, such policies shall become the absolute property of Lender.

6. To first obtain the written consent of Lender, such consent to be granted or withheld at the sole discretion of Lender, before (a) removing or demolishing any building now or hereafter erected on the premises, or (except in the ordinary course of business;) (b) altering the arrangement, design or structural character thereof, (c) making any repairs which involve the removal of structural parts or the exposure of the interior of such building to the elements, (d) cutting or removing or permitting the cutting and removal of any trees or timber on the Mortgaged Property, or (e) removing or exchanging any tangible personal property which is part of the Mortgaged Property. To the extent that the lease(s) for the Mortgaged Property grant to the tenant thereunder the right to take any action which otherwise would be limited by this Section, the provisions of this Section shall not apply and shall not be deemed to be violated by any action taken by such tenant.

7. To maintain the Mortgaged Property in good condition and repair, including but not limited to the making of such repairs as Lender may from time to time determine to be necessary for the preservation of the Mortgaged Property and to not commit or permit any waste thereof, and Lender shall have the right to inspect the Mortgaged Property on reasonable notice to Mortgagor.

8. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Mortgaged Property, and not to cause or permit any violation thereof.

Date: 08/30/99
State: Illinois
Kin #: 3276

9. If Mortgagor, after written notice and opportunity to cure as provided in the Loan Agreement, fails to pay any claim, lien or encumbrance which is superior to this Mortgage, or when due, any tax or assessment or insurance premium, or to keep the Mortgaged Property in repair, or shall commit or permit waste, or if there be commenced any action or proceeding affecting the Mortgaged Property or the title thereto, or the interest of Lender therein, including, but not limited to, eminent domain and bankruptcy or reorganization proceedings, then Lender, at its option, may pay said claim, lien, encumbrance, tax, assessment or premium, with right of subrogation thereunder, may make such repairs and take such steps as it deems advisable to prevent or cure such waste, and may appear in any such action or proceeding and retain counsel therein, and take such action therein as Lender deems advisable, and for any of such purposes Lender may advance such sums of money, including all costs, reasonable attorney's fees and other items of expense as it deems necessary. Lender shall, in its reasonable discretion, be the sole judge of the legality, validity and priority of any such claim, lien, encumbrance, tax, assessment and premium and of the amount necessary to be paid in satisfaction thereof. Lender shall not be held accountable for any delay in making any such payment, which delay may result in any additional interest, costs, charges, expenses or otherwise.

10. Mortgagor shall be entitled, at its sole discretion, to terminate, modify, amend or assign any leases or any of the terms thereof, or grant any concessions in connection therewith, either orally or in writing, or to accept a surrender thereof without the written consent of the Lender, provided, however, that, in the event that Mortgagor takes any action, unless and until Mortgagor secures the consent of Lender to any such action, for purposes of the Loan Agreement, and the financial covenants set forth in the Loan Agreement, and the Mortgaged Property shall be deemed to have no value (\$0.00). Mortgagor agrees not to discount any future accruing Rents or collect any of the Rent arising or accruing under said leases for more than one month in advance of the time when the same become due under the terms thereof, excluding collection of last month's rent and security deposits. Mortgagor will perform all of its covenants and agreements as lessor under said leases and not suffer or permit to occur any release of liability of the lessees, or any rights to the lessees to withhold payment of rent; and will furnish Lender with complete copies of notices of default on the part of Mortgagor with respect to said leases.

11. Mortgagor will pay to Lender, immediately and without demand, all sums of money advanced by Lender to protect the security hereof pursuant to this Mortgage, including all costs, reasonable attorney's fees and other items of expense, together with interest on each such advancement at the rate of interest per annum allowed by the Note and Loan Agreement, and all such sums and interest thereon shall be secured hereby.

12. All sums of money secured hereby shall be payable without any relief whatever from any valuation or appraisal laws.

Date: 08/30/99
State: Illinois
Kin #: 3276

13. If an Event of Default occurs under the Note, this Mortgage, or any other loan document entered into in connection therewith, upon written notice as may be required in the Note and Loan Agreement, and is not cured within any applicable cure period, all of the indebtedness secured hereby shall become and be immediately due and payable at the option of Lender, in which event Lender may avail itself of all rights and remedies, at law or in equity, and this Mortgage may be foreclosed with all rights and remedies afforded by the laws of Illinois and Mortgagor shall pay all costs, charges and expenses thereof, including a reasonable attorney's fee, including all such costs, expenses and attorney's fees, for any retrial, rehearing or appeals. The indebtedness secured hereby shall bear interest at the rate of interest per annum allowed by the Note and Loan Agreement from and after the date of any such default of Mortgagor. If the Note provides for instalment payments, the Lender may, at is option, collect a late charge as may be provided for in the Note, to reimburse the Lender for expenses in collecting and servicing such installment payments.

14. If an Event of Default should occur under the Note, this Mortgage, any other mortgage or deed of trust entered into pursuant to or in connection with the Loan Agreement, the Loan Agreement, and any other document entered into in connection therewith, or in performance of any of Mortgagor's obligations, covenants or agreements hereunder and thereunder, and is not cured within any applicable cure period:

(a) Lender is authorized at any time, upon notice to Mortgagor, in its sole discretion to enter upon and take possession of the Mortgaged Property or any part thereof, to perform any acts Lender deems necessary or proper to conserve the security and to collect and receive all rents, issues and profits thereof, including those past due as well as those accruing thereafter; and

(b) Lender shall be entitled, as a matter of strict right, upon notice to Mortgagor, and without regard to the value or occupancy of the security, or the solvency of Mortgagor, or the adequacy of the Mortgaged Property as security for the Note, to have a receiver appointed to enter upon and take possession of the Mortgaged Property, collect the Rents and profits therefrom and apply the same as the court may direct, such receiver to have all the rights and powers permitted under the laws of Illinois.

In either such case, Lender or the receiver may also take possession of, and for these purposes use, any and all personal property which is a part of the Mortgaged Property and used by Mortgagor in the rental or leasing thereof or any part thereof, expressly excluding all personal property of any tenant. The expense (including receiver's fees, counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby. Lender shall (after payment of all costs and expenses incurred) apply such rents, issues and profits received by it on the indebtedness secured hereby in such order as Lender determines. The right to enter and take possession of the Mortgaged Property, to manage and operate the same, and to collect the rents, issues and profits thereof, whether by a receiver or

Date: 08/30/99
State: Illinois
Kin #: 3276

otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Lender shall be liable to account only for such rents, issues and profits actually received by Lender. Upon issuance of a deed or deeds pursuant to foreclosure of the Mortgage, all right, title and interest of the Mortgagor in and to said leases shall by virtue of this instrument, thereupon vest in and become the absolute property of the grantee or grantees in such deed or deeds without any further act or assignment by the Mortgagor. Mortgagor hereby irrevocably appoints Lender and its successors and assigns, as its agent and attorney in fact, to execute all instruments of assignment or further assurances in favor of such grantee or grantees in such deed or deeds, as may be necessary or desirable for such purpose. But nothing contained herein shall prevent Lender from terminating any subordinate lease through such foreclosure, except to the extent provided in any subordination, nondisturbance and attornment agreement which Lender has executed.

15. If the indebtedness secured hereby is now or hereafter further secured by chattel mortgages, security interests, financing statements, pledges, contracts of guaranty, assignments of leases, or other securities, or if the Mortgaged Property hereby encumbered consists of more than one parcel of Real Property, Lender may at its option exhaust any one or more of said securities and security hereunder, or such parcels of the security hereunder, either concurrently or independently, and in such order as it may determine. To the extent permitted by law, Mortgagor, on its own behalf and on behalf of its successors and assigns, hereby expressly waives all right to require a marshalling of assets by Lender or to require Lender to petition the court in a foreclosure suit to first foreclose and sell any portion of the Property retained by Mortgagor, before foreclosing upon and selling any other portion of the Property previously conveyed by Mortgagor subject to this Mortgage.

16. This Mortgage shall secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or to be made at the option of Lender, or otherwise, as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage, but such secured indebtedness shall not exceed at any time the maximum principal amount of two (2) times the amount of the Note, plus interest thereon, and any disbursements made for the payment of taxes, levies, or insurance, on the Mortgaged Property, with interest on such disbursements. Any such future advances, whether obligatory or to be made at the option of the Lender, or otherwise, may be made either prior to or after the due date of the Note or any other notes secured by this Mortgage. This Mortgage is given for the specific purpose of securing any and all indebtedness by the Mortgagor to Lender evidenced by the Note and other Loan Documents (but in no event shall the secured indebtedness exceed at any time the maximum principal amount set forth in this paragraph) in whatever manner this indebtedness may be evidenced or represented, until this Mortgage is satisfied of record. All covenants and agreements contained in this Mortgage shall be applicable to all further advances made by Lender to Mortgagor under this future advance clause.

Date: 08/30/99
State: Illinois
Kin #: 3276

17. No delay by Lender in exercising any right or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder. No waiver by Lender of any default shall constitute a waiver of or consent to subsequent defaults. No failure of Lender to exercise any option herein given to accelerate maturity of the debt hereby secured, no forbearance by Lender before or after the exercise of such option and no withdrawal or abandonment of foreclosure proceeding by Lender shall be taken or construed as a waiver of its right to exercise such option or to accelerate the maturity of the debt hereby secured by reason of any past, present or future default on the part of Mortgagor; and, in like manner, the procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be taken or construed as a waiver of its right to accelerate the maturity of the debt hereby secured. In the exercise of the powers herein granted to the Lender, no liability shall be asserted or enforced against Lender, all such liability being hereby expressly waived and released by Mortgagor, except to the extent of Lender's gross negligence or wanton and willful acts. Lender shall not be obligated to perform or discharge any obligation, duty, or liability under said leases, or under or by reason of this Mortgage, and the Mortgagor shall and does hereby agree to indemnify Lender for and to hold it harmless of and from any and all liability, loss, or damage which it may or might incur under said leases or under or by reason of this Mortgage and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in said leases. Should Lender incur any such liability, loss or damage under said leases or under or by reason of this Mortgage, or in the defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and Mortgagor shall reimburse Lender therefor immediately upon demand. Such attorneys' fees and costs shall include, but not be limited to, fees and costs incurred in any phase of litigation, including, but not limited to, all trials, proceedings, and appeals, and all appearances in and connected with any bankruptcy proceedings or creditors reorganization proceedings.

18. Without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Lender with respect to any security not expressly released in writing, Lender may, at any time and from time to time, either before or after the maturity of said Note, and without notice or consent:

(a) Release any person liable for payment of all or any part of the indebtedness or for performance of any obligation;

(b) Make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof;

Date: 08/30/99
State: Illinois
Kin #: 3276

- (c) Exercise or refrain from exercising or waive any right Lender may have;
- (d) Accept additional security of any kind; and
- (e) Release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the Mortgaged Property.

19. Any agreement hereafter made by Mortgagor and Lender pursuant to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.

20. Mortgagor hereby waives all right of homestead exemption, if any, in the Mortgaged Property.

21. In the event of condemnation proceedings of the Mortgaged Property, the award or compensation payable thereunder is hereby assigned to and shall be paid to Lender, subject expressly to the understanding that, to the extent that there is a condemnation, as a result thereof, for purposes of the Loan Agreement, the Mortgaged Property is to be deemed to be of no value (\$0.00) in which event, provided there has been no violation of the financial covenants set forth in the Loan Agreement, Lender shall not be entitled to receive any amounts payable as condemnation awards or compensation, in which event, the condemnation awards or compensation shall be distributed as required by the lease(s) applicable to the Mortgaged Property. Only in the event Lender is entitled to receive such award or compensation, Lender shall be under no obligation to question the amount of any such award or compensation and may accept the same in the amount in which the same shall be paid. In any such condemnation proceedings, Lender may be represented by counsel selected by Lender. If the Lender is entitled to receive the condemnation award or compensation, the proceeds of any award or compensation so received shall, at the option of Lender, either be applied to the prepayment of the Note and at the rate of interest provided therein, regardless of the rate of interest payable on the award by the condemning authority, or at the option of Lender, such award shall be paid over to Mortgagor for restoration of the Mortgaged Property. If Lender elects to apply such award or compensation to the repayment of the Note, the Lender agrees to provide Borrower with written notice of its intent to do so. Borrower shall have five (5) days from receipt of such notice to elect to release the particular parcel of the Property to which the condemnation proceeds apply (assuming Borrower is in full compliance with the terms of the Note, Mortgage, Loan Agreement and other Loan Documents) from the lien of this Mortgage in accordance with the terms and conditions of the Loan Agreement governing such partial release.

22. The loan represented by this Mortgage and the Note is personal to the Mortgagor and the Lender made the loan to the Mortgagor based upon the credit of the Mortgagor and the Lender's judgment of the ability of the Mortgagor to repay all sums due under this Mortgage, and therefore this Mortgage may not be assumed by any subsequent

Date: 08/30/99
 State: Illinois
 Kin #: 3276

holder of an interest in the Mortgaged Property. If all or any part of the Mortgaged Property, or any interest therein, is sold, conveyed or transferred (including a transfer by agreement for deed or land contract), the provisions of the Loan Agreement with respect to substitution of properties in the Collateral Portfolio (as defined in the Loan Agreement) shall govern.

23. Mortgagor represents and warrants that if a corporation, it is duly organized and validly existing, in good standing under the laws of the state of its incorporation, has stock outstanding which has been duly and validly issued, and is qualified to do business and is in good standing in the State of Illinois, with full power and authority to consummate the loan contemplated hereby; and, if a partnership, it is duly formed and validly existing, and is fully qualified to do business in the State of Illinois; with full power and authority to consummate the loan contemplated hereby, and if the Mortgagor is a trust, it is duly formed and validly existing pursuant to its trust documents, with full power and authority to consummate the loan contemplated hereby.

24. In the event any one or more of the provisions contained in this Mortgage or in the Note shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Lender, not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. The total interest payable pursuant to the Note or this Mortgage shall not in any one year exceed the highest lawful rate of interest permitted in the State of Illinois.

25. The covenants and agreements herein contained shall bind and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors, and assigns of the parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. All covenants, agreements and undertakings shall be joint and several. In the event additional numbered covenants or paragraphs are for convenience inserted in this Mortgage, such additional covenants shall be read and given effect as though following this covenant in consecutive order.

26. At any time and from time to time, upon request by Lender, Mortgagor will make, execute and deliver or cause to be made, executed and delivered to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender and any and all such other and further mortgages, instruments of further assurance, certificates, surveys and other documents including, without limitation, any further security agreements and financing statements as, in the opinion of Lender, may be reasonably necessary or desirable in order to effectuate, complete or perfect or to continue and preserve:

- (a) the obligation of Mortgagor under the Note, this Mortgage or the Loan Documents; and
- (b) the lien of this Mortgage as a first and prior lien upon all of the Property whether now

Date: 08/30/99
State: Illinois
Kin #: 3276

owned or hereafter acquired by Mortgagor for use in connection with the Land. The lien hereof will automatically attach, without further act, to all after-acquired property attached to and/or used in the operation of the Property or any part thereof. Mortgagor shall comply with all terms and conditions of any other instruments executed in connection with this paragraph.

27. The Lender's obligation to fund this Loan is limited to the principal amount set forth herein and the Lender is not obligated to fund any additional amounts other than as set forth herein. It is expressly understood that Mortgagor has sought and agreed to the terms for repayment set forth herein and it is the burden of the Mortgagor to provide any permanent financing, bridge financing, or other financing which may be necessary to repay this Loan on or prior to the maturity date set forth in the Note. It is expressly understood that it is not the responsibility of the Lender to provide to Mortgagor further financing of the Property or the repayment of this Loan.

28. In the event of any conflict between this Mortgage and the Loan Agreement by and between Mortgagor and Lender, dated of even date herewith, the Loan Agreement shall control. The Loan Agreement provides additional terms and conditions with respect to the partial release of parcels of the Property from the lien of this Mortgage.

29. MORTGAGOR AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

30. *Waivers.* The Mortgagor also waives the benefit of all laws now existing or that may hereinafter be enacted providing for any appraisal before sale of any portion of the Premises, or creating or extending a period of redemption from any sale made in collecting said debt. To the fullest extent the Mortgagor may do so, under applicable Illinois law, the Mortgagor agrees that the Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter enforced providing for any appraisal, evaluation, stay, extension, reinstatement, or redemption and the Mortgagor, to the fullest extent permitted under applicable Illinois law, waives and releases all rights of redemption, reinstatement, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the Mortgage and marshalling in the event of foreclosure of the liens hereby created.

Date: 08/30/99
State: Illinois
Kin #: 3276

31. *Compliance with Illinois Mortgage Foreclosure Law.*

(a) *Benefits from Act.* The Lender shall have the benefit hereunder of all of the provisions of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq.), including all amendments thereto which may become effective from time to time after the date hereof (the "Act"), but the Act shall not in any way invalidate this Mortgage. In the event that any provision of this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage (with the exception of any notice and cure period granted under this Mortgage or the Note or Loan Agreement), but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

(b) *Insurance.* Wherever provisions are made in this Mortgage for insurance policies to bear mortgagee payable clauses or other loss payable clauses or endorsements in favor of the Lender, or to confer authority upon the Lender to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Lender shall continue in the Lender as judgment creditor or mortgagee until confirmation of sale.

(c) *Protective Advances.* All advances, disbursements and expenditures made by the Lender, whether before and during a foreclosure, and before and after judgment of foreclosure, and at any time after judgment but prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Act (collectively, "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:

(i) All advances by the Lender in accordance with the terms of this Mortgage to (1) preserve or maintain, repair, restore or rebuild the Mortgaged Property; (2) preserve the lien of this Mortgage or the priority thereof; or (3) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 5/15-1302 of the Act;

(ii) Payments by the Lender of: (1) installments, when due, of principal, interest or other obligations in accordance with the terms of any prior lien or encumbrance; (2) installments, when due, of real estate taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Mortgaged Property or any part thereof; (3) other obligations authorized by this Mortgage; or (4) with court approval, any other amounts in connection with other liens,

Date: 08/30/99
State: Illinois
Kin #: 3276

encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the Act;

(iii) Advances by the Lender in settlement of compromise of any claims assessed by claimants under any other prior liens;

(iv) Reasonable attorneys' fees and other costs incurred (1) in connection with the foreclosure of this Mortgage as referred to in Sections 5/15-1504(d)(2) and 5/15-1510 of the Act; (2) in connection with any action, suit or proceeding brought by or against the Lender for the enforcement of this Mortgage or arising from the interest of the Lender hereunder; or (3) in the preparation for the commencement or defense of any such foreclosure or other action related to this Mortgage or the Mortgaged Property;

(v) The Lender's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 5/15-1508 of the Act;

(vi) Expenses deductible from proceeds of sale as referred to in Subsections (a) and (b) of Section 5/15-1512 of the Act;

(vii) Expenses incurred and expenditures made by the Lender for any one or more of the following: (1) if the Mortgagor's interest in the Mortgaged Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (2) premiums for casualty and liability insurance paid by the Lender whether or not the Lender or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or the Lender takes possession of the Mortgaged Property imposed by Subsection (c)(1) of Section 5/15-1704 of the Act; (3) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (4) payments required or deemed by the Lender to be for the benefit of the Mortgaged Property or required to be made by the owner of the Mortgaged Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Property; (5) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Property is a member in any way affecting the Mortgaged Property; (6) if the indebtedness secured hereby is a construction loan, costs incurred by the Lender for demolition, preparation for and completion of construction, as may be authorized by the

Date: 08/30/99
State: Illinois
Kin #: 3276

applicable commitment, loan agreement or other agreement; (7) pursuant to any lease or other agreement for occupancy of the Mortgaged Property for amounts required to be paid by the Mortgagor; and (8) if this Mortgage is insured, payments of FHA or private mortgage insurance required to keep insurance in force.

All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable with notice prior to foreclosure and without notice after any foreclosure sale and with interest thereon from the date of the advance until paid at the Default Rate under the terms of the Note.

This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b) of Section 5/15-1302 of the Act.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in:

(1) Determination of the amount of indebtedness secured hereby which is secured by this Mortgage at any time,

(2) The indebtedness secured hereby found due and owing to the Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(3) If the right of redemption has not been lawfully waived by the Mortgagor in this Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Act;

(4) Determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Act;

(5) Adjudication of income in the possession of any receiver or the Lender in possession; and

(6) Computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Section 5/15-1508 and Section 5/15-1511 of the Act.

Date: 08/30/99
State: Illinois
Kin #: 3276

(d) *Lender in Possession.* In addition to any provision of this Mortgage authorizing the Lender to take or be placed in possession of the Mortgaged Property, or for the appointment of a receiver, the Lender shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Mortgaged Property or at its request to have a receiver appointed after notice to Mortgagor, and such receiver, or the Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1703 of the Act.

(e) *Waiver of Redemption.* The Mortgagor acknowledges that the Mortgaged Property does not constitute agricultural real estate, as said term is defined in Section 5/15-1201 of the Act or residential real estate as defined in Section 5/15-1219 of the Act. Pursuant to Section 5/15-1601(b) of the Act, the Mortgagor hereby waives any and all right to redemption.

(f) *Savings Clause.* Subject to notice and cure rights granted to Mortgagor hereunder, if any provision of this Mortgage shall grant to the Lender any rights or remedies upon the occurrence of an Event of Default which are more limited than the rights that would otherwise be vested in the Lender under the Act in the absence of said provision, the Lender shall be vested with the rights granted in the Act to the full extent permitted by law.

32. This Mortgage is executed in connection with a financing transaction governed by the laws of the State of Florida, although the closing of said loan and the delivery of the loan documents occurred in the State of New York. This Mortgage shall be governed by, construed, and enforced in accordance with the substantive laws of the State of Florida without regard to Florida conflict of laws principles, except to the extent that the substantive laws of the State of Illinois necessarily govern such issues as title, priorities, and procedures for enforcement; provided, however, the application of Illinois law to any such issues shall not alter the choice of Florida law as set forth in this Mortgage and in any other documents or instruments executed or delivered in connection with the financing transaction.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

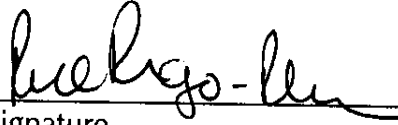
Date: 08/30/99
State: Illinois
Kin #: 3276

UNOFFICIAL COPY

IN WITNESS WHEREOF, Mortgagor has duly executed this Mortgage as of the date first above written.

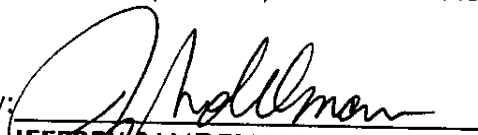
WITNESSES:


SANBELL LIMITED PARTNERSHIP, a Delaware limited partnership


Signature

By: **SANBELL COMPANY, INC.**, a Delaware corporation, General Partner

Rose Drago-Pluchos
Printed Name

By: 
JEFFREY SANDELMAN, President


Signature

Dated: August 30, 1999

Deborah S. Paul
Printed Name

c/o Kin Properties, Inc.
77 Tarrytown Road, Suite 100
White Plains, New York 10607
(Post Office Address)

STATE OF NEW YORK)

COUNTY OF WESTCHESTER)

)
)ss:
)

The foregoing instrument was acknowledged before me on the 30th day of August, 1999 by **JEFFREY SANDELMAN**, President of of Sanbell Company, Inc., a Delaware corporation, General Partner on behalf of Sanbell Limited Partnership, a Delaware limited partnership, who is personally known to me or produced to as identification.



NOTARY PUBLIC, State of New York, at Large
Name:
Commission Number:
Commission Expires:

LAURELA GIBALDI
Notary Public, State of New York
No. 02GI5061038
Qualified in Westchester County
Commission Expires May 28, 2000

Date: 08/30/99
State: Illinois
Kin #: 3276

Exhibit A
Kin #3276
Bridgeview, IL

(17)

That part of the Northeast 1/4 of Section 12, Township 37 North, Range 12, East of the Third Principal Meridian bounded by a line described as follows:

Commencing at a point in the East line of the Northeast 1/4 of said Section 12 which is 1341.85 feet South of the Northeast corner of said Northeast 1/4; thence West at right angles to the said East line a distance of 190.0 feet for a point of beginning; thence continuing West along said line drawn at right angles to the East line of said Northeast 1/4 a distance of 545.16 feet; thence South a distance of 28.90 feet to a point on a line 300.0 feet Northeasterly, as measured at right angle, and parallel with the Northeasterly right of way line of that land conveyed to the Illinois State Toll Highway Commission in document 17286868; thence North 86 degrees 03 minutes 55 seconds West along a line which forms an angle of 45 degrees to the left with said parallel line a distance of 424.26 feet to a point on the Northeasterly right of way line of the Illinois State Toll Highway; thence North 41 degrees 03 minutes 55 seconds West along the Northeasterly line of said right of way a distance of 400.00 feet; thence North 48 degrees 56 minutes 05 seconds East a distance of 132.77 feet to a point on a curved line the last described line being a radial line of said curve; thence Easterly along said curved line, convex to the South and having a radius of 70.0 feet a distance of 138.74 feet, arc measure; thence East a distance of 1015.06 feet to a point on a line 190.0 feet West, measured at right angles, and parallel with the East line of the Northeast 1/4 of said Section 12; thence South along said parallel line, 405.0 feet to the place of beginning in Cook County, Illinois.

Tax No. 23-12-210-006

Property Address: 9700 S. Harlem
Bridgeview, IL