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**MORTGAGE AND SECURITY AGREEMENT**

from

**HURON VALLEY STEEL CORPORATION, a Michigan corporation**

to

**THE CIT GROUP/BUSINESS CREDIT, INC., a New York corporation**

**Dated as of August 30, 2001**

Address of Property:

1301 West 138th Street  
Riverdale, Illinois

Permanent Tax Index Numbers

29-05-100-020,  
29-05-100-028,  
29-05-100-029,  
29-05-100-030  
29-05-100-039

This Instrument Prepared by and  
to be Returned After Recording to:

Frederick M. Kaplan  
Krasnow Sanberg Cornblath & Hobbs  
500 N. Dearborn  
Chicago, Illinois 60610

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Legal Description Of The Premises

## EXHIBIT B

Additional Permitted Encumbrances

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## MORTGAGE AND SECURITY AGREEMENT

**THIS MORTGAGE AND SECURITY AGREEMENT** is dated as of August 30, 2001, from **HURON VALLEY STEEL CORPORATION**, a Michigan corporation (the "**Mortgagor**"), to **THE CIT GROUP/BUSINESS CREDIT INC.**, a New York corporation (the "**Mortgagee**");

### W I T N E S S E T H:

**WHEREAS**, Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee a Financing Agreement of even date herewith (the "**Financing Agreement**") and pursuant to which the Mortgagee has agreed to make to Mortgagor certain revolving loans and other financial accommodations in the aggregate principal amount of \$25,000,000 for the purpose of (a) refinancing the existing working capital line of credit provided to the Mortgagor by Michigan National Bank, and (b) providing to Mortgagor working capital and other financing for the business and operations of Mortgagor (all such loans and financial accommodations being herein collectively referred to as the "**Loans**"); and

**WHEREAS**, as a condition to the making of the Loans, the Mortgagee has required that the Mortgagor grant to the Mortgagee a lien and security interest in the "**Premises**" (as hereinafter defined), including the land described on **Exhibit A** attached hereto (the "**Land**"); and

**WHEREAS**, the Mortgagor is the owner of the Premises; and

**WHEREAS**, the Loans are evidenced by the Financing Agreement and certain other Loan Documents (as hereinafter defined);

**NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION**, including the indebtedness hereby secured, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor hereby grants, bargains, sells, conveys and mortgages to the Mortgagee and its successors and assigns forever, under and subject to the terms and conditions hereinafter set forth, all of its right, title and interest, whether now existing or hereafter acquired in and to the real property located in the City of Riverdale, County of Cook, State of Illinois and being legally described in **Exhibit A** attached hereto and by this reference incorporated herein, including all improvements now and hereafter located thereon;

**TOGETHER WITH** all right, title and interest of the Mortgagor, now owned or hereafter acquired, in and to the following:

- (a) All rents, issues, profits, royalties and income with respect to the said real estate and improvements and other benefits derived therefrom, subject to the right, power and authority given to the Mortgagor to collect and apply same; and

(b) All leases or subleases covering the said real estate and improvements or any portion thereof now or hereafter existing or entered into, and all cash or security deposits, advance rentals, and deposits or payments of similar nature, and any and all guarantees of the lessee's obligations under any of such leases and subleases; and

(c) All privileges, reservations, allowances, hereditaments and appurtenances belonging or pertaining to the said real estate and improvements and all rights and estates in reversion or remainder and all other interests, estates or other claims, both in law and in equity, which the Mortgagor now has or may hereafter acquire in the said real estate and improvements; and

(d) All easements, rights-of-way and rights (including, without limitation, air rights, development rights and zoning and similar rights) used in connection with the said real estate and improvements or as a means of ingress and egress thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same; and

(e) Any land lying within the right-of-way of any street, open or proposed, adjoining the said real estate and improvements, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the said real estate and improvements; and

(f) Any and all buildings and improvements now or hereafter erected on the said real estate, including, but not limited to all the fixtures, attachments, appliances, equipment, machinery, and other articles attached to said buildings and improvements; and

(g) All materials intended for construction, reconstruction, alteration and repairs of the said real estate and improvements, all of which materials shall be deemed to be included within the said real estate and improvements immediately upon the delivery thereof to the said real estate; and

(h) All fixtures attached to or contained in and used in connection with the said real estate and improvements, including, but not limited to, all machinery, motors, elevators, fittings, radiators, awnings, shades, screens, and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures and appurtenances thereto; and all items of furniture, furnishings, equipment and personal property used or useful in the operation of the said real estate and improvements; and all renewals, substitutions and replacements for any or all of the foregoing, and all proceeds therefrom, whether or not the same are or shall be attached to the said real estate and improvements in any manner; it being mutually agreed, intended and declared that all the aforesaid property placed by the Mortgagor on and in the said real estate and improvements shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and for the purpose of this Mortgage to be real estate and covered by this Mortgage; and as to any of the aforesaid property which does not so form a part and parcel of the real estate or does not constitute a "fixture" (as such term is

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defined in the Uniform Commercial Code of Illinois), this Mortgage is deemed to be a security agreement under the Uniform Commercial Code of Illinois for the purpose of creating hereby a security interest in such property, which the Mortgagor hereby grants to the Mortgagee as secured party; and

(i) All present and future apparatus, machinery, equipment, furniture, fixtures and articles of personal property of any and every kind and nature whatsoever owned by the Mortgagor that is attached to, installed or located in or on said real estate or improvements, and that is used or required for use in or on or in connection with said real estate or improvements or the management, maintenance, operation or business thereof and all replacements thereof, substitutions therefor and accessions thereto, including, without limitation, any such item now or at any time or times hereafter situated on said real estate or improvements and used to supply or otherwise deliver heat, gas, air conditioning, water, light, electricity, power, plumbing, refrigeration, sprinkling, ventilation, mobility, communication, incineration, recreation, laundry service and all other related or other such services (the "**Building Equipment**"); and

(j) All the estate, interest, right, title or other claim or demand, including claims or demands with respect to any proceeds of insurance related thereto, which the Mortgagor now has or may hereafter acquire in the said real estate and improvements or personal property and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the said real estate and improvements or personal property, including without limitation any awards resulting from a change of grade of streets and awards for severance damages; and

(k) All estate, right, title and interest now owned or hereafter acquired by the Mortgagor in and to any and all present and future development agreements and rights, licenses, authorizations, consents, approvals, permits, grants and franchises which are necessary or desirable in connection with the use, occupancy, maintenance, repair, replacement, restoration, operation, management or ownership of the Land and/or the improvements situated thereon; and

(l) All estate, right, title and interest now owned or hereafter acquired by the Mortgagor in and to any and all present and future agreements, contracts, documents, guarantees, warranties, instruments, certificates and indentures in connection with the use, occupancy, maintenance, repair, replacement, restoration, operation, management or ownership of the Land and/or the improvements situated thereon;

the said real estate and improvements and the property and interests described in (a) through (l) (other than the Building Equipment) above being collectively referred to herein as the "**Premises**;" and as to the Building Equipment and any portion of the Premises constituting property subject to the Uniform Commercial Code of Illinois, this Mortgage shall be deemed to be a security agreement under such Code for the purpose of creating hereby a security interest in such Building Equipment and portion of the Premises, which the Mortgagor as debtor hereby grants to the Mortgagee as secured party.

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**TO HAVE AND TO HOLD** the same unto the Mortgagee and its successors and assigns forever, for the purposes and uses herein set forth.

**FOR THE PURPOSE OF SECURING** the following (but not exceeding \$50,000,000 in the aggregate):

- (a) Performance and observance by the Mortgagor of all of the terms and provisions of the Financing Agreement in favor of the Mortgagee; and
- (b) Payment of all Obligations, including the principal thereof and interest and prepayment premiums, if any, thereon, all future advances thereunder and any and all modifications, extensions and renewals thereof; and
- (c) Performance and observance by the Mortgagor of all of the terms, covenants and provisions of this Mortgage; and
- (d) Performance and observance by the parties thereto of all of the terms, covenants and provisions of the other Loan Documents; and
- (e) Payment of all sums advanced by the Mortgagee to perform any of the terms, covenants and provisions of this Mortgage or any of the other Loan Documents, or otherwise advanced by the Mortgagee pursuant to the provisions hereof or any of such other documents to protect the property hereby mortgaged and pledged; and
- (f) Performance and observance of all of the terms, covenants and provisions of any other instrument given to evidence or further secure the payment and performance of any indebtedness hereby secured or any obligation secured hereby; and
- (g) Payment of any future or further advances which may be made by the Mortgagee at its sole option to or for the benefit of Mortgagor, its successors, assigns and legal representatives, including, without limitation, loans and advances evidenced by the Financing Agreement, all of which future and further advances shall have, to the extent permitted by law, the same priority as if advanced on the date of this Mortgage.

**PROVIDED, HOWEVER,** that if Mortgagor shall pay the principal and all interest and prepayment premiums, if any, as provided in the Financing Agreement, and the Mortgagor shall pay all other sums herein provided for, or secured hereby, and shall well and truly keep and perform all of the covenants herein contained, then this Mortgage shall be released at the cost of the Mortgagor, otherwise to remain in full force and effect.

**TO PROTECT THE SECURITY OF THIS MORTGAGE AND SECURITY AGREEMENT, THE MORTGAGOR HEREBY COVENANTS AND AGREES AS FOLLOWS:**

ARTICLE I

DEFINITIONS

**Section 1.1. Definitions.** The terms defined in this Section (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Mortgage shall have the respective meanings specified in this Section. Each capitalized term used in this Mortgage but not defined herein shall have the meaning ascribed to such term in the Financing Agreement.

**"Building Equipment"** has the meaning ascribed to that term in the granting clauses of this Mortgage.

**"Business Day"** means any day on which the Mortgagee and The Chase Manhattan Bank are open for business.

**"Chase Bank Rate"** has the meaning ascribed to that term in Section 1 of the Financing Agreement.

**"Default"** means, when used in reference to this Mortgage or any other document, or in reference to any provision of or obligation under this Mortgage or any other document, the occurrence of an event or the existence of a condition which, with the passage of time or the giving of notice, or both, would constitute an Event of Default under this Mortgage or such other document, as the case may be.

**"Environmental Laws"** has the meaning ascribed to that term in Section 2.15(b) of this Mortgage.

**"Event of Default"** means --

- (i) when used in reference to this Mortgage, an Event of Default specified in Section 5.1 hereof; and
- (ii) when used in reference to any other document, a default or event of default under such document that has continued after the giving of any applicable notice and the expiration of any applicable grace or cure periods.

**"Financing Agreement"** has the meaning ascribed to that term in the first recital clause of this Mortgage.

**"Hazardous Material"** means any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, The Toxic Substances Control Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect; asbestos or any substance or compound containing asbestos; polychlorinated biphenyls or any



substance or compound containing any polychlorinated biphenyl; petroleum and petroleum products; pesticides; and any other hazardous, toxic or dangerous waste, substance or material.

“**Impositions**” has the meaning ascribed to that term in Section 2.6 of this Mortgage.

“**Loan Documents**” has the meaning ascribed to that term in Section 1 of the Financing Agreement.

“**Material Adverse Effect**” has the meaning ascribed to that term in Section 1 of the Financing Agreement.

“**Mortgage**” means this Mortgage and Security Agreement, from the Mortgagor to the Mortgagee, and all amendments and supplements thereto.

“**Mortgagee**” means The CIT Group/Business Credit, Inc., a New York corporation.

“**Mortgagor**” means Huron Valley Steel Corporation, a Michigan corporation.

“**Permitted Encumbrances**” has the meaning ascribed to that term in Section 1 of the Financing Agreement, and shall also include those certain Additional Permitted Encumbrances set forth on **Exhibit B** attached hereto and made a part hereof.

“**Premises**” has the meaning ascribed to that term in the recital provisions of this Mortgage.

## ARTICLE II

### COVENANTS AND AGREEMENTS OF MORTGAGOR

**Section 2.1. Payment of Indebtedness.** The Mortgagor covenants and agrees that it will comply with and perform, as applicable, each of the provisions and covenants of the Mortgagor under the Financing Agreement and the other Loan Documents, including the payment when due of all of the Obligations.

**Section 2.2. Intentionally Omitted.**

**Section 2.3. Maintenance, Repair, Alterations.** The Mortgagor covenants and agrees that it will or will cause the tenant (if any) of the Premises to:

- (a) keep the Premises in good condition and repair;
- (b) not remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or governmental regulations) any of the improvements which are a part of the Premises;
- (c) promptly repair and restore any portion of the Premises which may become damaged or be destroyed so as to be of at least equal value and of substantially the same character as prior to such damage or destruction;

- (d) pay when due all claims for labor performed and materials furnished to and for the Premises;
- (e) comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Premises or any part thereof or requiring any alterations or improvements, except where the failure to so comply would not have a Material Adverse Effect;
- (f) not commit or permit any waste or deterioration of the Premises or any portion thereof;
- (g) keep and maintain the Premises and abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair and free of nuisance;
- (h) not commit, suffer or permit any act to be done in or upon the Premises in violation of any law, ordinance or regulation if the same would have a Material Adverse Effect;
- (i) not initiate or acquiesce in any zoning change or reclassification of the Premises; and
- (j) keep the Premises free and clear of all liens and encumbrances of every sort except Permitted Encumbrances.

**Section 2.4. Required Insurance.** The Mortgagor shall at all times provide, maintain and keep in force the policies of insurance on the Premises and the Building Equipment required by the Financing Agreement. The insurance provisions of the Financing Agreement, including Sections 7.5(a) and (c) thereof, shall govern and control upon the occurrence of an Event of Default or in the case of loss or damage by fire or other casualty to any of the Premises or the Building Equipment.

**Section 2.5. Agreements and Covenants Concerning Building Equipment; Location and Use.**

(a) If no Default or Event of Default under this Mortgage shall have occurred and be continuing, in any instance where the Mortgagor in its discretion determines that any items constituting the Building Equipment shall have become inadequate, obsolete, worn out, damaged, destroyed or unsuitable, undesirable or unnecessary to the continuing operation of the business of the Mortgagor, the Mortgagor may sell, exchange or otherwise dispose of such items of Building Equipment (as a whole or in part) without any responsibility or accountability to the Mortgagee therefor, provided that the Mortgagor shall substitute and install or construct other machinery, equipment or related property having equal or greater value or utility in the operation of the Premises for the purpose for which it is intended (provided such removal and substitution shall not impair the operating unity of the Premises or substantially reduce its value), all of

which substituted machinery, equipment or related property shall be free of all liens, charges and encumbrances, except Permitted Encumbrances, and shall become a part of the Building Equipment. The removal, sale, trade-in, exchange or other disposition of any of the Building Equipment pursuant to the provisions of this Section shall not entitle the Mortgagor to any abatement or diminution of the indebtedness hereby secured.

(b) The Mortgagor shall promptly report to the Mortgagee each such sale, exchange or other disposition of any item of the Building Equipment having a depreciated value (calculated in accordance with generally accepted accounting principles) of more than \$10,000, and of each such sale, exchange or other disposition shall be subject to the conditions and terms applicable to the sale of "Equipment" under the provisions of Section 6.4 of the Financing Agreement. The Mortgagor shall pay any costs, including attorneys' fees, incurred in subjecting to the provisions of this Mortgage any items of machinery or equipment that under the provisions of this Section are to become part of the Building Equipment. The Mortgagor shall not remove or permit the sale, exchange or other disposition of any of the Building Equipment except in accordance with the provisions of this Section.

## **Section 2.6. Taxes and Impositions.**

(a) The Mortgagor agrees to pay or cause to be paid, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including without limitation any non-governmental levies or assessments such as maintenance charges, owner association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting the Premises, which are assessed or imposed upon the Premises, or become due and payable, and which create, may create or appear to create a lien upon the Premises, or any part thereof (all of which taxes, assessments and other governmental charges and non-governmental charges of the above-described or like nature are hereinafter referred to as "Impositions"); provided however, that if, by law, any such Imposition is payable, or at the option of the taxpayer may be paid, in installments, the Mortgagor may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

(b) The Mortgagor shall furnish to the Mortgagee within 30 days after the date upon which any Imposition is due and payable by the Mortgagor, official receipts of the appropriate taxing authority, or other proof satisfactory to the Mortgagee, evidencing the payment thereof.

**Section 2.7. Utilities.** The Mortgagor shall pay or cause to be paid when due all utility charges which are incurred by the Mortgagor or others for the benefit of or service to the Premises or which may become a charge or lien against the Premises for gas, electricity, water or sewer services furnished to the Premises and all other assessments or charges of a similar nature, whether public or private, affecting the Premises or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

**Section 2.8. Actions by Mortgagee to Preserve Premises.**

(a) Should the Mortgagor fail to make any payment or to do any act as and in the manner provided herein or in any of the other Loan Documents, the Mortgagee in its own discretion, without obligation so to do and without releasing the Mortgagor from any obligation, but after giving the Mortgagor notice except in the event of an emergency, may make or do the same in such manner and to such extent as it may deem necessary to protect the security hereof. In connection therewith (without limiting its general powers), the Mortgagee shall have and is hereby given the right, but not the obligation, (i) to enter upon and take possession of the Premises, (ii) to make additions, alterations, repairs and improvements to the Premises which it may consider necessary and proper to keep the Premises in good condition and repair, (iii) to appear and participate in any action or proceeding affecting or which may affect the Premises, the security hereof or the rights or powers of the Mortgagee, (iv) to pay any Impositions (as defined in Section 2.6 hereof) asserted against the Premises and to do so according to any bill, statement or estimate procured from the appropriate office without inquiry into the accuracy of the bill, statement or estimate or into the validity of any Imposition, (v) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of the Mortgagee may affect or appear to affect the Premises or the security of this Mortgage or which may be prior or superior hereto, and (vi) in exercising such powers, to pay necessary expenses, including employment of and payment of compensation to counsel or other necessary or desirable consultants, contractors, agents and other employees. The Mortgagor irrevocably appoints the Mortgagee as its true and lawful attorney in fact, at the Mortgagee's election, to do and cause to be done all or any of the foregoing in the event the Mortgagee shall be entitled to take any or all of the action provided for in this Section. The Mortgagor shall within ten (10) days of demand therefor by the Mortgagee, pay all costs and expenses incurred by the Mortgagee in connection with the exercise by the Mortgagee of the foregoing rights, including without limitation, costs of evidence of title, court costs, appraisals, surveys and attorneys' fees, all of which shall constitute so much additional indebtedness secured by this Mortgage immediately due and payable, with interest thereon at a rate which is 300 basis points above the Chase Bank Rate.

**Section 2.9. Damage and Destruction.** The Mortgagor shall give the Mortgagee prompt notice of any damage to or destruction of any portion or all of the Premises or the Building Equipment, and the provisions contained in Section 7.5 (c) of the Financing Agreement shall govern and apply in the event of any such damage or destruction.

**Section 2.10. Eminent Domain.**

(a) Should the Premises or any part thereof or interest therein be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner, or should the Mortgagor receive any notice or other information regarding any such proceeding, the Mortgagor shall give prompt written notice thereof to the Mortgagee, and the provisions of Section 7.5 (c) of the Financing Agreement shall govern and apply.

(b) The Mortgagee shall be entitled to all compensation, awards and other payments or relief therefor (except awards made to tenants of the Premises), and shall be entitled at its option

to commence, appear in and prosecute in its own name any action or proceedings. The Mortgagee shall also be entitled to make any compromise or settlement in connection with such taking or damage. All proceeds of compensation, awards, damages, rights of action and proceeds awarded to the Mortgagor are hereby assigned to the Mortgagee to the extent of the debt secured hereby and the Mortgagor agrees to execute such further assignments of such proceeds as the Mortgagee may require.

**Section 2.11. Inspection of Premises.** . The Mortgagee, or its agents, representatives or workmen, are authorized to enter upon or in any part of the Premises, at any reasonable time and, in the absence of a Default, upon reasonable notice, for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of this Mortgage or any of the other Loan Documents. Provided that its costs and expenses are not increased, and additional costs and expenses are not thereby incurred, the Mortgagee, when exercising its rights under this Section, shall do so in a manner so as to not unreasonably disrupt the business operations of occupants of the Premises.

**Section 2.12. Intentionally Omitted.**

**Section 2.13. Title, Liens and Conveyances.**

(a) The Mortgagor represents that it holds, and covenants that it will at all times hereafter hold, good and marketable title to the Premises, subject only to Permitted Encumbrances. The Mortgagor shall comply with, and cause the Premises to at all times comply with, all applicable requirements of the Permitted Encumbrances.

(b) Except for Permitted Encumbrances, the Mortgagor shall not create, suffer or permit to be created or filed against the Premises, or any part thereof or interest therein, any mortgage lien or other lien, charge or encumbrance, either superior or inferior to the lien of this Mortgage.

(c) Except as permitted under the provisions of the Financing Agreement, in the event title to the Premises is now or hereafter becomes vested in a trustee, any prohibition or restriction contained herein upon the creation of any lien against the Premises shall also be construed as a similar prohibition or limitation against the creation of any lien or security interest upon the beneficial interest under such trust.

(d) In the event that the Mortgagor shall sell, transfer, convey or assign the title to all or any portion of the Premises, whether by operation of law, voluntarily, or otherwise, or the Mortgagor shall contract to do any of the foregoing, the Mortgagee, at its option, shall have the unqualified right to accelerate the maturity of the indebtedness secured hereby causing such indebtedness, including the full principal balance of all outstanding advances made pursuant to the Financing Agreement, accrued interest thereon, and prepayment premiums, if any, to become immediately due and payable without notice to the Mortgagor.

(e) Any waiver by the Mortgagee of the provisions of this Section shall not be deemed to be a waiver of the right of the Mortgagee to insist upon strict compliance with the provisions of this Section in the future.

## **Section 2.14. Taxes Affecting Mortgage.**

(a) If at any time any federal, State or municipal law shall require any documentary stamps or other tax hereon or on the indebtedness secured hereby or shall require payment of any tax upon the indebtedness secured hereby, then the said indebtedness, including the full principal balance of all outstanding advances made pursuant to the Financing Agreement, accrued interest thereon, and prepayment premiums, if any, shall be and become due and payable at the election of the Mortgagee upon 10 days' notice to the Mortgagor; provided, however, said election shall be unavailing and this Mortgage, and said indebtedness shall be and remain in effect, if the Mortgagor lawfully may pay for such stamps or such tax including interest and penalties thereon to or on behalf of the Mortgagee and the Mortgagor does in fact pay, when payable, for all such stamps or such tax, as the case may be, including interest and penalties thereon.

(b) In the event of the enactment after the date of this Mortgage of any law of the State in which the Premises are located deducting from the value of the Premises for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holder hereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, however, that if, in the opinion of counsel for the Mortgagee, (i) it might be unlawful to require Mortgagor to make such payment or (ii) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then, and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagor, to declare all of the indebtedness secured hereby, including the full principal balance of all outstanding advances made pursuant to the Financing Agreement, accrued interest thereon, and prepayment premiums, if any, to be due and payable within 30 days from the giving of such notice. Notwithstanding the foregoing, it is understood and agreed that the Mortgagor is not obligated to pay any portion of Mortgagee's federal or State income tax.

## **Section 2.15. Environmental Matters.**

(a) The Mortgagor covenants and agrees to comply with all environmental provisions of the Financing Agreement, including the provisions of Sections 7.7(b) and (c) and 7.13, and the Mortgagor reaffirms the representations and warranties contained in Section 7.12 of the Financing Agreement.

(b) Without limitation on any other provision hereof, the Mortgagor hereby agrees to indemnify and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses, fines, penalties and claims of any kind whatsoever (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the following (collectively, "**Environmental Laws**"): the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation,

order or decree, now or hereafter in force, regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material) paid, incurred, suffered by or asserted against the Mortgagee as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of, the Mortgagor: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release of any Hazardous Material from (A) the Premises or any part thereof, or (B) any other real property in which the Mortgagor or any of its affiliates or subsidiaries holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust the beneficial interest in which is owned, in whole or in part, by the Mortgagor or any of its affiliates or subsidiaries), or (ii) any liens against the Premises permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligations of the Mortgagor, or any of its affiliates or subsidiaries under any Environmental Laws, or (iii) any actual or asserted liability or obligations of the Mortgagee or any of its affiliates or subsidiaries under any Environmental Law relating to the Premises.

(c) If any of the provisions of the Illinois Responsible Property Transfer Act of 1988 ("IRPTA") are now or hereafter become applicable to the Premises, the Mortgagor shall comply with such provisions. Without limitation on the generality of the foregoing, (i) if the delivery of a disclosure document is now or hereafter required by IRPTA, the Mortgagor shall cause the delivery of such disclosure document to be made to all parties entitled to receive same within the time period required by IRPTA; and (ii) the Mortgagor shall cause any such disclosure document to be recorded with the Recorder of Deeds of the county in which the Premises are located and filed with the Illinois Environmental Protection Agency, all within the time periods required by IRPTA. The Mortgagor shall promptly deliver to the Mortgagee evidence of such recording and filing of such disclosure document.

(d) The representations, warranties, covenants, indemnities and obligations provided for in this Section 2.15 shall be continuing and shall survive the payment, performance, satisfaction, discharge, cancellation, termination, release and foreclosure of this Mortgage; provided, however, that such representations, warranties, covenants, indemnities and obligations shall not apply with respect to Hazardous Materials which are first placed on the Premises on or after the date on which the Mortgagee or any other party obtains title to and possession of the Premises pursuant to an exercise by the Mortgagee of its remedies under this Mortgage or under any of the other Loan Documents or as a result of a conveyance of title to the Premises by the Mortgagor to the Mortgagee or such other party in lieu of such exercise of remedies.

**Section 2.16. Estoppel Letters.** The Mortgagor shall furnish from time to time, within 15 days after the Mortgagee's request, a written statement, duly acknowledged, of the amount due upon this Mortgage and whether any alleged offsets or defenses exist, or are claimed to exist, against the indebtedness secured by this Mortgage.

## ARTICLE III

LEASES; ASSIGNMENT OF RENTS

**Section 3.1. Leases.** The Mortgagor agrees (i) that, other than any lease which is a Permitted Encumbrance, it will not enter into any lease of the Premises or any portion thereof without the prior written consent of the Mortgagee; (ii) that it will at all times, subject to events beyond its control which do not result in a default by the Mortgagor thereunder, duly perform and observe all of the terms, provisions, conditions and agreements on its part to be performed and observed under any and all leases of the Premises or any portion thereof, and shall not suffer or permit any Default or Event of Default on the part of the lessor to exist thereunder; (iii) that it will not agree or consent to, or suffer or permit, any termination, modification, amendment or assignment of, or any sublease under, any lease of the Premises, or any portion thereof, without the prior written consent of the Mortgagee; and (iv) except for security deposits not to exceed one month's rent for any one lessee, that it will not collect any rent for more than one month in advance of the date same is due. Nothing herein contained shall be deemed to obligate the Mortgagee to perform or discharge any obligation, duty or liability of the lessor under any lease of the Premises, and the Mortgagor shall and does hereby indemnify and hold the Mortgagee harmless from any and all liability, loss or damage which the Mortgagee may or might incur under any leases of the Premises or by reason of any assignment of rents; and any and all such liability, loss or damage incurred by the Mortgagee, together with the costs and expenses, including reasonable attorneys' fees, incurred by the Mortgagee in the defense of any claims or demands therefor (whether successful or not), shall be so much additional indebtedness secured by this Mortgage, and the Mortgagor shall reimburse the Mortgagee therefor on demand.

**Section 3.2. Further Assignment.** Without limiting the generality of any other provisions hereof, as additional security, the Mortgagor hereby assigns to the Mortgagee the rents, issues and profits of the Premises and upon the occurrence of any Event of Default hereunder, the Mortgagee may receive and collect said rents, issues and profits so long as such Event of Default shall exist and during the pendency of any foreclosure proceeding. As of the date of this Mortgage, as additional security, the Mortgagor also hereby assigns to the Mortgagee the Mortgagor's interest in any and all written and oral leases, whether now in existence or which may hereafter come into existence during the term of this Mortgage, or any extension hereof, and the rents thereunder, covering the Premises or any portion thereof, including, any and all guarantees of the lessee's obligations under any of such leases; provided that the collection of rents by the Mortgagee pursuant to this Section shall in no way waive the right of the Mortgagee to foreclose this Mortgage in the event of any Event of Default, but provided always, that nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession.

**Section 3.3. Declaration of Subordination to Leases.** At the option of the Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any and all leases and subleases of all or any part of the Premises upon the execution by the Mortgagee and



recording thereof, at any time hereafter, in the Office of the Recorder of Deeds of the county wherein the Premises are situated, of a unilateral declaration to that effect.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

**Section 4.1. Mortgagor Representations and Warranties.** In addition to representations and warranties elsewhere in this Mortgage, the Mortgagor hereby represents and warrants to the Mortgagee as follows:

(a) The Mortgagor is a corporation duly organized, validly existing and in good standing under the laws of the State of Michigan, has all necessary power and authority to carry on its present business, and has full right, power and authority to enter into this Mortgage, to execute and deliver the Financing Agreement and the other Loan Documents, and to otherwise perform and consummate the transactions contemplated hereby and thereby.

(b) The Premises do not violate any presently existing governmental regulation with respect thereto, or any covenants, conditions or restrictions affecting the Premises, and the current and anticipated use of the Premises complies with all presently existing applicable ordinances, regulations and covenants, conditions and restrictions affecting the Premises, except only where any such violation or failure to comply would have a Material Adverse Effect.

(c) All utility services necessary for the operation of the Premises for their intended purposes are available at the Premises, including water supply, storm and sanitary sewer facilities and gas and/or electric and telephone facilities.

(d) All roads, easements and other necessary modes of ingress and egress to the Premises necessary for the full utilization of the Premises for their intended purposes have been completed or obtained.

(e) The Mortgagor has not received notice of, and has no knowledge of, (A) any proceedings, whether actual, pending or threatened, for the taking under the power of eminent domain or any similar power or right, of all or any portion of the Premises, or of any other collateral security for the indebtedness secured hereby; or (B) any damage to or destruction of any portion of the Premises or such other property; or (C) any zoning, building, fire or health code violations in respect of the Premises which have not heretofore been corrected.

(f) The statements by or concerning the Mortgagor and the Premises contained in the recitals hereto and in the other Loan Documents are true and correct in all material respects.

(g) The chief executive office and principal place of business of the Mortgagor is at 41000 Huron River Drive, Belleville, Michigan 48111.

**Section 4.2. Survival.** The foregoing representations and warranties of the Mortgagor shall be continuing and shall survive the execution and delivery of this Mortgage, the Financing Agreement and the other Loan Documents and the disbursement of the indebtedness secured hereby.

**ARTICLE V**

**EVENTS OF DEFAULT AND REMEDIES**

**Section 5.1. Events of Default.** Any one or more of the following shall constitute an "Event of Default" under this Mortgage:

- (a) A default shall occur in the payment when due of any installment of principal or interest or other amount required to be paid by the Mortgagor under this Mortgage, under the Financing Agreement or under any of the other Loan Documents, or in the payment when due of any other indebtedness secured by this Mortgage; or
- (b) If any representation or warranty of the Mortgagor contained in this Mortgage, in any of the other Loan Documents, or in any statement, certificate or other document delivered in connection with the Loans shall be untrue or incorrect in any material respect; or
- (c) All or any substantial part of the Premises shall be taken by a governmental body or any other person whether by condemnation, eminent domain or otherwise; or
- (d) If in violation of Section 2.13, the Mortgagor shall (i) suffer or permit any superior or junior lien, charge or encumbrance to be attached to the Premises or (ii) shall sell, transfer, convey or assign the title to all or any portion of the Premises, whether by operation of law, voluntarily, or otherwise, or shall contract to do so; or
- (e) If there has occurred an Event of Default under the Financing Agreement or any of the other Loan Documents or any other breach of or default under any term, covenant, agreement, condition, provision, representation or warranty contained in the Financing Agreement or any of the other Loan Documents which has not been cured within any applicable grace period; or
- (f) If any event of default has occurred or been declared under any other mortgage or trust deed on the Premises; or
- (g) Default by the Mortgagor shall occur in the performance, observance or compliance with any term, covenant, condition, agreement or provision contained in this Mortgage other than as described in paragraphs (a) through (j) above which is not cured within 10 days after written notice from the Mortgagee to the Mortgagor.

**Section 5.2. Acceleration upon Default; Additional Remedies.** Upon or at any time after the occurrence of any Event of Default, the Mortgagee may declare all indebtedness secured by this Mortgage to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter the Mortgagee may do one or more of the following:

- (a) Either in person or by agent, with or without bringing any action or proceeding, if applicable law permits, enter upon and take possession of the Premises, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Premises, or any part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Premises, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same to the payment of taxes, insurance premiums and other charges against the Premises or in reduction of the indebtedness secured by this Mortgage; and the entering upon and taking possession of the Premises, the collection of such rents, issues and profits and the application thereof as aforesaid shall not cure or waive any Event of Default or notice of Default hereunder or invalidate any act done in response to such Event of Default or pursuant to such notice of Default and, notwithstanding the continuance in possession of the Premises or the collection, receipt and application of rents, issues or profits, the Mortgagee shall be entitled to exercise every right provided for herein, in any of the other Loan Documents or by law upon occurrence of any Event of Default; or
- (b) Commence an action to foreclose this Mortgage, appoint a receiver, or specifically enforce any of the covenants hereof; or
- (c) Sell the Premises, or any part thereof, or cause the same to be sold, and convey the same to the purchaser thereof, pursuant to the statute in such case made and provided, and out of the proceeds of such sale retain all of the indebtedness secured by this Mortgage including, without limitation, principal, accrued interest, costs and charges of such sale, the attorneys' fees provided by such statute (or in the event of a suit to foreclose by court action, a reasonable attorney's fee), rendering the surplus moneys, if any, to the Mortgagor; provided, that in the event of public sale, such property may, at the option of the Mortgagee, be sold in one parcel or in several parcels as the Mortgagee, in its sole discretion, may elect; or
- (d) Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of Illinois and any notice of sale, disposition or other intended action by the Mortgagee, sent to the Mortgagor at the address specified in Section 6.13 hereof, at least five days prior to such action, shall constitute reasonable notice to the Mortgagor.

**Section 5.3. Foreclosure; Expense of Litigation.** When the indebtedness secured by this Mortgage, or any part thereof, shall become due, whether by acceleration or otherwise, the Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof. In any suit to foreclose the lien hereof or enforce any other remedy of the Mortgagee under this Mortgage, the Financing Agreement or the other Loan Documents, there shall be allowed and

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included as additional indebtedness in the decree for sale or other judgment or decree, all expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as the Mortgagee may deem reasonably necessary either 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 Premises. All expenditures and expenses of the nature in this Section mentioned, and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by the Mortgagee in any litigation or proceeding affecting this Mortgage, any of the other Loan Documents or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be so much additional indebtedness secured by this Mortgage, immediately due and payable, with interest thereon at a rate which is 300 basis points above the Chase Bank Rate. In the event of any foreclosure sale of the Premises, the same may be sold in one or more parcels. The Mortgagee may be the purchaser at any foreclosure sale of the Premises or any part thereof.

**Section 5.4. Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Premises or of the exercise of any other remedy hereunder shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings or such other remedy, including all such items as are mentioned in Section 5.3 hereof; second, to all other items which under the terms hereof constitute indebtedness secured by this Mortgage additional to that evidenced by the Financing Agreement, with interest thereon as therein provided; third, to all principal and interest remaining unpaid under the Financing Agreement, in such proportions as the Mortgagee may elect; and fourth, any remainder to the Mortgagor, its successors or assigns, as their rights may appear.

**Section 5.5. Appointment of Receiver.** Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises or any portion thereof. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of the Mortgagor at the time of application for such receiver and without regard to the then value of the Premises and the Mortgagee or any successor, successor in interest or assign to or of the Mortgagee may be appointed as such receiver. Such receiver shall have the following powers: (i) to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit, as well as during any further times when the Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (ii) to extend or modify any then existing leases and to make new leases, which extension, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness secured by this Mortgage and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon the Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding discharge of the

indebtedness secured by this Mortgage, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; and (iii) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises 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 secured by this Mortgage, or found due or secured by any judgment foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale.

**Section 5.6. Insurance After Foreclosure.** In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in repairing and restoring the Premises, shall be used to pay the amount due in accordance with any judgment of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct.

**Section 5.7. Remedies Not Exclusive; No Waiver of Remedies.**

(a) The Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage, the Financing Agreement, or under any of the other Loan Documents or other agreement or any laws now or hereafter in force, notwithstanding that some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or other powers herein contained, shall prejudice or in any manner affect the Mortgagee's right to realize upon or enforce any other security now or hereafter held by the Mortgagee, it being agreed that the Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to the Mortgagee or to which it may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as it may be deemed expedient by the Mortgagee and the Mortgagee may pursue inconsistent remedies. Failure by the Mortgagee to exercise any right which it may exercise hereunder, or the acceptance by the Mortgagee of partial payments, shall not be deemed a waiver by the Mortgagee of any Default or of its right to exercise any such rights thereafter.

(b) In the event the Mortgagee at any time holds additional security for any of the indebtedness secured by this Mortgage, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently with exercising remedies under this Mortgage or after a sale is made hereunder.

**Section 5.8. No Mortgagee in Possession.** Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession.

**Section 5.9. Waiver of Certain Rights.** The Mortgagor shall not and will not apply for or avail itself of any appraisement, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but rather waives the benefit of such laws. The Mortgagor for itself and all who may claim through or under them waive any and all right to have the property and estates comprising the Premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold as an entirety. The Mortgagor hereby waives any and all rights of redemption under any applicable law, including, without limitation, redemption from sale or from or under any order, judgment or decree of foreclosure, pursuant to rights herein granted, on behalf of the Mortgagor and all persons beneficially interested therein and each and every person acquiring any interest in or title to the Premises subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by the provisions of the laws of the State in which the Premises are located.

**THE MORTGAGOR HEREBY IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING (I) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS MORTGAGE OR THE INDEBTEDNESS SECURED HEREBY OR BY ANY INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH, OR (II) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THIS MORTGAGE, OR THE INDEBTEDNESS SECURED HEREBY OR ANY SUCH INSTRUMENT, DOCUMENT OR AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.**

**Section 5.10. Mortgagee's Use of Deposits.** With respect to any deposits made with or held by the Mortgagee or any depository pursuant to any of the provisions of this Mortgage, in the event of a default in any of the provisions contained in this Mortgage or in the Financing Agreement or any of the other Loan Documents, the Mortgagee may, at its option, without being required to do so, apply any moneys or securities which constitute such deposits on any of the obligations under this Mortgage, the Financing Agreement or the other Loan Documents, in such order and manner as the Mortgagee may elect. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to the Mortgagor. Such deposits are hereby pledged as additional security for the prompt payment of the indebtedness secured hereby and shall be held to be irrevocably applied by the depository for the purposes for which made hereunder and shall not be subject to the direction or control of the Mortgagor.

**ARTICLE VI**

**MISCELLANEOUS**

**Section 6.1. Recitals.** The recitals hereto are hereby incorporated into and made a part of this Mortgage.

**Section 6.2. Time of Essence.** Time is of the essence of this Mortgage and of each and every provision hereof.

**Section 6.3. Usury.** The Mortgagor hereby represents and covenants that the proceeds disbursed to the Mortgagor from time to time pursuant to the Financing Agreement will be used for the purposes specified in subparagraph 1(c) contained in Section 205/4 of Chapter 815 of the Illinois Compiled Statutes and that the indebtedness secured hereby constitutes a "business loan" within the meaning of that Section.

**Section 6.4. Lien for Service Charges and Expenses.** At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures (in addition to any loan proceeds disbursed from time to time) the payment of any and all origination fees, loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by the Mortgagee in connection with the Loans to be secured hereby, all in accordance with the application and any loan commitment issued in connection with this transaction.

**Section 6.5. Subrogation.** To the extent that proceeds of the indebtedness secured by this Mortgage are used to pay any outstanding lien, charge or prior encumbrance against the Premises, the Mortgagee shall be subrogated to any and all rights and liens owned by any owner or holder of such outstanding liens, charges and prior encumbrances, and shall have the benefit of the priority thereof, irrespective of whether said liens, charges or encumbrances are released.

**Section 6.6. Recording.** The Mortgagor shall cause this Mortgage and all other documents securing the indebtedness secured by this Mortgage at all times to be properly filed and/or recorded at the sole expense of Mortgagor and in such manner and in such places as may be required by law in order to fully preserve and protect the rights of the Mortgagee.

**Section 6.7. Further Assurances.** The Mortgagor will do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or advisable, in the judgment of the Mortgagee, for the better assuring, conveying, mortgaging, assigning and confirming unto the Mortgagee all property mortgaged hereby or property intended so to be, whether now owned by the Mortgagor or hereafter acquired.

**Section 6.8. No Defenses.** No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing the same in an action at law to enforce the Financing Agreement or any of the other Loan Documents.

**Section 6.9. Invalidity of Certain Provisions.** If the lien of this Mortgage is invalid or unenforceable as to any part of the indebtedness secured by this Mortgage, or if such lien is invalid or unenforceable as to any part of the Premises, the unsecured or partially secured portion of the indebtedness secured by this Mortgage shall be completely paid prior to the payment of the remaining and secured or partially secured portion thereof, and all payments made on the

indebtedness secured by this Mortgage, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion thereof which is not secured or fully secured by the lien of this Mortgage.

**Section 6.10. Illegality of Terms.** Nothing herein, in the Financing Agreement or in any of the other Loan Documents contained, nor in any transaction related to any of the foregoing shall be construed or shall so operate either presently or prospectively, (i) to require the Mortgagor to pay interest at a rate greater than is now lawful in such case to contract for, but shall require payment of interest only to the extent of such lawful rate, or (ii) to require the Mortgagor to make any payment or do any act contrary to law. If any provision contained in this Mortgage shall otherwise so operate to invalidate this Mortgage, in whole or in part, then such provision only shall be held for naught as though not herein contained and the remainder of this Mortgage shall remain operative and in full force and effect, and the Mortgagee shall be given a reasonable time to correct any such error.

**Section 6.11. Mortgagee's Right to Deal with Transferee.** In the event of the voluntary sale, or transfer by operation of law, or otherwise, of all or any part of the Premises, the Mortgagee is hereby authorized and empowered to deal with such vendee or transferee with reference to the Premises, or the debt secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might with the Mortgagor, without in any way releasing or discharging the Mortgagor from the covenants and/or undertakings hereunder, specifically including Section 2.13(d) hereof, and without the Mortgagee waiving its rights to accelerate the indebtedness secured hereby as set forth in Section 2.13(d).

**Section 6.12. Releases.** The Mortgagee, without notice, and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens, may release any part of the Premises, or any person liable for any indebtedness secured hereby, without in any way affecting the liability of the Mortgagor, this Mortgage, and without in any way affecting the priority of the lien of this Mortgage, and may agree with any party obligated on said indebtedness to extend the time for payment of any part or all of the indebtedness secured hereby. Such agreement shall not, in any way, release or impair the lien created by this Mortgage, or reduce or modify the liability, if any, of any person or entity personally obligated for the indebtedness secured hereby, but shall extend the lien hereof as against the title of all parties having any interest in said security which interest is subject to the indebtedness secured by this Mortgage. Upon payment in full of all principal of and interest prepayment penalties, if any, under the Financing Agreement, and of all other obligations secured by this Mortgage, the Mortgagee, within ten days of the written request of Mortgagor, shall release this Mortgage and all Uniform Commercial Code financing statements filed in connection herewith.

**Section 6.13. Giving of Notice.** Except as otherwise herein provided, any notice or other communication required hereunder shall be in writing (messages sent by e-mail or other electronic transmission (other than by telecopier) shall not constitute a writing; however, any signature on a document or other writing that is transmitted by telecopier shall constitute a valid signature for purposes hereof), and shall be deemed to have been validly served, given or



delivered when received by the recipient if hand delivered, sent by commercial overnight courier or sent by facsimile, or three (3) Business Days after deposit in the United States mail, with proper first class postage prepaid and addressed to the party to be notified as follows:

(a) Notices in writing to the Mortgagor shall be directed as follows:

Huron Valley Steel Corporation  
41000 Huron River Drive  
Belleville, Michigan 48111  
Attn: Mark Gaffney, Vice President & Controller  
Telecopier No.: (734) 697-4445

with a copy to:

Rothstein, Karbel & Wallace, P.C.  
3000 Town Center  
Suite 2150  
Southfield, Michigan 48075  
Attention: David Wallace  
Telecopier No.: (248) 353-7843

(b) Notices in writing to the Mortgagee shall be directed as follows:

The CIT Group/Business Credit, Inc.  
10 South LaSalle Street  
Chicago, Illinois 60603  
Attn: Regional Credit Manager  
Telecopier No.: (312) 424-9740

or (c) to such other address as any party may designate for itself by like notice.

**Section 6.14. Binding Effect.** This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon the Mortgagor and its successors and assigns (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein), and shall inure to the benefit of the Mortgagee and its successors, successors in interest and assigns. Wherever the Mortgagee is referred to herein, such reference shall be deemed to include the successor in interest to the Mortgagee under the Financing Agreement or any of the other Loan Documents and the assignee of any interest of the Mortgagee under this Mortgage, the Financing Agreement or any of the other Loan Documents, whether so expressed or not; and each such successor in interest and assignee shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and hereunder, and may enforce all and every of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such from time to time successor in interest or assignee were herein by name specifically granted such rights, privileges, powers, options and benefits and was herein by name designated the Mortgagee.

**Section 6.15. Covenants to Run with the Land.** All the covenants hereof shall run with the land.

**Section 6.16. Entire Agreement.** This Mortgage sets forth all of the covenants, promises, agreements, conditions and understandings of the parties relating to the subject matter of this Mortgage, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are herein set forth.

**Section 6.17. Governing Law; Severability; Modification.** The validity, interpretation and enforcement of this Mortgage shall be governed by the laws of the State of Illinois. In the event that any provision or clause of this Mortgage conflicts with applicable laws, such conflicts shall not affect other provisions hereof which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared to be severable. This Mortgage and each provision hereof may be modified, amended, changed, altered, waived, terminated or discharged only by a written instrument signed by the party sought to be bound by such modification, amendment, change, alteration, waiver, termination or discharge.

**Section 6.18. Meanings.** Wherever in this Mortgage the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

**Section 6.19. Captions.** The captions or headings at the beginning of each Article and Section hereof are for the convenience of the parties and are not a part of this Mortgage.

**Section 6.20. Construction and Interpretation.** The Mortgagor and the Mortgagee, and their respective legal counsel, have participated in the drafting of this Mortgage, and accordingly the general rule of construction to the effect that any ambiguities in a contract are to be resolved against the party drafting the contract shall not be employed in the construction and interpretation of this Mortgage. In the event of any conflict between any provision of this Mortgage and any provision of the Financing Agreement, the latter shall govern and control.

[SIGNATURE PAGE AND EXHIBITS  
FOLLOW THIS PAGE]

IN WITNESS WHEREOF, the Mortgagor has caused this instrument to be executed as of the date first above written.

HURON VALLEY STEEL CORPORATION

By: *Leonard Fritz*  
LEONARD FRITZ, President

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STATE OF MICHIGAN            )  
  )  
COUNTY OF WAYNE            )

SS

Before me, a notary public, in and for said County and State, personally appeared LEONARD FRITZ, known to me to be the person who, as the President of Huron Valley Steel Corporation, the entity which executed the foregoing instrument, signed the same, and acknowledged to me that he did so sign said instrument in the name and upon behalf of said entity as such President; that the same is his free act and deed as such President, and the free act and deed of said entity; and that he was duly authorized thereunto. In testimony whereof, I have hereunto subscribed my name, and affixed my official seal this 30th day of August, 2001.



MARK A. GAFFNEY, Notary Public  
Washtenaw County, Michigan  
Acting in Wayne County  
My Commission Expires: 03/16/02



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## EXHIBIT A

### LEGAL DESCRIPTION OF THE PREMISES

#### Parcel 1:

Lot 2 in Ashland Industrial Subdivision: Riverdale (being a subdivision of part of fractional Section 5, North of the Indian Boundary line in Township 36 North, Range 14, East of the Third Principal Meridian, North of the Indian Boundary Line as per plat thereof recorded in the office of the recorder of deeds of Cook County, Illinois on March 9, 1977 as document 23845092, all in Cook County, Illinois.

#### Parcel 2:

That part of the East half of the North West quarter of fractional Section 5, Township 36 North, Range 14, East of the Third Principal Meridian, North of the Indian Boundary line, being a strip of land 100.00 feet wide, lying Southeasterly of the Easterly line of Lot 2 and lying South of the Easterly prolongation of a North line of said Lot 2 and lying North of the Easterly prolongation of the South line of said Lot 2, all in Ashland Industrial District Subdivision: Riverdale, being a subdivision of part of fractional Section 5, Township 36 North, Range 14, East of the Third Principal Meridian, North of the Indian Boundary Line, as per plat thereof recorded in the office of the Recorder of Deeds of Cook County, Illinois, on March 9, 1977 as document 23845092, all in Cook County, Illinois.

#### Parcel 3:

That part of Lot 6 in Ashland Industrial District Subdivision: Riverdale (being a subdivision of part of Fractional Section 5, North of the Indian boundary line in Township 36 North, Range 14, East of the Third Principal Meridian) bounded and described as follows:

Beginning at the Southwest corner of said Lot 6; thence East on the South line of said Lot 6 a distance of 185.00 feet to a point distant 59.92 feet East of the Northwest corner of Lot 5 in the aforesaid Ashland Industrial District Subdivision: Riverdale; thence North on a line parallel with the West line of said Lot 6, a distance of 222.67 feet; thence West on a line parallel with the South line of said Lot 6, a distance of 185.00 feet to the West line of said Lot 6; thence South on said West line 222.67 feet to the point of beginning, in Cook County, Illinois.

#### Parcel 4:

Lots 5 and 6 (taken as a tract) in Ashland Industrial District Subdivision: Riverdale (being a subdivision of part of fractional Section 5, North of the Indian Boundary Line in Township 36, North, Range 14, East of the Third Principal Meridian), excepting therefrom those parts of said Lots 5 and 6 (taken as a tract), bounded as described as follows:

Beginning at the Southwest corner of said Lot 5 thence North on the West line thereof 340.00 feet to the North line of said Lot 5; (also the South line of said Lot 6); thence West along the last described line for a distance of 125.08 feet to the Southwest corner of Lot 6; thence North along the West line of said Lot 6, for a distance of 222.67 feet to a point; thence East on a line parallel with the South line of said Lot 5, for a distance of 441.70 feet to a point; thence South on a line parallel with the West line of said Lots 5 and 6, for a distance of 407.43 feet; thence West on a line parallel with the South line of said Lot 5, a distance of

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244.70 feet; thence South on a line parallel with the West line of said Lot 5, a distance of 155.24 feet, to a point on the South line of said Lot 5; thence West on the last described line 71.92 feet to the point of beginning, in Cook County, Illinois.

## Parcel 5:

Those parts of Lots 5 and 6 (taken as Tract) in Ashland Industrial District Subdivision: Riverdale (being a subdivision of part of fractional Section 5, North of the Indian Boundary Line in Township 36 North, Range 14 East of the Third Principal Meridian) bounded and described as follows:

Beginning at the Southwest corner of said Lot 5 thence North on the West line thereof 340.00 feet to the North line of said Lot 5; (also South Line of said Lot 6); thence East on the last described line 59.92 feet; thence North on a line parallel with the West line of said Lot 6 a distance of 222.67 feet; thence East on a line parallel with the South line of said Lot 6, a distance of 256.70 feet; thence South on a line parallel with the West line of Lots 5 and 6 a distance of 407.43 feet; thence West on a line parallel with the South line of said Lot 5, a distance 244.70 feet; thence South on a line parallel with the West line of said Lot 5, a distance of 155.24 feet to the South line of said Lot 5; thence West on the last described line 71.92 feet to the point of beginning, in Cook County, Illinois.

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## EXHIBIT B

### ADDITIONAL PERMITTED ENCUMBRANCES

1. Liens for taxes and assessments which are not yet due and payable.
2. Grant of easement recorded August 29, 1984 as document number 27233377 in favor of Commonwealth Edison Company and Illinois Bell Telephone Company, affects the Northerly 10 feet of the Westerly 438.49 feet of Lot 2. (Affects Parcel 1)
3. Easement reserved in favor of Commonwealth Edison Company and conditions and provisions relating to said easement contained in deed recorded July 25, 1963 as document number 18864419. (Affects Parcel 2)
4. Grant of easement recorded February 5, 1987 as document number 87072468 in favor of Commonwealth Edison Company. (Affects: Parcel 5, except portions occupied by buildings, structures and mechanical equipment)
5. Grant of easement recorded February 5, 1987 as document number 87072460 in favor of Commonwealth Edison Company. (Affects Lot 5 of Parcel 4)
6. Easement for storm sewers over, upon and under the North 15 feet of Lot 5 as shown on the plat of Ashland Industrial District Subdivision: Riverdale recorded March 9, 1977 as document 23845092. (Affects Parcels 3, 4 and 5)
8. Easement for storm and sanitary sewers over, upon and under the West 25 feet of Lot 6 as shown on the plat of Ashland Industrial District Subdivision: Riverdale recorded March 9, 1977 as document 23845092. (Affects Parcels 3 and 4)
9. Note for informational purposes: Environmental disclosure document for transfer of real property recorded September 1, 1992 as document number 92648271 and recorded May 10, 1994 as document number 94420633.
10. Spurs and switch tracks and right of ways of the railroad.