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Property of Cook County Clerk's Office

LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES  
AND RENTS AND SECURITY AGREEMENT  
(Illinois)  
(Midway Business Center) (Warehouse)  
(West 41<sup>st</sup> Street) (Terminal)

THIS MORTGAGE SECURES FUTURE OBLIGATIONS AND ADVANCES PURSUANT TO 205 ILLINOIS  
COMPILED STATUTES 5/5d.

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT ("Mortgage")  
is made and entered into this 30<sup>th</sup> day of November, 2001, by OLYMPIC OIL, LTD., an Illinois corporation, having an  
address of 10352 River Road, St. Rose, Louisiana 70087 ("Mortgagor") in favor of BANK ONE, NA, a national banking  
association, having an address 201 St. Charles Avenue, New Orleans, Louisiana 70170 (the "Agent" or "Mortgagee") for  
the benefit of the lender(s) (the "Lenders") under the Credit Agreement referred to below.

RECITALS:

A. Delta Petroleum Company, Inc. (the "Borrower"), Mortgagee and the Lenders are parties to a certain  
Credit Agreement dated as of even date herewith (as the same may be amended, supplemented and restated from time to  
time, the "Credit Agreement"), providing for extensions of credit to be made by the Lenders to the Borrower.

B. In consideration of the financial and other support that the Borrower has provided (and such financial  
and other support as the Borrower may in the future provide) to the Mortgagor, and in order to induce the Lenders to enter  
into the Credit Agreement, and the Lenders and their Affiliates to enter into one or more Rate Management Transactions  
with the Borrower, the Mortgagor has executed a certain Subsidiary Guaranty Agreement of even date herewith in favor

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Lawyers Title Insurance Corporation

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of the Agent for the benefit of the Lenders. As further inducement to the Mortgagee and the Lenders to provide for extensions of credit under the Credit Agreement, Mortgagor is willing to grant a lien in its interest in the Mortgaged Property (as hereinafter defined) as security for the Indebtedness (as hereinafter defined).

WITNESSETH:

A. GRANT

FOR AND IN CONSIDERATION of the premises, the sum of Ten and No/100 (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure indebtedness hereinafter described, Mortgagor has granted, bargained, mortgaged, warranted, assigned, transferred, sold and conveyed, and by these presents does grant, bargain, mortgage, warrant, assign, transfer, sell and convey, unto Mortgagee, for the ratable benefit of the Lenders, and unto Mortgagee's successors and assigns, forever, all and singular the property hereinafter described, whether now existing or hereafter arising or now owned or hereafter acquired, to-wit:

All of Mortgagor's right, title and interest as lessee under that certain Lease Agreement dated November 1, 1998 (the "Warehouse Lease") by American National Bank and Trust Company of Chicago, predecessor in interest to LaSalle National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated June 26, 1997 and known as Trust Number 123103-06; as lessor, and Olympic Oil, Ltd., lessee, and covering approximately 275,330 square feet of space located at the Midway Business Center on 5555 South Archer Avenue in Chicago, Illinois, more particularly described in Exhibit A attached hereto, which space is configured as follows: 56,274 Square feet at 5501 South Archer Avenue; 59,600 square feet at 5507 South Archer Avenue; 59,788 square feet at 5372 South Cicero Avenue and 61,668 square feet at 5350 South Cicero Avenue.

and:

All of Mortgagor's right, title and interest as lessee under that certain Lease Agreement dated September 5, 1940 (the "West 41<sup>st</sup> Street Lease") by The Metropolitan Sanitary District of Greater Chicago, as lessor and certain other parties, including, by means of several assignments, Olympic Oil, Ltd, as lessee, and covering the following property more particularly described in Exhibit B attached hereto.

(The Warehouse Lease and the West 41<sup>st</sup> Street Lease are sometimes collectively referred to herein as the "Delta Lease").

TOGETHER WITH all rights, titles, interests, estates, reversions and remainders now owned or hereafter acquired by Mortgagor in and to the property which is the subject of the Delta Lease (the "Property");

TOGETHER WITH all improvements now or hereafter situated on the Property and in and to the properties covered hereby;

TOGETHER WITH all rights, titles and interests now owned or hereafter acquired by Mortgagor in and to all easements, streets and rights-of-way of every kind and nature next to or adjoining the Property and all public or private utility connections thereto and all hereditaments, appurtenances, servitudes, rights, ways, privileges and prescriptions thereto, and all waste water capacity and water rights reservations relative to the Property;

TOGETHER WITH all goods, equipment, fixtures and other personal property (herein called the "Goods") now owned or hereafter acquired by Mortgagor and now or hereafter affixed to, or located on or within, the Property or improvements, including without limitation, all rights, titles and interests of Mortgagor now owned or hereafter acquired in and to any of the Goods that may be subject to any title retention or security agreement superior in lien or security interest to the lien or security interest of this Mortgage;

TOGETHER WITH all rights and interests of Mortgagor now owned or hereafter acquired in and to all (i) contracts, subcontracts and plans and specifications relating to the improvements and all deposits, funds, accounts, contract rights, instruments, documents, general intangibles (including trademarks, trade names and symbols used in connection therewith), notes or chattel paper arising from or by virtue of any of the transactions relating to the Property or the improvements, (ii) all permits, licenses, franchises, certificates and other rights and privileges obtained in connection with the Property and the improvements; (iii) all proceeds arising from or by virtue of the sale, lease or other disposition of any of the real or personal property described herein; (iv) all proceeds (including premium refunds) payable or to be payable under each policy of insurance relating to the Property or the improvements or the Goods; and (v) all proceeds arising from the taking of all or any part of the Property or any rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, for any public or quasi-public use under any law, or by right of eminent domain, or by private or other purchase in lieu thereof;

TOGETHER WITH all books and records of Mortgagor relative to the other Mortgaged Property (hereinafter defined) (including without limitation customer lists, credit files, computer programs, disks, tapes, punch cards, data processing software, transaction files, master files, printouts, and other computer materials and records);

TOGETHER WITH without limiting the foregoing, any and all rights, royalties, rents, revenues, benefits, leases, contracts, accounts, general intangibles, money, instruments, insurance proceeds, documents, tenements, hereditaments and appurtenances now owned or hereafter acquired by Mortgagor and appertaining to, generated from, arising out of or belonging to any of the foregoing;

TOGETHER WITH all proceeds and products of all or any of the foregoing.

All of the foregoing (together with the Leases, Rents and Profits and the Collateral, as such terms are hereinafter defined) is herein called the "Mortgaged Property."

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee, and Mortgagee's successors and assigns, forever, and Mortgagor does hereby bind Mortgagor, and Mortgagor's respective heirs, personal representatives, successors and assigns to warrant and forever defend the Mortgaged Property unto Mortgagee, and Mortgagee's successors and assigns, forever, against the claim or claims of all persons whomsoever claiming or to claim the same, or any part thereof, subject however to encumbrances permitted by the Credit Agreement.

This conveyance is made for the following uses:

- (a) To secure the Secured Obligations of Borrower under the Credit Agreement, including, without limitation, the following promissory notes:
  - (i) Capital Expenditure Promissory Note in the original principal amount of \$1,000,000, bearing interest at the Prime Rate or the Eurodollar Rate, as applicable, with a maturity date of December 1, 2002.
  - (ii) Revolving Loan Promissory Note in the original principal amount of \$12,000,000, bearing interest at the Prime Rate or the Eurodollar Rate, as applicable, with a maturity date of December 1, 2004.
  - (iii) Term Loan One Promissory Note in the original principal amount of \$16,789,168, bearing interest at the Prime Rate or the Eurodollar Rate, as applicable, with a maturity date of December 1, 2006.
  - (iii) Term Loan Two Promissory Note in the original principal amount of \$1,960,832, bearing interest at the Prime Rate or the Eurodollar Rate, as applicable, with a maturity date of December 1, 2003.

This instrument secures the foregoing debts and interest, and any extensions, modifications, and/or renewals and substitutions thereof, and notes given in payment of principal or interest, and all reasonable attorneys' fees, court

costs, and reasonable expenses of whatever kind incident to the collection of said indebtedness and/or the enforcement and/or protection of the lien of this Mortgage.

- (b) To secure the payment of all sums advanced by Mortgagee after the occurrence of any event of default under the terms of any of the Loan Documents to protect the Mortgaged Property, with interest thereon at the rate set forth in the notes evidencing the debt.
- (c) To secure the performance of all obligations of Mortgagor as guarantor of the Indebtedness (as hereinafter defined) pursuant to that certain Guaranty Agreement executed by Mortgagor of even date herewith and of any guarantor and of any of the obligations of Borrower contained in the Loan Documents or any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby.
- (d) To secure the payment of any and all Advances, if any, made by Mortgagee as set forth in Section 1.15 hereof.
- (e) To secure the payment of all other present and future indebtedness, amounts and liabilities of Borrower or Mortgagor to Mortgagee, whether incurred pursuant to the Credit Agreement or otherwise, liquidated or unliquidated, now existing or hereafter arising, in principal, interest, deferral and delinquency charges, prepayment premiums, costs and attorney's fees.

All of the foregoing indebtedness and obligations collectively referred to herein as the "Indebtedness."

The Indebtedness shall be payable at the address as specified in the Credit Agreement or such other place as Mortgagee may from time to time hereafter designate in writing; and unless otherwise expressly provided in the instruments evidencing the Indebtedness, all portions of the Indebtedness shall bear interest from the due date thereof until paid at the same rate per annum as provided in the Credit Agreement for interest accruing on past due amounts.

All payments received by Mortgagee whether designated as payments of principal or interest, shall be applied to the principal or interest of the Indebtedness or to expenses provided for herein, or any combination of the foregoing, as directed by Mortgagee at Mortgagee's option, exercised in its sole discretion.

This Mortgage, the Credit Agreement and any guaranty thereof and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby may hereafter be referred to individually or collectively as the "Loan Documents."

All capitalized terms used in this Mortgage (and not otherwise defined herein) shall have the meanings defined in the Credit Agreement.

This Mortgage secures future advances up to a maximum principal amount of Sixty Million and NO/100 Dollars (\$60,000,000). This Mortgage secures and shall be security for any and all future advances made by Mortgagee to Mortgagor (or any of them, if more than one). Nothing contained herein shall be deemed any obligation on the part of Mortgagee to make any further advances.

## B. ASSIGNMENT OF RENTS

Mortgagor hereby absolutely assigns, transfers and conveys to Mortgagee all the leases, rents, issues and profits (the "Leases, Rents and Profits") of the Mortgaged Property, and hereby gives to and confers upon Mortgagee the right, power and authority to collect such Leases, Rents and Profits. Prior to the occurrence of any Event of Default, or the exercise by Mortgagee of the option granted below, Mortgagor shall collect and receive all Leases, Rents and Profits as the Mortgagee for the benefit of Mortgagee and Mortgagor, and Mortgagor shall apply the funds so collected first to the payment of the principal and interest and all other sums payable on the Indebtedness and thereafter, so long as no Event of Default has occurred, the balance shall be distributed to the account of Mortgagor. Mortgagor will not (i) execute an assignment of any of its right, title or interest in the Leases, Rents and Profits, (ii) except in the ordinary course of business and absent any Event of Default, amend or modify any leases of the Mortgaged Property in any material respect or permit

the surrender or termination thereof, (iii) accept prepayment of any installments of rent to become due under any of such leases in excess of one month, or (iv) in any other manner impair the value of the Mortgaged Property or the security of this Mortgage. Mortgagor will not execute any lease of all or any substantial portion of the Mortgaged Property except for actual occupancy by a lessee thereunder, and will at all times promptly and faithfully perform, or cause to be performed, each covenant, condition and agreement in each lease of the Mortgaged Property now or hereafter existing, on the part of lessor thereunder to be kept and performed. Mortgagor shall furnish to Mortgagee, within ten (10) days after a request by Mortgagee to do so, a written statement containing the names of all lessees of the Mortgaged Property, the terms of their respective leases, the space occupied and the rentals payable thereunder together with copies of any and all written leases then existing which affect or pertain to the Mortgaged Property.

Mortgagor hereby authorizes Mortgagee, if and whenever Mortgagee shall desire following an Event of Default, to demand and receive, in Mortgagor's right, all sums that may become due under any and all leases or occupancy agreements, including without limitation oil, gas and mineral leases, rent or contracts or easements pertaining to all or any part of the Mortgaged Property, and when received to apply the same on the Indebtedness in such order as the Mortgagee, in its sole discretion, shall determine. No demand for, nor receipt or application of, any such sum shall be deemed to minimize, subordinate or affect in any way the lien, security interest or rights hereunder of Mortgagee, or any rights of a purchaser of the Mortgaged Property at a Mortgagee's or foreclosure sale hereunder.

### C. SECURITY INTERESTS

To further secure the Indebtedness, the Mortgagor hereby grants to the Mortgagee a continuing security interest in and to all right, title and interest of the Mortgagor in, to or under the following property, whether now owned or existing or hereafter acquired or arising and regardless of where located: (i) the Accounts; (ii) the Equipment; (iii) the General Intangibles; (iv) all books and records (including, without limitation, customer lists, credit files, computer programs, tapes, disks, punch cards, data processing software, transaction files, master files, printouts and other computer materials and records) of the Mortgagor pertaining to any of the Mortgaged Property; and (v) all Proceeds and products of all or any of the foregoing. For purposes of this Article C., the following terms shall have the meanings indicated:

"Accounts" shall mean all "accounts" (as defined in the UCC) now owned or hereafter acquired by Mortgagor, and shall also mean and include all accounts receivable, notes, notes receivable, drafts, acceptances, book debts and similar documents and other monies, obligations or indebtedness owing or to become owing to Mortgagor arising from the sale, lease or exchange of goods or other property by Mortgagor or the performance of services by Mortgagor or under any contracts for any of the foregoing (whether or not yet earned by performance on the part of Mortgagor), whether now in existence or hereafter arising or acquired.

"Collateral Account" shall mean the demand deposit or time deposit account of Mortgagor maintained (now or in the future) with Mortgagee or a bank satisfactory to Mortgagee.

"Equipment" shall mean all "equipment" (as defined in the UCC, including, without limitation, all furniture and furnishings) now owned or hereafter acquired by the Mortgagor and located on or relating to the Property and the improvements thereon, together with all additions, accessories, parts, attachments, special tools and accessions now and hereafter affixed thereto or used in connection therewith, and all replacements thereof and substitutions therefor.

"General Intangibles" shall mean all "general intangibles" (as defined in the UCC) now owned or hereafter acquired by Mortgagor, including without limitation (i) all contractual rights of, and obligations or indebtedness owing to, Mortgagor (other than Accounts) from whatever source arising, including without limitation all contract rights of, and obligations or indebtedness owing to, Mortgagor under any construction contracts to which Mortgagor is a party, any management, franchise or licensing agreement regarding the conduct of Mortgagor's business, options or agreements to acquire the Mortgaged Property or any interest therein and all permits and licenses relative to the operation of Mortgagor's business, (ii) all things in action, rights represented by judgments, awards of damages, settlements and claims arising out of tort, warranty or contract, whether relating to the Mortgaged Property or otherwise (including

without limitation the right to assert and otherwise be the proper party of interest to commence, control, prosecute and/or settle such actions, whether as claims, counterclaims or otherwise, and whether involving matters arising from casualty, condemnation, indemnification, negligence, strict liability, other tort, contract, warranty or in any other manner), (iii) rights under service, maintenance or warranty contracts, operating agreements, and other warranties, guaranties and bonds, (iv) the right to receive proceeds attributable to insurance loss of the Mortgaged Property, (v) all goodwill, patents, patent licenses, trademarks, trademark licenses, trade names, service marks, trade secrets, rights in intellectual property, copyrights, permits and licenses, (vi) all rights or claims in respect of refunds for taxes paid and (vii) all deposit accounts of Mortgagor with Mortgagee, including the Collateral Account.

"Proceeds" shall mean all cash and non-cash proceeds of, and all other profits, rentals or receipts, in whatever form, arising from the collection, sale, lease, exchange, assignment, licensing or other disposition of, or realization upon, the Mortgaged Property, including, without limitation, all claims of the Mortgagor against third parties for loss of, damage to or destruction of, or for proceeds payable under, or unearned premiums with respect to, policies of insurance in respect of the Mortgaged Property, and any condemnation or requisition payments with respect to any Mortgaged Property, and including proceeds of all such proceeds, in each case whether now existing or hereafter arising.

"UCC" shall mean the Uniform Commercial Code in the State of Illinois, as amended from time to time; provided that if by reason of mandatory provisions of law, the perfection or the effect of perfection or non-perfection of the security interests in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than Illinois, "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection.

#### ARTICLE 1. COVENANTS AND AGREEMENTS OF MORTGAGOR

Section 1.1 Performance of Indebtedness. The Mortgagor shall cause the Borrower to repay its Indebtedness according to the reading, tenor and effect of the Credit Agreement, other documents evidencing such obligations and this Mortgage. The Mortgagor shall cause the Borrower will do and perform every act required of it by the Credit Agreement, other documents evidencing the obligations and this Mortgage at the time or times and in the manner specified.

Section 1.2 Title to Collateral; Compliance with Leases. (a) The Borrower represents and warrants that it has good and merchantable title to the Mortgaged Property, free of all liens and encumbrances except as permitted by the Credit Agreement. Furthermore, the Borrower has not heretofore conveyed or agreed to convey or encumber the Mortgaged Property in any way, except in favor of the Mortgagee or as permitted by the Credit Agreement.

(b) The Mortgagor represents and warrants that (i) the Delta Lease is valid and binding and in full force and effect, (ii) that the Delta Lease has not been amended or modified and (iii) there are no defaults or events which with the giving of notice or the lapse of time (or both) would constitute defaults under the Delta Lease. Furthermore, the Mortgagor has not heretofore conveyed or agreed to convey or encumber the Mortgaged Property in any way, except in favor of the Mortgagee or as permitted by the Credit Agreement.

(c) Borrower will not amend, modify, supplement, restate or terminate (or agree to any such action) the Delta Lease or any Lease, or extend any Lease without the prior written consent of the Mortgagee; provided that if the Mortgagee consents to such amendment, modification, supplement, restatement or termination, the Mortgagor shall furnish the Mortgagee with a copy thereof within 30 days after execution. The Mortgagor will not subordinate, or consent to any subordination of, the Delta Lease to the lien of this mortgage or any encumbrance granted by the lessor under the Delta Lease on the ownership of the property covered by the Delta Lease without the Mortgagee's prior written consent, and any such purported subordination without Mortgagee's prior written consent shall automatically be null and void.

Section 1.3 Taxes and Other Liens. The Mortgagor will pay and discharge (or bond over) promptly when due all taxes, assessments and governmental charges or levies imposed upon it or upon its income or upon the Mortgaged

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Property as well as all claims of any kind (including claims for labor, materials, supplies and rent) which, if unpaid, might become a lien upon any or all of the Mortgaged Property; provided, however, the Mortgagor shall not be required to pay any such tax, assessment, charge, levy or claim if the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings diligently conducted and if the contesting party shall have set up reserves therefor adequate under generally accepted accounting principles (provided that such reserves may be set up under generally accepted accounting principles).

**Section 1.4 Insurance.** The Mortgagor shall procure and maintain for the benefit of the Mortgagee, or cause to be so procured and maintained, original paid up insurance policies from companies licensed in the state where the Mortgaged Property is located and having a Best's rating of A or better, in amounts, in form and substance, and with expiration dates acceptable to the Mortgagee, and containing a non-contributory standard Mortgagee clause or its equivalent in a form satisfactory to the Mortgagee, or the statutory Mortgagee clause, if any, required in the state where the Mortgaged Property is located, or a Mortgagee's loss payable endorsement, in favor of the Mortgagee. All of such policies shall contain an agreement by the insurer not to cancel or amend the policies without giving the Mortgagee at least 30 days' prior written notice of its intention to do so. The Mortgagor shall deliver original or certified policies (or, insurance certificates from the Mortgagor's insurance agent) to the Mortgagee, and the Mortgagor shall deliver original or certified renewal policies (or, insurance certificates from the Mortgagor's insurance agent) with satisfactory evidence of payment not less than 15 days in advance of the expiration date of the existing policy or policies. In the event the Mortgagor should, for any reason whatsoever, fail to keep the Mortgaged Property or any part thereof so insured, or to keep said policies so payable, or fail to deliver to the Mortgagee the original or certified policies of insurance (or, insurance certificates from the Mortgagor's insurance agent) and the renewals thereof upon demand, then the Mortgagee, if it so elects, may itself have such insurance effected in such amounts and in such companies as it may deem proper and may pay the premiums therefor. The Mortgagor shall reimburse the Mortgagee upon demand for the amount of premium paid, together with interest thereon at 10% percent per annum from date until paid. The Mortgagor agrees to notify the Mortgagee immediately in writing of any material fire or other casualty to or accident involving the Mortgaged Property, whether or not such fire, casualty or accident is covered by insurance. The Mortgagor further agrees to notify promptly the Mortgagor's insurance company and to submit an appropriate claim and proof of claim to the insurance company if the Mortgaged Property is damaged or destroyed by fire or other casualty. Subject to the terms of the Credit Agreement, the Mortgagee is hereby authorized and empowered, at its option, to collect and receive the proceeds from any policy or policies of insurance and each insurance company is hereby authorized and directed to make payments of all such losses directly to the Mortgagee instead of to the Mortgagor and Mortgagee jointly. The Mortgagee shall apply the net proceeds thereof in accordance with the Credit Agreement. The Mortgagor will not do or permit anything to be done to the Mortgaged Property that may violate the terms of any insurance covering the Mortgaged Property or any part thereof.

**Section 1.5 Condemnation.** If any legally constituted authority condemns, expropriates or otherwise takes the Mortgaged Property, or any part thereof, under power of eminent domain, the Mortgagee may, at its election, either pay the net proceeds thereof toward the payment of the Indebtedness or pay the net proceeds thereof to the Mortgagor.

**Section 1.6 Right of Inspection.** The Mortgagor will permit any officer, employee or agent of the Mortgagee to visit and inspect the Mortgaged Property, examine the books of record and accounts of the Mortgagor, take copies and extracts therefrom, and discuss the affairs, finances and accounts of the Mortgagor with the Mortgagor's officers, accountants and auditors, all at such reasonable times and on reasonable notice and as often as the Mortgagee may reasonably desire.

**Section 1.7 Compliance with Laws and Covenants.** The Mortgagor will observe and comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, certificates, franchises, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers domestic or foreign, applicable to the Mortgagor or to the Mortgaged Property. Without limiting the generality of the foregoing, the Mortgagor will comply with the Illinois Responsible Property Transfer Disclosure Act ("IRPTDA").

**Section 1.8 Maintenance of the Mortgaged Property.** The Mortgagor will maintain, preserve and keep the Mortgaged Property at all times in thorough repair, good working order and good condition, ordinary wear and tear excepted, and will, from time to time, make all necessary repairs and improvements so that the security of this Mortgage shall at no time become impaired.

Section 1.9 Environmental Indemnity. The Mortgagor will defend, indemnify and hold Mortgagee and its directors, officers, agents and employees harmless from and against all claims, demands, causes of action, liabilities, losses, costs and expenses (including, without limitation, costs of suit, reasonable attorneys' fees and fees of expert witnesses) arising from or in connection with (i) the presence in, on or under or the removal from the Mortgage Property of any hazardous substances or solid wastes (as hereafter defined) in violation of applicable environmental law, or any releases or discharges of any hazardous substances or solid wastes on, under or from such property in violation of applicable environmental law, (ii) any activity carried on or undertaken on or off the Mortgaged Property, whether prior to or during the term of this Mortgage, and whether by the Mortgagor or any predecessor in title or any officers, employees, agents, contractors or subcontractors of Mortgagor or any predecessor in title, or any third persons at any time occupying or present on the Mortgaged Property, in connection with the handling, use, generation, manufacture, treatment, removal, storage, decontamination, clean-up, transport or disposal of any hazardous substances or solid wastes at any time located or present on or under the Mortgaged Property, in violation of applicable environmental law, or (iii) any breach of any environmental representation, warranty or covenant under the terms of this Mortgage (including, without limitation, failure of the Mortgagor to comply with IRPTDA). The foregoing indemnity shall further apply to any residual contamination on or under the Mortgage Property, or affecting any natural resources, and to any contamination of the Mortgaged Property or natural resources arising in connection with the generation, use, handling, storage, transport or disposal of any such hazardous substances or solid wastes, and irrespective of whether any of such activities were or will be undertaken in accordance with applicable laws, regulations, codes and ordinances. The terms "hazardous substance" and "release" as used in this Mortgage shall have the meanings specified in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (as amended, "CERCLA"), and the terms "solid waste" and "disposal" (or "disposed") shall have the meanings specified in the Resource Conservation and Recovery Act of 1976, as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984 (as amended, "RCRA"); provided, in the event that the laws of the state where the Mortgaged Property is located establish a meaning for "hazardous substance," "release" "solid waste" or "disposal" which is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply. Without prejudice to the survival of any other agreements of the Mortgagor hereunder, the provisions of this Section shall survive the final payment of all Indebtedness and the termination of this Mortgage and shall continue thereafter in full force and effect.

Section 1.10 Further Assurances. The Mortgagor will keep the lien of this Mortgage valid and unimpaired. The Mortgagor will promptly (and in no event later than 30 days after written notice from the Mortgagee is received) cure any defects in the creation, execution and delivery of this Mortgage and the Credit Agreement. The Mortgagor at its expense will promptly execute and deliver to the Mortgagee upon request all such other and further documents, agreements and instruments in compliance with or accomplishment of the covenants and agreements of the Mortgage in this Mortgage and the Credit Agreement or to further evidence and more fully describe the Mortgaged Property or more fully state the security obligations set out herein, or to perfect, protect or preserve any liens created pursuant to this Mortgage (including the priority of such liens), or to make any recordings, to file any notices, or obtain any consents as may be necessary or appropriate in connection with the transactions contemplated by this Mortgage.

Section 1.11 Reimbursement of Expenses. Subject to the terms of the Credit Agreement, the Mortgagor will pay all legal fees and fees of Mortgagee's counsel, title insurance premiums, brokerage fees, appraisal fees, surveying fees and inspection fees, travel and other expenses reasonably incurred by the Mortgagee in connection with the preparation of this Mortgage (including any amendments). The Mortgagor will, upon request, promptly reimburse the Mortgagee for all payments expended, advanced or incurred by the Mortgagee to satisfy any obligation of the Mortgagor under this Mortgage, or to protect the property or business of the Mortgagor, or to collect the Indebtedness, or to enforce the rights of the Mortgagee under this Mortgage, which amounts will include all court costs, attorneys' fees, fees of auditors and accountants, and investigation expenses reasonably incurred by the Mortgagee in connection with any such matters, together with interest at the interest rate set forth in the Credit Agreement on each such amount from the date that the same is expended, advanced or incurred by the Mortgagee until the date of reimbursement to the Mortgagee.

Section 1.12 Liens. The Mortgagor will not create, incur, assume or permit to exist any judgment, lien or other encumbrance against all or any portion of the Mortgaged Property, except for (a) liens in favor of the Mortgagee to secure the Indebtedness; (b) liens for taxes, assessments, or other governmental charges not yet due or which are being contested in good faith by appropriate action promptly initiated and diligently conducted, if such reserve as shall be required by generally accepted accounting principles shall have been made therefor; (c) liens of vendors, carriers, warehousemen,



mechanics, laborers and materialmen arising by law in the ordinary course of business for sums either not yet due or being contested in good faith by appropriate action promptly initiated and diligently conducted, if such reserve as shall be required by generally accepted accounting principles shall have been made therefor; and (d) any other liens specifically permitted by the Mortgagee in writing (including without limitation under the Credit Agreement).

Section 1.13 Sale or Encumbrance. The Mortgagor will not sell, assign, lease, exchange, transfer, convey or otherwise dispose of (whether in one transaction or in a series of transactions) any portion of the Mortgaged Property, except as may be permitted in the Credit Agreement.

Section 1.14 Release of Property. The Mortgagee may at any time and without notice to the Mortgagor, release any part of the Mortgaged Property from the effect of this Mortgage, or grant an extension or deferment of time for the discharge of any obligation hereunder, without affecting the liability of the Mortgagor hereunder.

Section 1.15 Advances by Mortgagee. The Mortgagor authorizes the Mortgagee to advance any sums necessary, limited only as hereinafter set forth, for the purpose of paying (i) insurance premiums, (ii) taxes, forced contributions, service charges, local assessments and governmental charges, (iii) any liens or encumbrances affecting the Mortgaged Property (whether superior or subordinate to the lien of this Mortgage) not permitted by this Mortgage, (iv) necessary repairs and maintenance expenses or (v) any other amounts which the Mortgagee reasonably deems necessary and appropriate to preserve the validity and ranking of this Mortgage, to cure any Event of Default or to prevent the occurrence of any Event of Default (collectively, the "Advances") of whatever kind; provided, however, that nothing herein contained shall be construed as making such Advances obligatory upon Mortgagee, or as making Mortgagee liable for any loss, damage, or injury resulting from the nonpayment thereof. The Mortgagor covenants and agrees that within five (5) days after demand therefor by the Mortgagee, the Mortgagor will repay the Advances to the Mortgagee, together with interest thereon at the rate of 10% per annum, and in addition will repay any other reasonable costs, attorneys' fees and expenses, charges and expenses of any and every kind for the full protection and preservation of the Mortgaged Property or this Mortgage, including payments required in respect to any lien, privilege or mortgage affecting the Mortgaged Property, together with interest thereon at the rate of 10% per annum, and which amount shall be included in the Indebtedness secured hereby.

Section 1.16 Taxation of Mortgage. In the event that any governmental authority shall impose any taxation of mortgages or the indebtedness they secure (other than with respect to income earned by Mortgagee as a result of interest or fees received in connection with the Indebtedness), the Mortgagor agrees to pay such governmental taxes, assessments or charges either to the governmental authority or to the Mortgagee, as provided by law.

Section 1.17 Notice of Changes. The Mortgagor will not change its name, identity, federal tax identification number, structure, location of chief executive office or chief place of business, or location where it keeps or holds any Goods or Collateral (hereinafter defined) or any records relating thereto unless it shall have given the Mortgagee at least 30 days prior written notice thereof.

Section 1.18 Substitute and Successor Mortgagee. If the Mortgagee shall die or become disqualified from acting in the execution of this trust or shall fail or refuse to execute the same when requested by Mortgagee so to do, or if, for any reason, Mortgagee shall prefer to appoint a substitute Mortgagee to act instead of the herein named Mortgagee, Mortgagee shall have full power to appoint, at any time by written instrument, a substitute Mortgagee, and, if necessary, several substitute Mortgagees in succession, who shall succeed to all the estate, rights, powers and duties of Mortgagee named herein, and no notice of such appointment need be given to Mortgagor or to any other person or filed for record in any public office. Such appointment may be executed by any agent of Mortgagee and, if Mortgagee is a corporation, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the board of directors or any executive officer of the corporation.

ARTICLE 2  
EVENTS OF DEFAULT; REMEDIES

Section 2.1 Events of Default. Any of the events constituting an Event of Default under the Credit Agreement shall be considered an "Event of Default" as that term is used herein.

Section 2.2 Remedies. (a) Upon the happening of any Event of Default specified in Section 8.01 of the Credit Agreement (other than subsections (g) or (h) thereof), the Mortgagee may by written notice to the Borrower declare the entire principal amount of all Indebtedness then outstanding including interest accrued thereon to be immediately due and payable without presentment, demand, protest, notice of protest or dishonor or other notice of default of any kind, all of which are hereby expressly waived by the Mortgagor.

(b) Upon the happening of any Event of Default specified in Subsections (g) or (h) of Section 8.01 of the Credit Agreement, the entire principal amount of all Indebtedness then outstanding including interest accrued thereon shall, without notice or action by the Mortgagee, be immediately due and payable without presentment, demand, protest, notice of protest or dishonor or other notice of default of any kind, all of which are hereby expressly waived by the Mortgagor.

(c) Upon the occurrence of any Event of Default, the Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against the Mortgagor and in and to the Mortgaged Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as the Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of the Mortgagee: (i) commence an action to foreclose this Mortgage; or (ii) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained in this Mortgage or the Credit Agreement; or (iii) recover judgment on the Credit Agreement either before, during or after any proceedings for the enforcement of this Mortgage; or (iv) apply to any court having jurisdiction to appoint a Mortgagee, receiver, liquidator or conservator of the Mortgaged Property, without regard for the adequacy of the security for the Indebtedness and without regard for the solvency of the Mortgagor or of any person, firm or other entity liable for the payment of the Indebtedness (Mortgagor hereby irrevocably consenting to such appointment and waiving notice of any application thereof and any such receiver or receivers having the usual powers and duties of receivers in like or similar cases and all powers and duties of Mortgagee in case of entry as provided in this Mortgage and continuing as such and exercising all such powers until the date of confirmation of the sale of the Mortgaged Property unless such receivership is sooner terminated).

(d) The proceeds or avails of any sale made under or by virtue of this Section, together with any other sums which then may be held by the Mortgagee or Mortgagee under this Mortgage, whether under the provisions of this Section or otherwise, shall be applied to the Indebtedness in such manner as the Mortgagee, in its sole discretion, shall determine.

(e) Upon the occurrence of any Event of Default, the Mortgagee may additionally take any one or more of the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as the Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of the Mortgagee: (i) the Mortgagee may notify any and all tenants to pay all rents due thereafter directly to the Mortgagee at the address set forth in the Mortgagee's notice to such tenants; the Mortgagor irrevocably agrees that all such Tenants shall be authorized to pay the rents directly to the Mortgagee without liability of such tenants for the determination of the actual existence of any default by the Mortgagor claimed by the Mortgagee, and the tenants shall be expressly relieved of any and all duty, liability and obligation to the Mortgagor in connection with any and all rents so paid; or (ii) the Mortgagee may, without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Indebtedness, enter upon and take possession of the Mortgaged Property, or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon the Indebtedness, and in such order as Mortgagee may determine; or (iii) the Mortgagee may alter, modify, amend, terminate or permit the surrender of any or all leases (and other agreements concerning the occupancy of the Mortgaged Property), and the Mortgagee may execute new leases of any part of the Mortgaged Property (and other agreements concerning the occupancy of the Mortgaged Property), including leases that extend beyond the maturity date of the Credit Agreement. The enforcement of any and all such rights available to the Mortgagee hereunder shall continue for so long as the Mortgagee shall elect, notwithstanding that the collection and application of the rents may have cured the original default. Following the exercise

of any of the foregoing rights, the Mortgagee may, at its sole option, through written notice to the Mortgagor, permit the Mortgagor to reenter and take possession of the Mortgaged Property or any part thereof, and to perform all acts necessary for the operation and maintenance of the Mortgaged Property, including the right to collect the rents, but the Mortgagee shall nevertheless have the right, effective upon written notice, to demand, sue for possession of and collect the rents under the leases (and other agreements concerning the occupancy of the Mortgaged Property) and otherwise exercise its rights under this Mortgage again.

(f) In addition, upon the occurrence of an Event of Default, Mortgagee shall have the option, without declaring the entire Indebtedness due, to proceed with judicial foreclosure and sale pursuant to a judgment of foreclosure in satisfaction of such Event of Default. Such sale may be made subject to the unmatured part of the Credit Agreement or other Indebtedness without any effect on the unmatured portion of the Indebtedness, but as to such unmatured portion of the Indebtedness, this Mortgage shall remain in full force and effect such as though no sale had been made under the provisions of this paragraph. In addition, several sales may be made hereunder without exhausting the right of sale for any unmatured portion of the Indebtedness, it being the intention of the parties hereto to provide for a foreclosure and sale of the security for any matured portion of the Indebtedness without exhausting the power to foreclose and to sell the security for any other portion of the Indebtedness whether matured at the time or subsequently maturing. An assignee holding any installments or part of any installment of the Credit Agreement or other portion of the Indebtedness shall have the same powers as are hereby conferred on the Mortgagee to proceed with foreclosure on a matured installment or installments; but if said assignee forecloses or causes a sale to be made to satisfy any installment, part of that installment, or installments, then such foreclosure for sale shall be made subject to all of the terms and provisions hereof with respect to the unmatured part of the Credit Agreement and other portions of the Indebtedness owned by Mortgagee.

(g) If at any foreclosure proceeding the Mortgaged Property shall be sold for a sum less than the total amount of indebtedness for which judgment is therein given, the judgment creditor shall be entitled to the entry of a deficiency decree against Mortgagor and against the Mortgaged Property of Mortgagor for the amount of such deficiency, and Mortgagor does hereby irrevocably consent to the appointment of a receiver for the Mortgaged Property and the other Mortgaged Property (real and personal) of Mortgagor and of the rents, issues and profits thereof after such sale and until such deficiency decree is satisfied in full.

Each of the foregoing remedies in this Section 2.2 are subject to the terms and provisions of all applicable laws in the State of Illinois.

Section 2.3 Foreclosure by Power of Sale. (a) Upon the occurrence of an Event of Default, Mortgagor hereby authorizes and empowers Mortgagee and each and all of Mortgagee's successors in this trust, at any time thereafter, at the request of Mortgagee (which request is hereby conclusively presumed), to sell at public sale the Mortgaged Property or any part thereof, or any interest therein, to the highest bidder, for cash, in the manner and to the extent provided by applicable law, as an entirety or in parcels, by one sale or by several sales held at one time or at different times as the Mortgagee shall deem advisable at the time of sale, and to execute and deliver to the purchaser or purchasers thereof good and sufficient deed or deeds of conveyance thereof and bills of sale with covenants of general warranty binding on Mortgagor and Mortgagor's heirs, personal representatives, successors and assigns, free of any equity of redemption, homestead, dower, curtesy or other state or federal exemption. Mortgagee making such sale shall receive the proceeds thereof and shall apply the same as follows: (i) Mortgagee shall pay, in addition to the attorneys' fees authorized in the Credit Agreement and herein, the reasonable expense of executing this trust, including a commission to Mortgagee of five (5%) percent of the gross proceeds of the sale; (ii) after paying such expenses, Mortgagee shall pay so far as may be possible the Indebtedness, discharging first that portion of the Indebtedness arising under the covenants or agreements herein contained and not evidenced by the Credit Agreement; and (iii) Mortgagee shall pay the residue, if any, to whomsoever shall be entitled thereto. Payment of the purchase price to Mortgagee shall satisfy the obligation of the purchaser at such sale therefore and such purchaser shall not be bound to look after the application thereof.

(b) Mortgagor hereby ratifies and confirms any and all acts that Mortgagee and Mortgagee's successor or successors in this trust, shall do lawfully by virtue hereof. Mortgagor hereby agrees, on behalf of Mortgagor and of Mortgagor's respective heirs, personal representatives, successors and assigns, with the recitals contained in any deed or deeds or other instrument executed in due form by any Mortgagee or substitute Mortgagee, acting under the provisions of this instrument, shall be prima facie evidence of the facts recited, and that it shall not be necessary to prove in any court, otherwise then by such recitals, the existence of the facts essential to authorize the execution and delivery of such deed or

deeds or other instrument and the passing of title thereby, and all prerequisites and requirements of any sale or sales shall be conclusively presumed to have been performed, and all persons subsequently dealing with the Mortgaged Property purported to be conveyed by such deed or deeds or other instrument, including without limitation, the purchaser or purchasers thereof shall be fully protected in relying upon the truthfulness of such recitals. Mortgagee or any successor Mortgagee acting in accordance with the terms hereof shall not be personally liable for any action taken pursuant hereto.

(c) Mortgagee may bid and being the highest bidder therefore, become the purchaser of any or all of the Mortgaged Property at any Mortgagee's or foreclosure sale hereunder and shall have the right to credit the amount of the bid upon the amount of the Indebtedness, in lieu of cash payment.

(d) The purchaser at any Mortgagee's or foreclosure sale hereunder may disaffirm any easement granted, or lease, or agreement made, in violation of any provision of this Mortgage and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such grant of easement and lease or agreement.

(e) In the event of Event of Default, Mortgagee may, at Mortgagee's option, enter upon and take exclusive possession of Mortgaged Property and thereafter manage, use, lease or otherwise operate same in such manner and by and through such persons, objects or employees as it may deem proper or necessary. Mortgagee shall be likewise entitled to possession of all books and records of Mortgagor that relate to the Mortgaged Property. The rights of Mortgagee under this subsection may be enforced through an action for forcible entry and detainer or any other means authorized by law. Any and all rents or other issues or profits received by Mortgagee shall be accounted for in the manner provided for in Subsection 2.2(d) above.

(f) The sale or sales by Mortgagee of less than the whole of the Mortgaged Property shall not exhaust the power of sale herein granted, and Mortgagee is specifically empowered to make successive sale or sales under such power until the whole of the Mortgaged Property shall be sold, and if the proceeds of such sale or sales of less than the whole of such Mortgaged Property shall be less than the aggregate of the Indebtedness and the expense of executing this Mortgage and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property just as though no sale or sales had been made; provided, however, that Mortgagor shall never have the right to require sale or sales of less than the whole of the Mortgaged Property, but Mortgagee shall have the right, at its sole election, to require Mortgagee to sell less than the whole of the Mortgaged Property. If default is made hereunder, the holder of the Indebtedness or any part thereof on which the payment is delinquent shall have the option to proceed with foreclosure in satisfaction of such item either through judicial proceedings or by directing Mortgagee to proceed as if under a full foreclosure, conducting the sale as herein provided without declaring the entire Indebtedness due, and if sale is made because of default on an installment, or a part of an installment, such sale may be made subject to the unmaturing part of the Indebtedness; and it is agreed that such sale if so made, shall not in any manner affect the unmaturing part, but as to such unmaturing part, this Mortgage shall remain in full force and effect as though no sale had been made hereunder. Several sales may be made hereunder without exhausting the right of sale for any unmaturing part of the Indebtedness.

(g) In the event there is a foreclosure sale hereunder and at the time of such sale, Mortgagor or Mortgagor's successors or assigns or any other persons claiming any interest in the Mortgaged Property by, through or under Mortgagor are occupying or using the Mortgaged Property, or any part thereof, each and all shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day-to-day, terminable at the will of either landlord or tenant, at a reasonable rental per day based upon the value of the Mortgaged Property occupied, such rental to be due daily to the purchaser. In the event the tenant fails to surrender possession of said Mortgaged Property upon demand, the purchaser shall be entitled to institute and maintain an action for forcible entry and detainer of said Mortgaged Property in the Justice of the Peace Court in the Justice Precinct in which such Mortgaged Property, or any part thereof, is situated.

**Section 2.4 Sale of Personal Property.** The following applies with respect to all personal property covered by this Mortgage (collectively, the "Collateral"), including without limitation that which is described in Section C above:

(a) In addition to and cumulative of any other remedies granted in this Mortgage to Mortgagee, Mortgagee may, upon default hereunder, proceed under the UCC as to all or any part of the Collateral and shall have and may exercise with respect to all or any part of the Collateral all of the rights, remedies and powers of a secured party under the UCC, including without limitation, the right and power to repossess, retain and sell, at public or private sale or sales, or otherwise dispose of, lease or utilize the Collateral or any part thereof and to dispose of the proceeds in any manner authorized or permitted

under the applicable provisions of the UCC, and to apply the proceeds thereof toward payment of Mortgagee's attorneys' fees and other expenses and costs of pursuing, searching for, receiving, taking, keeping, storing, advertising, and selling the Collateral thereby incurred by Mortgagee, and toward payment of the Indebtedness in such order and manner as Mortgagee may elect consistent with the provisions of the UCC. Nothing in this Section shall be construed to impair or limit any other right or power to which Mortgagee may be entitled hereunder, at law or in equity.

(b) Among the rights of Mortgagee upon default and acceleration of the Indebtedness pursuant to the provisions hereof, and without limitation, Mortgagee shall have the right, but not the obligation, without being deemed guilty of trespass and without liability for damages thereby occasioned (i) to enter upon any premises where any Collateral may be situated and take possession of the Collateral, or render it unusable, or dispose of the Collateral on Mortgagor's premises, and Mortgagor agrees not resist or interfere, and (ii) to take any action deemed necessary or appropriate or desirable by Mortgagee at Mortgagee's option and in Mortgagee's discretion, to repair, refurbish or otherwise prepare the Collateral for sale, lease or other use or disposition as herein authorized. Mortgagee may, at Mortgagee's discretion, require Mortgagor to assemble the Collateral and make it available to Mortgagee at a place designated by Mortgagee that is reasonably convenient to both parties.

(c) Mortgagee shall give Mortgagor notice, by certified mail, postage prepaid, of the time and place of any public sale of any of the Collateral or of the time after which any private sale or other intended disposition thereof is to be made by sending notice to Mortgagor at the address of Mortgagor as specified below at least five (5) days before the time of the sale or other disposition, which provisions for notice Mortgagor and Mortgagee agree are reasonable; provided, however, that nothing herein shall preclude Mortgagee from proceeding as to both real and personal property in accordance with Mortgagee's rights and remedies in respect to real property as provided in the UCC, and without any notice to Mortgagor except for the notices provided in Section 2.3 above.

(d) To the extent such may now or hereafter be permitted under applicable law, Mortgagee is authorized to execute and file financing statements and continuation statements under the UCC with respect to the Collateral without joinder of Mortgagor in such execution or filing. Mortgagor shall execute and deliver to Mortgagee such financing statements, continuation statements and other documents relating to the Collateral or any portion thereof as Mortgagee may reasonably request from time to time to preserve and maintain the priority of the security interest created by this Mortgage and shall pay to Mortgagee on demand any expenses and attorneys' fees reasonably incurred by Mortgagee in connection with the preparation, execution, filing and perfection and continuation of the liens and security interest of this Mortgage and of any financing statements, continuation statements, partial releases, termination statements or other documents necessary or desirable to continue or confirm Mortgagee's security interest, or any modification thereof and in connection with any UCC searches performed by Mortgagee. This document, and any carbon, photographic or other reproduction of this document may be filed by Mortgagee and shall be sufficient as a financing statement. All or part of the Collateral is or is to become fixtures on the real estate constituting a portion of the Mortgaged Property. But this statement shall not impair or limit the effectiveness of this document as a security agreement or financing statement for other purposes, and, without limitation of any other provision hereof, this Mortgage shall constitute a fixture financing statement and, as such, shall be filed for record in the real estate records of the county in which the Property is located. Mortgagor shall not change Mortgagor's name or address without the prior written consent of Mortgagee. The name and address of the record owner of the Property is the party or parties defined herein as Mortgagor.

(e) Mortgagor agrees that, except for the security interest granted hereby in the Collateral and as otherwise permitted in the Credit Agreement, Mortgagor is the owner of the Collateral free of any adverse claim, security interest or encumbrance, and Mortgagor shall defend the Collateral against all claims and demands of any person at any time claiming the same or any interest therein. Mortgagor has not heretofore signed any financing statement and no financing statement signed by Mortgagor is now on file in any public office except those statements, true and correct copies of which have been delivered to Mortgagee. So long as any amount remains unpaid on the Indebtedness, Mortgagor shall not execute and there shall not be filed in any public office any such financing statement or statements affecting the Collateral other than the financing statements in favor of Mortgagee hereunder and financing statements for equipment leases and loans in the ordinary course of Mortgagor's business to the extent, if any, permitted under the Credit Agreement.

(f) The security interest granted herein shall not be construed or deemed to constitute Mortgagee or Mortgagee as a Mortgagee or Mortgagee in possession of the Mortgaged Property so to obligate Mortgagee or Mortgagee to lease the

Mortgaged Property or attempt to do the same, or to take any action, incur any expenses or perform or discharge any obligation, duty or liability with respect to the Mortgaged Property or any part thereof or otherwise.

(g) In addition to, and concurrently or otherwise with, the remedies set forth above, upon the occurrence of any Event of Default, Mortgagee may require Mortgagor (i) to establish a cash collateral account (the "Collateral Account") in the name and under the control of Mortgagee at Mortgagee or a bank satisfactory to Mortgagee, which shall be subject to access and withdrawal by Mortgagee only, and (ii) to deposit into the Collateral Account all payments received by Mortgagor in satisfaction, in whole or in part of any accounts or general intangibles (or proceeds therefrom) within two (2) business days of the receipt thereof, such items of payment and remittances to not be commingled with any of Mortgagor's other property. The funds in the Collateral Account are and shall be subject to a security interest in favor of Mortgagee to secure the Indebtedness.

(h) Mortgagor hereby irrevocably appoints Mortgagee its agent and attorney-in-fact, with full power of substitution, in the name of Mortgagor or Mortgagee, for the sole use and benefit of Mortgagee, but at Mortgagor's expense, to exercise, at any time and from time to time while an Event of Default has occurred and is continuing, all or any of the following powers with respect to all or any of the Mortgaged Property: (i) to endorse the name of Mortgagor upon any check, draft, note or other instrument payable to Mortgagor evidencing payment upon any accounts or general intangibles, (ii) to notify postal service authorities to change the address for delivery of Mortgagor's mail to a "lockbox" address designated and controlled by Mortgagee, and to receive, open and dispose of all mail addressed to Mortgagor, (iii) to demand, sue for, collect, receive and give acquittance for any and all accounts and other monies due or to become due for or as Mortgaged Property or by virtue thereof, (iv) to settle, compromise, compound, prosecute or defend any action or proceeding with respect to any of the Mortgaged Property, and (v) to extend the time of payment of any or all of the Mortgaged Property and to make any allowance and other adjustments with reference thereto. The aforesaid mandate and power of attorney, being coupled with an interest, is irrevocable so long as any of the Indebtedness remains outstanding.

(i) While an Event of Default has occurred and is continuing, Mortgagor will make no material change to the terms of any account without the prior written permission of Mortgagee. Upon the occurrence of an Event of Default, and at any time thereafter, Mortgagor upon request of Mortgagee will promptly notify (and Mortgagor hereby authorizes Mortgagee so to notify) each account debtor in respect of any account or general intangible that such Mortgaged Property has been assigned to Mortgagee hereunder, and that any payments due or to become due in respect of such Mortgaged Property are to be made directly to Mortgagee or its designee.

**Section 2.5 Set-Off.** Upon the occurrence of any Event of Default, the Mortgagee shall have the right to set-off any funds of the Mortgagor in the possession of the Mortgagee (other than tenant security deposits under leases) against any amounts then due by the Mortgagor to the Mortgagee pursuant to this Mortgage.

**Section 2.6 Defeasance.** All of the covenants and agreements of Mortgagor herein shall survive the execution and delivery of this document and shall continue in force until the Indebtedness is paid in full and a written release hereof is executed by Mortgagee. Accordingly, if Mortgagor shall perform faithfully each and all of the covenants and agreements herein contained and if the Indebtedness shall be fully paid and satisfied, then, and then only this conveyance shall become null and void and shall be released in due form upon Mortgagor's written request and at Mortgagor's expense. No release of this conveyance or the lien thereof shall be valid unless executed by Mortgagee.

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ARTICLE 3  
MISCELLANEOUS

Section 3.1 Notices. Any notice or demand which, by provision of this Mortgage, is required or permitted to be given or served by the Mortgagee to or on the Mortgagor shall be deemed to have been sufficiently given and served for all purposes (if mailed) three calendar days after being deposited, postage prepaid, in the United States mail, registered or certified mail, or (if delivered by express courier) one business day after being delivered to such courier, or (if delivered in person) the same day as delivery, in each case addressed (until another address or addresses is given in writing by the Mortgagor to the Mortgagee) to the Mortgagor at the address set forth below. Any notice or demand which, by any provision of this Mortgage, is required or permitted to be given or served by the Mortgagor to or on the Mortgagee shall be deemed to have been sufficiently given and served for all purposes (if mailed) three calendar days after being deposited, postage prepaid, in the United States mail, registered or certified mail, or (if delivered by express courier) one business day after being delivered to such courier, or (if delivered in person) the same day as delivery, in each case addressed (until another address or addresses are given in writing by the Mortgagee to the Mortgagor) to the Mortgagee at the address set forth on as follows:

As to Mortgagor: Olympic Oil, Ltd.  
10352 River Road  
St. Rose, LA 70087

As to Mortgagee: Bank One, NA  
201 St. Charles Avenue  
New Orleans, LA 70170  
Facsimile: (504) 623-8379  
Attention: Manager, Commercial Banking

Section 3.2 Amendment. Neither this Mortgage nor any provisions hereof may be changed, waived, discharged or terminated orally or in any manner other than by an authentic instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

Section 3.3 Invalidity; Conflicts. If the lien of this Mortgage is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Mortgaged Property, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, 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 of the debt which is not secured or fully secured by the lien of this Mortgage. In the event of any conflict between any provisions of this mortgage and any provision in the Credit Agreement, the Credit Agreement shall control.

Section 3.4 Governing Law. This Mortgage shall be governed by the laws of the State of Illinois. In the event that any provision or clause of any of the Loan Documents conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Documents which can be given effect without the conflicting provisions, and to this end the provisions of the Loan Documents are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

Section 3.5 Limitation of Interest. Mortgagee and Mortgagor stipulate and agree that, notwithstanding any choice of law therein, none of the terms and provisions contained in the Loan Documents shall ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the applicable laws of the State of Illinois. Mortgagor, Borrower or any guarantor, endorser or other party now or hereafter becoming liable for the payment of the Note shall never be liable for unearned interest on the Note, and shall never be required to pay interest on the Note, at a rate in excess of the maximum interest that may be lawfully charged under the applicable laws of the State of Illinois, and the provisions of this Section shall control over all other provisions of the Note and any other instrument executed in connection herewith which may be in apparent

conflict herewith. In the event any holder of the Note shall collect monies which are deemed to constitute interest which would otherwise increase the effective interest rate on the Note to a rate in excess of that deemed to constitute interest in excess of the maximum permissible rate, then such excess interest shall be immediately returned to the Borrower upon such determination.

Section 3.6 Non-Waiver. The acceptance by Mortgagee of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby accrued or to declare a default as herein provided. The acceptance by Mortgagee of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Mortgagor to pay the entire sum then due, and Mortgagor's failure to pay said entire sum shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid, and Mortgagee or Mortgagee shall be at all times thereafter and until the entire sum then due shall have been paid, and notwithstanding the acceptance by Mortgagee thereafter of further sums on account, or otherwise, entitled to exercise all rights in this instrument conferred upon them, or either of them, upon the occurrence of a default, and the right to proceed with a sale under any notice of default, and election to sell, shall in no way be impaired, whether any of such amounts are received prior or subsequent to such notice. Consent by Mortgagee to any transaction or action of Mortgagor which is subject to consent or approval of Mortgagee hereunder shall not be deemed a waiver of right to require such consent or approval to future or successive transactions or actions.

Section 3.7 Release. Upon full payment of all sums secured hereby, Mortgagee shall return all notes covered under the Credit Agreement to the Borrower and shall release the lien of this Mortgage by executing a full release of lien in recordable form and delivering it to Mortgagor.

Section 3.8 Acceptance by Mortgagee. Mortgagee accepts this Mortgage when, duly executed and acknowledged, it is made a public record as provided by law.

Section 3.9 Mortgagee. The term "Mortgagee" shall be deemed to include the owner and holder of any note covered under the Credit Agreement, from time to time, whether or not named as Mortgagee herein.

Section 3.10 Attorney Fees. In case the Credit Agreement or any other Indebtedness is placed in the hands of attorneys at law for the filing of foreclosure proceedings, to protect the rights of Mortgagee or Mortgagee, on behalf of Mortgagee, or to enforce any of the agreements contained in this Mortgage, Mortgagor will pay all costs of collection, including but not limited to reasonable attorneys' fees, incurred in connection with the protection of or realization of collateral or in connection with any of Mortgagee's or Mortgagee's collection efforts, whether or not suit on the Indebtedness or any foreclosure proceedings are filed. Mortgagor further agrees that the Indebtedness shall be increased by the amount of said costs and fees.

Section 3.11 Business Purposes. Mortgagor represents and agrees that the proceeds of the indebtedness secured by this Mortgage and any future advances made by Mortgagee to Mortgagor and secured by this Mortgage will be used for "business purposes" as that term is defined in 815 ILCS 205/4(1)(c).

Section 3.12 Future Advances. If, at any time prior to the payment in full of the indebtedness secured by this Mortgage, Mortgagee shall advance additional funds to or for the benefit of Borrower or Mortgagor such advance together with applicable interest thereon shall be secured by this Mortgage in accordance with all covenants, conditions and agreements herein contained and, to the extent permitted by law, shall be on a parity with and not subordinate to the indebtedness evidenced by the Note; provided, however, that the indebtedness secured by this Mortgage and from time to time remaining unpaid shall not, after including the amount of all such advances, exceed two (2) times the original principal indebtedness secured by this Mortgage.

Section 3.13 Delta Lease Obligations. The Mortgagor agrees that it will pay when due all warehouse lease payments and deliver to the Mortgagee, at its request, a duplicate receipt of each canceled check for each warehouse lease payment so made. If at any time requested by the Mortgagee following the occurrence and during the continuance of an Event of Default, at the Mortgagee's sole option, pay to the Mortgagee monthly, on any date selected by the Mortgagee, such amount as the Mortgagee from time to time estimates will generate sufficient funds to pay all warehouse lease payments on the date such warehouse lease payments next become due. Mortgagor shall at all times perform and comply with all of its obligations under the Delta Lease and promptly after receipt of any notice of default pursuant to the terms



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of the Delta Lease fully and timely cure the same and do all things necessary to preserve and keep unimpaired the rights of the tenant under the Delta Lease and to prevent any termination, surrender, cancellation or impairment thereof or the fright of the lessor under the Delta Lease to terminate the Delta Lease. Mortgagor shall give prompt notice to the Mortgagee of any default by the lessor under the Delta Lease and give prompt notice to the Mortgagee of the giving of any notice by the lessor under the Delta Lease of any default of the Mortgagor as tenant under the Delta Lease.

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

MORTGAGOR:

OLYMPIC OIL, LTD.

By: *[Signature]*  
Name: TIMOTHY A. GOSLINE  
Title: SECRETARY AND TREASURER

Property of Cook County Clerk

### ACKNOWLEDGMENT

STATE OF OHIO

COUNTY OF CUYAHOGA

I, the undersigned, a Notary Public in and for the said Parish, in the State aforesaid, do hereby certify that *Timothy A. Gosline* a duly authorized SECRETARY AND TREASURER of Olympic Oil, Ltd., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such officer and as his free and voluntary act and on behalf of such company for the purposes therein set forth.

Given under my hand and notarial seal this 30th day of November, 2001.

*[Signature]*  
Notary Public

My Commission expires: LINDA J. MONTGOMERY  
NOTARY PUBLIC • STATE OF OHIO  
My Commission expires Sept. 10, 2006

[SEAL]

## EXHIBIT A

That part of the Southeast 1/4 of Section 9, Township 38 North, Range 13, East of the Third Principal Meridian, lying North of the Indiana Harbor Belt Railroad Company and South of Archer Avenue, in Cook County, Illinois, described as follows:

Commencing at the intersection of the Southerly line of Archer Avenue and the West line of Cicero Avenue (said West line being 50 Feet West of the East line of said Section 9); Thence Southwesterly along the Southerly line of Archer Avenue a distance of 321.31 Feet (320.91 Feet Deed) to a point on a line 33 Feet West of and parallel with the West line of the East 1/16 of said 9 (said line also being the East line of Condemnation Case No. 62 S 7992); Thence South along said parallel East line a distance of 23.39 Feet to the point of beginning (said point being 23 Feet Southerly, measured at right angles, of said Southerly line of Archer Avenue); Thence Westerly along the Southerly condemnation line parallel with and 23 Feet southerly, measured at right angles, of the Southerly line of Archer Avenue, a distance of 138.37 Feet; Thence West along said condemnation line a distance of 94.57 Feet to a point on a line drawn parallel with the aforesaid West line of Cicero Avenue and 17.13 Feet South of the Southerly line of Archer Avenue (said parallel line being 555.19 Feet (554.79 Deed) Westerly measured along the Southerly line of Archer Avenue); Thence Westerly along said condemnation line a distance of 198.59 Feet to a point on a line 4 Feet South, measured at right angles, of said Southerly line of Archer Avenue; Thence Westerly along said condemnation line a distance of 146.73 Feet to a point on the Southerly line of Archer Avenue (said point being 903.15 Feet Westerly of the West line of Cicero Avenue as measured along the Southerly line of Archer Avenue); Thence Westerly along the Southerly line of Archer Avenue a distance of 1,720.97 Feet to the East line of South Laramie Avenue as dedicated for a public street by document no. 10387744 recorded June 3, 1929 (said East line being 33 Feet East of and parallel with the West line of the Southeast 1/4 of said Section 9); Thence along said East line a distance of 645.41 Feet to the North line of the Indiana Harbor Belt Railroad Company Right-Of-Way; Thence East along said North Right-Of-Way line a distance of 2,580.06 Feet to the West line of Cicero Avenue; Thence North along said West line, a distance of 777.73 Feet to a point 330.62 Feet South of the Southerly line of Archer Avenue; Thence West along a line parallel with the South line of said Section 9 a distance 315.97 Feet to a point on a line 33 Feet West of and parallel with the West line of the East 1/16 of said Section 9; Thence North along the West described line a distance of 248.75 Feet to the point of beginning.

Address of Property: 5555 South Archer Avenue, Chicago, Illinois

Permanent Index #: 19-04-200-018

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## EXHIBIT B

**Parcel 1:**

Lot 56 (except the Easterly 200 Feet) and all of Lot 58 (except the Southeasterly 17 Feet of Lots 56 and 58) in Sanitary District Trustees Subdivision of the right of way from the North and South center line of Section 30, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois to the Will County line in Cook County, Illinois.

**Parcel 2:**

An easement for a right of way for ingress and egress over a road 30 Feet wide from the Westerly line of Cicero Avenue to the East line of Parcel 1, as set forth in lease from the Sanitary District of Chicago to U.S. Industrial Chemicals, Inc., dated September 05, 1940 and recorded July 25, 1951 as document 15131618, in Cook County, Illinois.

Address of Property: 5000 West 41st Street, Cicero, Illinois

Permanent Index #: 19-04-200-018-000

Property of Cook County Clerk's Office