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2003-01-15 10:10:27

Cook County Recorder

48.50

RECORDED AT THE REQUEST OF
AND WHEN RECORDED, RETURN TO:

T.D. Service Company
1820 East First Street, Suite 300
Santa Ana, California 92705



0030071078

(Space Above This Line For Recording Data)

1696965

Loan No. 151606

MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT ("Mortgage") is made as of December 23, 2002, between INCOMAR LIMITED PARTNERSHIP, A NEVADA LIMITED PARTNERSHIP, whose address is 323 FIFTH STREET, EUPEKA, CALIFORNIA 95501 ("Borrower"), and DEUTSCHE BANK TRUST COMPANY AMERICAS organized and existing under the laws of the United States, whose principal place of business is 31 WEST 52nd STREET, 7th FLOOR, MAIL STOP NYC-0701, NEW YORK, NEW YORK 10019 and its successors and assigns are hereinafter referred to as ("Lender").

RECITALS

A. Borrower executed and delivered to Lender a certain Promissory Note in favor of Lender in the face principal amount of SIXTY FOUR THOUSAND FIVE HUNDRED Dollars and 00/100 (U.S. \$64,500.00) (which note, together with all notes issued in substitution or exchange therefore and/or as any of the foregoing may be amended, modified or supplemented from time to time, is hereinafter referred to as the "Note").

B. Lender wishes to secure (i) the prompt payment of the Note, together with all interest thereon in accordance with the terms of the Note, as well as the prompt payment of any additional indebtedness accruing to Lender on account of any future payments, advances or expenditures made by Lender pursuant to the Note or this Mortgage or any other agreement, document, or instrument securing the payment of the indebtedness evidenced by the Note (the Note, this Mortgage, and any other documents evidencing or securing the indebtedness evidenced by the Note or executed in connection therewith, and any modification, renewal, extension thereof, are hereinafter collectively referred to as the "Loan Documents"), and (ii) the prompt performance of each and every covenant, condition, and agreement now or hereafter arising contained in the Loan Documents of Borrower or any "Principal" (as defined in the Note). All payment obligations of borrower of any Principal are hereinafter sometimes collectively referred to as the "Indebtedness" and all other obligations of Borrower or any Principal are hereinafter sometimes collectively referred to as the "Obligations".

At no time shall the principal amount of the Indebtedness, not including sums advanced in accordance herewith to protect the security of this Mortgage, secured by this Mortgage exceed two hundred percent (200%) or the original amount of the Note.

NOW, THEREFORE, TO SECURE TO LENDER the repayment of the Indebtedness and the performance of the Obligations, Borrower has executed this Mortgage and does hereby mortgage, grant, convey, assign and grant a security interest in and to Lender the following described property and all proceeds thereof (which property is hereinafter sometimes collectively referred to as the "Property"):

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Real property commonly known as 12245 South Troop Street, Chicago, Illinois 60628.

A. The real estate described, to wit (the "Land");

LOT 25 IN VICTORY HEIGHTS FIRST ADDITION, A SUBDIVISION OF THE EAST ½ OF THE SOUTH 33 FEET OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Parcel ID Number: 25-29-117-001-0000.

B. All improvements of every nature whatsoever now or hereafter situated on the Land and owned by Borrower (the "Improvements"), and all machinery, equipment, mechanical systems and other personal property now or hereafter owned by Borrower and used in connection with the operation of the Improvements;

C. All easements and appurtenances now or hereafter in any way relating to the Land or Improvements or any part thereof;

D. All agreements affecting the use, enjoyment or occupancy of the Land and/or Improvements now or hereafter entered into (the "Leases") and all rents, royalties, profits, issues, service reimbursements, registration fees and revenues from the Land and/or Improvements from time to time accruing under the Lease and/or the operation of the Land and/or Improvements (the "Rents"), reserving to Borrower, however, so long as no "Event of Default" (hereinafter defined) has occurred hereunder, a revocable license to receive and apply the Rents in accordance with the terms and conditions of Paragraph 13 of this Mortgage;

E. All claims, demands, judgments, insurance proceeds, awards of damages and settlements hereafter made resulting from the taking of the Land and/or the Improvements or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking, by casualty or otherwise) to the Land or the Improvements or any part thereof;

F. To the extent assignable, all now or hereafter existing management contracts and all permits, certificates, licenses, approvals, entitlements and authorizations, however characterized, issued or in any way furnished for the acquisition, construction, operation and use of the Land, Improvements and/or Leases, including building permits, environmental certificates, licenses, certificates of operation, warranties and guaranties;

G. All of Borrower's rights in and to all trademarks, trade names, assumed names, and other rights and interests in and to the names and marks used by Borrower in connection with the Land or Improvements; and

H. Any monies on deposit with or for the benefit of Lender, including deposits for the payment of real estate taxes.

TO HAVE AND TO HOLD the Property and all parts thereof unto Lender to its own proper use, benefit, and advantage forever, subject, however, to the terms, covenants, and conditions herein.

Borrower covenants and agrees with Lender as follows:

1. Payment of Indebtedness; Performance of Obligations.

Borrower shall promptly pay when due the Indebtedness and shall promptly perform all Obligations.

2. Taxes and Other Obligations.

Borrower shall pay, when due, and before any interest, collection fees or penalties shall accrue, all taxes, assessments, fines, impositions and other charges and obligations, including charges and obligations for any present or future repairs or improvements made on the Property, or for any other goods or services or utilities furnished to the Property, which may become a lien on or charge against the Property prior to this Mortgage, subject, however, to Borrower's right to contest such lien or charge upon the posting of security reasonably satisfactory to Lender so long as such contest stays the enforcement or collection of such lien or charge. Should Borrower fail to make such payments, lender may, at its option and at the expense of Borrower, pay the amounts due for the account of

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Borrower. Upon the request of Lender, Borrower shall immediately furnish to Lender all notices of amounts due and receipts evidencing payment. Borrower shall promptly notify Lender of any lien on all or any part of the Property and shall promptly discharge any unpermitted lien or encumbrance.

3. Reserves for Taxes.

Borrower shall pay to Lender, at the time of and in addition to the monthly installments of principal and/or interest due under the Note, a sum equal to one-twelfth (1/12) of the amount estimated by Lender to be sufficient to enable Lender to pay at least thirty (30) days before they become due and payable, all taxes, assessments and other similar charges levied against the Property. So long as no Event of Default exists hereunder, Lender shall apply the sums to pay such tax items. These sums may be commingled with the general funds of Lender, and no interest shall be payable thereon nor shall these sums be deemed to be held in trust for the benefit of Borrower. If such amount on deposit with Lender is insufficient to fully pay such tax items, Borrower shall, within ten (10) days following notice at any time from Lender, deposit such additional sum as may be required for the full payment of such tax items. Upon the Maturity Date, the moneys then remaining on deposit with Lender or its agent shall, at Lender's option, be applied against the Indebtedness. The obligation of Borrower to pay such tax items is not affected or modified by the provisions of this paragraph.

4. Use of Property.

Unless required by applicable law, Borrower shall not permit changes in the use of any part of the Property from the use existing at the time this Mortgage was executed, which use Borrower represents and warrants is limited to mobile home and RV related uses. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

5. Insurance and Condemnation.

Borrower shall keep the Improvements insured, and shall maintain general liability coverage and such other coverages requested by Lender, by carrier(s), in amounts and in form at all times satisfactory to Lender, which carrier(s), amounts and form shall not be changed without the prior written consent of Lender. All such policies of insurance shall be issued by insurers qualified under the laws of the state in which the Land is located, duly authorized and licensed to transact business in such state and reflecting a General Policy Rating of A-V or better in Best's Key Rating Guide.

In case of loss or damage by fire or other casualty, Borrower shall give immediate written notice thereof to the insurance carrier(s) and to Lender. Lender is authorized and empowered to make or file proofs of loss or damage and to settle and adjust any claim under insurance policies which insure against such risks, or to direct Borrower, in writing, to agree with the insurance carrier(s) on the amount to be paid in regard to such loss.

Borrower shall immediately notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender as further security for the payment of the Indebtedness and performance of the Obligations.

Provided no Event of Default then exists hereunder, the net insurance proceeds and net proceeds of any condemnation award (in each case after deduction only of Lender's reasonable costs and expenses, if any, in

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collecting the same) shall be made available for the restoration or repair of the Property if, in Lender's sole judgment (a) restoration or repair is economically feasible, (b) the value of Lender's security is not reduced, (c) the loss or condemnation, as applicable, does not occur in the six (6) month period preceding the stated Maturity Date, and (d) Borrower deposits with Lender an amount, in cash, which Lender, in its sole discretion, determines is necessary, in addition to the net insurance proceeds or net proceeds of any condemnation award, as applicable, to pay in full the cost of the restoration or repair. Borrower's deposits made pursuant to this paragraph shall be used before the net insurance proceeds or net proceeds of any condemnation award, as applicable, for such restoration or repair. If the net insurance proceeds or net proceeds of any condemnation award, as applicable, are made available for restoration or repair, such work shall be completed by Borrower in an expeditious and diligent fashion, and in compliance with all applicable laws, rules and regulations. At Lender's option, the net insurance proceeds or net proceeds of any condemnation award, as applicable, shall be disbursed pursuant to a construction escrow acceptable to lender. If following the final payments for the completion of such restoration or repair there are any net insurance proceeds or net proceeds of any condemnation award, as applicable, remaining, such proceeds shall be paid (i) to Borrower to the extent Borrower was required to make a deposit pursuant to this paragraph, (ii) then to Lender to be applied to the Indebtedness, whether or not due and payable until paid in full, and (iii) then to Borrower. If an Event of Default then exists, or any of the conditions set forth in subparagraphs (a) through (d) of this Paragraph 5 have not been met or satisfied, the net insurance proceeds or net proceeds of any condemnation award, as applicable, shall be applied to the Indebtedness, whether or not due and payable, with any excess paid to Borrower.

6. Preservation and Maintenance of Property.

Borrower (a) shall not commit waste or permit impairment or deterioration of the Property; (b) shall not abandon the Property; (c) shall keep the Property in good repair and restore or repair promptly, in a good and workmanlike manner, all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, upon any damage or loss thereto, if net insurance proceeds are made available to cover in whole or in part the costs of such restoration or repair; (d) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property; (e) shall provide for management of the property by borrower or by a mobile home park property manager satisfactory to Lender pursuant to a contract in form and substance satisfactory to Lender; and (f) shall give notice in writing to lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property; the security granted by the Loan Documents or the rights or powers of Lender. Neither equipment, machinery or appliance in or on the Land and owned or leased by Borrower except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

7. Protection of Lender's Security.

If Borrower fails to pay the Indebtedness or perform the Obligations or if any action or proceeding is commenced which affects the Property or Lender's interest therein, then Lender, at Lender's option, may make such appearances, disburse such sums, and take such action as Lender deems necessary, in its sole discretion, to protect the Property or Lender's interest therein, including entry upon the Property to make repairs and perform environmental tests and studies. Any amounts disbursed by Lender pursuant to this Paragraph 7 (including attorneys' costs and expenses), with interest thereon at the "Default Rate" (defined in the Note) from the date of disbursement, shall become additional indebtedness of Borrower secured by the Loan Documents and shall be due and payable on demand. Nothing contained in this Paragraph 7 shall require Lender to incur any expense or take any action hereunder.

8. Inspection.

Lender and its authorized agents may make or cause to be made reasonable entries upon and inspections of the property and Borrower's books, records, and contracts at all reasonable times upon reasonable advance notice, which notice may be given in writing or orally.

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9. Books and Records.

Borrower shall keep and maintain at all times at Borrower's address stated above, or such other place as Lender may approve in writing, complete and accurate books of account and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments affecting the Property.

10. Financial Statements.

Borrower shall furnish to Lender, within forty-five (45) days after the end of each fiscal quarter of the operation of the business of Borrower, a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified as true and complete by Borrower or its general partner or chief financial officer. Borrower shall also furnish to Lender, and shall cause each Principal to furnish to Lender, within sixty (60) days after the end of each fiscal year of Borrower, a balance sheet, a statement of income and expenses and a statement of cash flows, each in reasonable detail and certified as true and complete by Borrower or its general partner or chief financial officer and each Principal, as the case may be. Borrower shall furnish, together with the foregoing financial statements and date any other time upon Lender's request, a rent schedule for the Property, certified as true and complete by Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable, the rent paid to date, and the security deposit being held for such tenant. If Borrower fails to timely furnish Lender with any of the financial information and reports set forth in this paragraph within the required time periods, Lender shall have the right, acting in its sole discretion, to hire a certified public accounting firm acceptable to Lender, to prepare such financial information and reports on an audited basis. The costs and expenses of such accounting firm shall be paid by Borrower on demand and, to the extent advanced by Lender become, with interest thereon from the date advanced by Lender at the Default Rate, additional indebtedness of Borrower secured by the Loan Documents.

11. Hazardous Materials.

Borrower covenants and agrees that it (a) shall not use, generate, store, or allow to be generated, stored or used, any "Hazardous Materials" (hereinafter defined) on the Property, (b) shall at all times maintain the Property in full compliance with all applicable "Environmental Laws" (hereinafter defined), including timely remediating the Property if and when required, and (c) shall cause compliance by all tenants and sub-tenants on the Property with Borrower's covenants and agreements contained in this Paragraph 11.

Borrower shall promptly notify Lender in writing of (i) any investigation, claim or other proceeding by any party caused or threatened in connection with any Hazardous Materials on the Property, or the failure or alleged failure of the Property to comply with any applicable Environmental Laws, or (ii) Borrower's discovery of any condition on or in the vicinity of the Property that could cause the Property to fail to comply with applicable Environmental Laws.

The term "Environmental Laws" shall include any federal, state or local laws or regulations relating to health, safety or protection of the environment. The term "Hazardous Materials" shall include Hazardous Substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., any petroleum or petroleum products (excluding a small quantity of gasoline and oil used in maintenance equipment on the Property), asbestos or asbestos-containing material, or any other hazardous substances, hazardous wastes, or hazardous materials as defined by other Environmental Laws.

12. Representations and Covenants.

(a) If borrower is a corporation, it represents that it is a corporation duly organized, existing and in good standing under the laws of its state of incorporation, that it is duly qualified and in good standing under the laws of the state where the Land is located, and that the execution and delivery of the Loan Documents and the performance of the obligations thereunder are within Borrower's corporate powers,

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have been duly authorized by all necessary action of its board of directors, and do not contravene the terms of its articles of incorporation or by-laws.

(b) If Borrower is a general or limited partnership, it represents that it is duly formed, organized and existing in the state of its formation, that it is qualified to do business under the laws of the state where the Land is located, and that the execution and delivery of the Loan Documents and the performance of the obligations thereunder do not conflict with any provision of Borrower's partnership agreement and have been duly authorized by all necessary action of its partners.

(c) Borrower represents that (i) the execution and delivery of the Loan Documents, the payment of the Indebtedness, and the performance of the Obligations do not violate any law or conflict with any agreement by which Borrower is bound, or any court order by which Borrower is bound, (ii) no consent or approval of any governmental authority or any third party is required for the execution or delivery of the Loan Documents, the payment of the Indebtedness, and the performance of the Obligations, and (iii) the Loan Documents are valid and binding agreements, enforceable in accordance with their terms.

(d) Borrower represents it is lawfully seized with fee simple title in the estate hereby conveyed, has the right to mortgage, grant, convey, assign and grant a first security interest in the Property; the Property is unencumbered, the Borrower will warrant and defend title to the Property against all claims and demands, subject to easements and restrictions listed in a schedule of exceptions to coverage in the title insurance policy accepted by Lender insuring Lender's interest in the Property.

(e) Borrower represents and covenants that (i) all permits, approvals, and certificates, including certificates of completion and occupancy permits, required by law or regulation have been obtained and are and shall remain in full force and effect; (ii) the use and occupancy of the Land and all improvements thereon are and shall remain in compliance with all laws; and (iii) Borrower does not and shall not own in excess of five percent (5%) of the mobile home (including recreational vehicles) on the Land.

(f) Borrower represents that all of the improvements on the Land lie wholly within the boundaries of and building line restrictions relating to the Land and no improvements located on adjoining lands encroach upon the Land so as to effect the value or marketability of the Property, except those which are insured against by the title insurance policy accepted by Lender insuring Lender's interest in the Property.

(g) Borrower represents and covenants that all liquid and solid waste disposal, septic and sewer systems located on the Land are in and shall be maintained in good and safe condition and repair.

(h) None of Borrower, any Principal, or any other holder of a direct or indirect legal or beneficial interest in Borrower is or will be, held, directly or indirectly, by a "foreign corporation," "foreign partnership," "foreign trust," "foreign estate," "foreign person," "affiliate" of a "foreign person" or a "United States intermediary" of a "foreign person" within the meaning of IRC Sections 897 and 1445, the Foreign Investments in Real Property Tax Act of 1980 the International Foreign Investment Survey Act of 1976, the Agricultural Foreign Investment Disclosure Act of 1978, the regulations promulgated pursuant to such acts or any amendments to such acts.

(i) None of Borrower or any Principal is insolvent, and there has been no (i) assignment made for the benefit of the creditors of any of them, (ii) appointment of a receiver for any of them or for the properties of any of them, or (iii) any bankruptcy, reorganization, or liquidation proceeding instituted by or against any of them.

(j) There has been no material adverse change in the representations made or information heretofore supplied by or on behalf of Borrower or any Principal in connection with the Loan as to Borrower, any Principal, or the Property.

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(k) Except as listed on Exhibit B hereto, there is no litigation, arbitration, or other proceeding or governmental investigation pending or, to borrower's knowledge, threatened against or relating to Borrower, any Principal, or the Property.

(l) The proceeds evidenced by the Note will be used by Borrower solely and exclusively for proper business purposes and will not be used for the purchase or carrying of registered equity securities within the purview and operation of any regulation issued by the Board of Governors of the Federal Reserve System or for the purpose of releasing or retiring any indebtedness which was originally incurred for any such purpose.

(m) Borrower represents and covenants that all Leases existing as of the date hereof are in writing.

13. Leases of the Property/License to Receive and Apply Rents.

So long as there shall not have occurred an Event of Default, Borrower shall have the right to collect all Rents, and shall hold the same, in trust, to be applied first, to the payment of all impositions, levies, taxes, assessments and other charges upon the Property; second, to maintenance of insurance policies upon the Property required hereby; third, to the expenses of Property operations, including maintenance and repairs required hereby; fourth, to the payment of that portion of the Indebtedness then due and payable; and fifth, the balance, if any, to or as directed by Borrower.

Borrower shall comply with and observe Borrower's obligations as landlord under all Leases. Borrower will not lease any portion of the Property for non-residential use except with the prior written approval of Lender. Borrower, at Lender's request, shall furnish Lender with executed copies of all Leases, and all Leases and amendments thereto hereafter entered into will be on a form of Lease previously approved by Lender. All renewals of Leases and all proposed leases shall (i) provide for rental rates comparable to existing local market rate and shall be arms-length transactions, and (ii) to the extent permitted in the jurisdiction in which the Land is located, be written.

14. Estoppel Certificate.

Borrower shall, within ten (10) days after Lender's request, furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by the Loan Documents and any right of set-off, counterclaim or other defense which exists against such sums and the Obligations.

15. Transfers of the Property or Beneficial Interest in Borrower; Assumption.

Sale or transfer of any of the following are prohibited: (i) all or any part of the Property, or any interest therein, (ii) any of the beneficial interests of any Principal in Borrower, or (iii) any other sale or transfer prohibited by the Master Loan Agreement or other Loan Documents. Upon any such prohibited sale or transfer, then Lender may, at Lender's option, declare all of the Indebtedness to be immediately due and payable, and Lender may invoke any remedies permitted by the Loan Documents.

16. No Additional Liens.

Borrower covenants not to execute any mortgage, security agreement, assignment or leases and rents or other agreement granting a lien (except the liens granted to Lender by the Loan Documents) or take or fail to take any other action which would result in a lien against the interest of Borrower in the Property without the prior written consent of Lender.

17. Single Asset Entity.

Borrower shall not hold or acquire, directly or indirectly, any ownership interest (legal or equitable) in any real or personal property other than the Property, or become a shareholder or partner of any entity which acquires

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or holds any property other than the Property, until such time as the Indebtedness has been fully repaid and all Obligations are satisfied.

18. Borrower and Lien Not Released.

Without affecting the liability of Borrower or any other person liable for the payment of the Indebtedness, and without affecting the lien or charge of this Mortgage as security for the payment of the Indebtedness, Lender may, from time to time and without notice to any junior lien holder or holder of any right or other interest in and to the Property: (a) release any person so liable, (b) waive or modify any provision of this Mortgage or the other Loan Documents or grant other indulgences, (c) release all or any part of the Property, (d) take additional security for any obligation herein mentioned, (e) subordinate the lien or charge of this Mortgage, (f) consent to the granting of any easement, or (g) consent to any map or plan of the Property.

19. Uniform Commercial Code Security Agreement.

This Mortgage shall constitute a security agreement pursuant to the Uniform Commercial Code for any of the items specified herein as a part of the Property which, under applicable law may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Any reproduction of this Mortgage or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Mortgage in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Lender shall have the remedies of a secured party under the Uniform Commercial Code.

20. Events of Default; Acceleration of Indebtedness.

The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Mortgage:

- (a) failure of Borrower to pay, within five (5) days of the due date, any of the Indebtedness, including any payment due under the Note; or
- (b) failure of Borrower to strictly comply with Paragraphs 15, 16 and 17 of this Mortgage; or
- (c) failure of Borrower to strictly comply with the covenants contained in Paragraph 11 of this Mortgage; or
- (d) a petition under any Chapter of Title 11 of the United States Code or any similar law or regulation is filed by or against Borrower or any Principal (and in the case of an involuntary petition in bankruptcy, such petition is not discharged within sixty (60) days of its filing), or a custodian, receiver or trustee for any of the Property is appointed, or borrower or any Principal makes an assignment for the benefit of creditors, or any of them are adjudged insolvent by any state or federal court of competent jurisdiction, or an attachment or execution is levied against any of the Property; or
- (e) the occurrence of an "Event of Default" under and as defined in any other Loan Document; or
- (f) Borrower is in default in the payment of any indebtedness (other than the Indebtedness) secured by the Property and such default is declared and is not cured within the time, if any, specified therefore in any agreement governing the same; or
- (g) any statement, report or certificate made or delivered to Lender by borrower or any Principal is not materially true and complete; or

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(h) failure of Borrower, within thirty (30) days after notice and demand, to satisfy each and every Obligation, other than those set forth in the subsections above; provided, however, if such Obligation cannot by its nature be cured within thirty (30) days, and if Borrower commences to cure such failure promptly after written notice thereof and thereafter diligently pursues the curing thereof (and then in all events cures such failure within sixty (60) days after the original notice thereof), Borrower shall not be in default hereunder during such period of diligent curing.

Upon the occurrence of an Event of Default, the Indebtedness, at the option of the Lender, shall become immediately due and payable without notice to Borrower, and Lender shall be entitled to all of the rights and remedies provided in the Loan Documents or at law or in equity. Each remedy provided in the Loan Documents is distinct and cumulative to all other rights or remedies under the Loan Documents or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

21. Entry; Foreclosure.

Upon the occurrence of an Event of Default, (a) Borrower, upon demand of Lender, shall forthwith surrender to Lender the actual possession, or to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Property, and may exclude Borrower and its agents and employees wholly therefrom, and may have joint access with Borrower to the books, papers and accounts of borrower; and (b) if Borrower shall for any reason fail to surrender or deliver the Property or any part thereof after such demand by Lender, Lender may obtain a judgment or decree conferring on Lender the right to immediate possession or requiring the delivery to Lender of the Property and Borrower specifically consents to the entry of such judgment or decree. Upon every such entering upon or taking of possession, Lender may hold, store, use, operate, manage and control the Property and conduct the business thereof. Lender shall have no liability for any loss, damage, injury, cost or expense resulting from any action or omission by it or its representatives which was taken or omitted in good faith.

When the Indebtedness or any part thereof shall be due, whether by acceleration or otherwise, Lender may, either with or without entry or taking possession as herein provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy to (a) enforce payment of the Note or the performance of any term, covenant, condition or agreement of Borrower under any of the Loan Documents, (b) foreclose the lien hereof for the Indebtedness or part thereof and sell the Property as an entirety or otherwise, as Lender may determine, and/or (c) pursue any other right or remedy available to it under or by the law and decisions of the State in which the Land is located. The failure to join any tenant or tenants of the Property as party defendant or defendants in any foreclosure action or the failure of any such order or judgment to foreclose their rights shall not be asserted by the Borrower as a defense in any civil action instituted to collect the Indebtedness, or any part thereof, any statute or rule of law at any time existing to the contrary notwithstanding.

Upon any foreclosure sale, Lender may bid for and purchase the Property and shall be entitled to apply all or any part of the Indebtedness as a credit to the purchase price.

22. Expenditures and Expenses.

In any civil action to foreclose the lien hereof or otherwise enforce Lender's rights, there shall be allowed and included as additional Indebtedness in the order or judgment for foreclosure and sale or other order all expenditures and expenses which may be paid or incurred by or on behalf of Lender including attorneys' fees, costs and expenses, receiver's fees, costs and expenses, appraiser's fees, engineers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimates as to items to be expended after entry of said order or judgment) or procuring all such abstracts of title, title searches and examination, title insurance policies, Torrens' Certificates and similar data and assurances with respect to the title as Lender may deem reasonably necessary either to prosecute such civil action or to evidence to bidders at any sale which may be had pursuant to such order or judgment the true condition of the title to, or the value of, the Property (said expenditures and expenses are hereinafter collectively referred to as the "Reimbursable Expenses"). All Reimbursable Expenses, and such costs, expenses and fees as may be incurred by Lender at any time or times

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hereafter in the protection of the Property, in enforcing the Obligations, and/or the maintenance of the lien established by any of the Loan documents, including accountants' and attorneys fees', costs and expenses in any advice, litigation, or proceeding affecting the Loan Documents or the Property, whether instituted by Lender, Borrower or any other party, or in preparation for the commencement or defense of any action or proceeding or threatened action or proceeding, shall be immediately due and payable to Lender by borrower, and, to the extent such services relate to the Hazardous Substance Indemnity Agreement of even date herewith from Borrower and Principals in favor of Lender, by Borrower and Principals, with interest thereon at the Default Rate set forth in the Note, and shall be secured by the Loan Documents.

23. Application of Proceeds of Foreclosure Sale.

The proceeds of any foreclosure sale of the Property shall be distributed and applied in the order of priority set forth in the Note with the excess, if any, being applied to any parties entitled thereto as their rights may appear.

24. Appointment of Receiver or Mortgagee in Possession.

If an Event of Default is continuing or if Lender shall have accelerated the Indebtedness, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice, and without regard to the occupancy or value of any security for the Indebtedness or the insolvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Property, and to collect and apply the rents, issues, profits and revenues thereof.

25. Forbearance by Lender Not a Waiver.

Any forbearance by Lender in exercising any right or remedy under any of the Loan Documents, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. Lender's acceptance of payment of any sum secured by any of the Loan Documents after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the Indebtedness, nor shall Lender's receipt of any awards, proceeds or damages under Paragraph 5 hereof operate to cure or waive Borrower's default in payment or sums secured by any of the Loan Documents. With respect to all Loan Documents, only waivers made in writing by Lender shall be effective against Lender.

26. Waiver of Statute of Limitations.

Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien created by any of the Loan Documents or to any action brought to enforce the Note or any other obligation secured by any of the Loan Documents.

27. Waiver of Homestead and Redemption.

Borrower hereby waives all right of homestead exemption in the Property. Borrower hereby waives all right of redemption on behalf of Borrower and on behalf of all other persons acquiring any interest or title in the Property subsequent to the date of this Mortgage, except decree or judgment creditors of Borrower.

28. Jury Trial Waiver.

BORROWER WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THE LOAN DOCUMENTS. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY BORROWER, AND BORROWER ACKNOWLEDGES THAT NEITHER LENDER NOR ANY PERSON ACTING ON BEHALF OF LENDER HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR HAS TAKEN ANY ACTIONS WHICH IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. BORROWER FURTHER ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED (OR HAS HAD THE OPPORTUNITY

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TO BE REPRESENTED) IN THE SIGNING OF THE LOAN DOCUMENTS AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL. BORROWER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER PROVISION.

29. Notice.

Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in the Loan Documents shall be given by mailing such notice by Federal Express or any other overnight carrier addressed to Borrower at Borrower's address stated above or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by Federal Express or any other overnight carrier to Lender's address stated above or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in the Loan Documents shall be deemed to have been given to Borrower or Lender on the first (1st) business day following such mailing in the manner designated herein.

30. Successors and Assigns Bound; Joint and Several Liability; Agents; Captions.

The covenants and agreements contained in the Loan Documents shall bind, and the rights thereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Paragraph 15 hereof. All covenants and agreements of Borrower shall be joint and several. In exercising any rights under the Loan Documents or taking any action provided for therein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

31. Governing Law; Severability.

This Mortgage shall be governed by the law of the jurisdiction in which the Land is located. If any provision of the Loan Documents conflicts with applicable law, such conflict shall not affect other provisions of which can be given effect without the conflicting provisions, and to this end the provisions of the Loan Documents are declared to be severable.

32. Release.

Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage. Borrower shall pay Lender's reasonable costs incurred in releasing this Mortgage and any financing statements related hereto.

33. Terms.

As used in the Loan Documents, (i) "business day" means a day when banks are not required or authorized to be closed in Chicago, Illinois; and (ii) the phrase "including" shall mean "including but not limited to" unless specifically set forth to the contrary.

34. Loss of Note.

Upon notice from Lender of the loss, theft, or destruction of the Note and upon receipt of indemnity reasonably satisfactory to Borrower from Lender, or in the case of mutilation of the Note upon surrender of the mutilated Note, Borrower shall make and deliver a new note of like tenor in lieu of the then to be superseded Note.

35. Master Loan Agreement.

All of the terms and conditions of the Master Loan Agreement are hereby incorporated herein by this reference as if fully set forth in this Mortgage.

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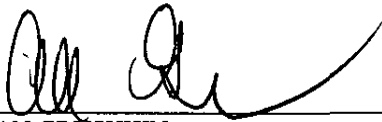
IN WITNESS WHEREOF, Borrower has executed this Mortgage or has caused the same to be executed by its representatives thereunto duly authorized.

Signed, sealed and delivered in the presence of:

INGOMAR LIMITED PARTNERSHIP, A NEVADA
LIMITED PARTNERSHIP
BY INGOMAR, INC., A NEVADA CORPORATION
ITS GENERAL PARTNER



Carolyn van Aalst, Witness

By 

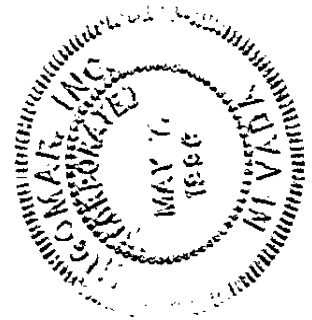
ALLAN GRUSHKIN
Its: SENIOR VICE PRESIDENT



Yvonne I. Aguirre, Witness

ACKNOWLEDGMENT

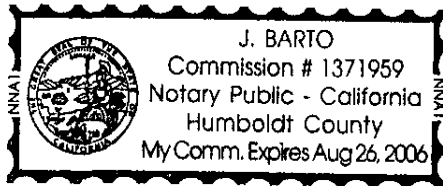
STATE OF CALIFORNIA)
)§
COUNTY OF HUMBOLDT)



On December 23, 2002, before me, J. BARTO, Notary Public, personally appeared ALLAN GRUSHKIN personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon which the person acted, executed the instrument.

WITNESS my hand and official seal.

[Seal]

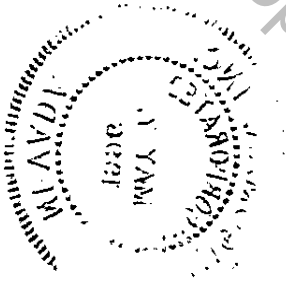




J. Barto, Notary Public
My Commission Expires August 26, 2006

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