



Eugene "Gene" Moore Fee: \$50.50
Cook County Recorder of Deeds
Date: 08/07/2003 09:07 AM Pg: 1 of 14

**MORTGAGE AND
ASSIGNMENT OF
LEASES AND RENTS**

Premises:

424 N. Wood Street
Chicago, IL 60622
PIN's: 17-07-237-011, -012,
-013, -014, -015 and -016

Prepared By and, Upon

Recording, Mail To:

Brian J. Muehlen
907 N. Elm, Suite 305
Hinsdale, IL 60521

This **MORTGAGE AND ASSIGNMENT OF LEASES AND RENTS** ("Mortgage") is made as of August 6, 2001, by **CHICAGO TITLE AND TRUST COMPANY**, as **Trustee under Trust Agreement dated October 2, 1991 asnd known as Trust # 1096188** ("Mortgagor"), in favor of **BELCORP FINANCIAL SERVICES, INC.**, an Illinois corporation ("BFS" or "Mortgagee").

WHEREAS, WOOD ENTERPRISES, INC., an Illinois corporation d/b/a **JEWELL EVENTS CATERING** ("Borrower" or "WOOD"), and BFS have entered into a Business Financing Agreement of even date herewith ("Business Financing Agreement"), the terms/conditions and definitions of which are incorporated herein by reference; and

WHEREAS, in accordance with such Business Financing Agreement, WOOD has entered into a Factoring Agreement (Accounts Receivable) with BFS of even date herewith and has executed an \$ 850,000.00 Term Note of even date herewith in favor of BFS; and

WHEREAS, WOOD may subsequently execute another Note in favor of BFS or enter into another Financing agreement with BFS under the Business Financing Agreement;

WHEREAS, the execution and delivery of this Mortgage is a condition precedent to BFS's obligation to carry out Accounts Receivable factoring under the Factoring Agreement and to advance funds to WOOD under the Term Note;

NOW, THEREFORE, in consideration of the foregoing Recitals, which are made a part of this instrument, in consideration of the mutual covenants and agreements between WOOD and BFS, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged:

UNOFFICIAL COPY

A. GRANT OF MORTGAGE. In order to secure to Mortgagee: (a) The repayment of all Indebtedness and the performance of all other obligations of WOOD to BFS under the Business Financing Agreement; (b) all obligations of WOOD under the Factoring Agreement, under the Term Note, and under any other Notes or Financing agreements between WOOD and BFS pursuant to the Business Financing Agreement, including any and all renewals, extensions and modifications thereof; (c) The payment of any and all other sums, with Interest, advanced in accordance herewith to protect the security of this Mortgage; (d) The performance of Guarantor George L. Jewell under a Personal Guaranty of even date herewith in favor of BFS; and (e) The performance of the covenants and agreements of Mortgagor herein contained; **Mortgagor does hereby MORTGAGE, GRANT AND CONVEY to Mortgagee the above-referenced property, legally described on Exhibit "A" attached hereto, located in Cook County, Illinois (the "Premises");**

B. INCLUDED RIGHTS. MORTGAGOR EXPRESSLY AGREES THAT THE PREMISES ARE CONVEYED AND MORTGAGED TO MORTGAGEE:

1. TOGETHER WITH all improvements now or hereafter constructed on or within said Premises or any part thereof, all rights to common elements, and all fixtures and equipment located thereon or installed hereafter, said fixtures and equipment being pledged primarily and on a parity with said Premises and which shall be deemed to be part of the Premises to the extent they are permanently affixed thereto;

2. TOGETHER WITH all rents, issues, profits and leases thereof for so long and during all such times as Mortgagor and Mortgagor's successors and assigns may be entitled thereto, and all tenements, hereditaments, easements and appurtenances affecting the Premises; and

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

C. COVENANTS. MORTGAGOR DOES HEREBY COVENANT AND AGREE AS FOLLOWS:

1. **Preservation and Maintenance of Premises.** Mortgagor will abstain from and will not permit the commission of waste on the Premises and will keep the buildings, improvements, fixtures and equipment now or hereafter thereon in good repair and will make replacements thereto as and when the same become necessary. Mortgagor shall promptly notify Mortgagee in writing of the occurrence of any loss or damage to the Premises. Mortgagor shall not materially alter the buildings, improvements, fixtures or equipment now or hereafter upon said Premises, or remove the same therefrom, or permit any tenants or other person to do so, without the prior written consent of the Mortgagee. Mortgagor will not permit any portion of the Premises to be used for any unlawful purposes. Mortgagor covenant and agree that in the ownership, operation and management of the Premises Mortgagor will observe and comply with all applicable federal, state and local statutes, ordinances, regulations, orders and restrictions including, without limitation, all zoning, building code and environmental protection ordinances, regulations, orders and restrictions.

UNOFFICIAL COPY

2. **Charges and Liens.** Mortgagor shall pay when due all taxes and assessments that may be levied on said Premises. Mortgagor shall pay when due all taxes and assessments that may be levied upon or on account of this Mortgage or the indebtedness secured hereby or upon the interest or estate in said Premises created or represented by this Mortgage whether levied against Mortgagor or otherwise.

3. **Insurance.** Mortgagor shall keep the Premises and all buildings, improvements, fixtures and equipment now or hereafter thereon insured. The policies of insurance shall be in form, with insurers, and in such amounts as may be reasonably satisfactory to Mortgagee. Mortgagor shall deliver to Mortgagee the original (or certified copy) of each policy of insurance, or a certificate of insurance, and evidence of payment of all premiums for each such policy. Such policies of insurance shall contain a standard "mortgagee clause" naming Mortgagee as "mortgagee" thereunder, as its interests may appear, and shall provide that the insurers will give Mortgagee at least thirty (30) days' written notice before any such policy or policies of insurance shall be altered or cancelled and that no act or default of Mortgagor or any other person or entity shall affect the right of Mortgagee to be covered under such policy or policies of insurance in case of loss or damage. Mortgagor hereby directs all insurers under such policies of insurance to pay all proceeds payable thereunder to Mortgagee, as its interests appear.

4. **Protection of Mortgagee's Security.** If default is made by Mortgagor in the payment of any of the aforesaid taxes or assessments, in keeping the Premises in a proper state of maintenance and repair, or in performing any other covenant of Mortgagor herein, Mortgagee may at its option and without any obligation on its part so to do, pay said taxes and assessments, make such repairs and perform such maintenance, and perform any other covenant of Mortgagor herein. All reasonable amounts expended by Mortgagee hereunder shall be secured hereby and shall be due and payable by Mortgagor to Mortgagee forthwith on demand.

5. **Reimbursement for Mortgagee Legal Expenses.** Should Mortgagee incur any cost or expense, including attorneys' fees, in enforcing its rights hereunder or in protecting the Premises, whether or not any legal action is filed, or in the event that Mortgagee is made a party to any suit or proceeding by reason of the interest of Mortgagee in the Premises, or if Mortgagee institutes proceedings to foreclose the mortgage granted hereunder, Mortgagor shall reimburse Mortgagee for all reasonable costs and expenses, including reasonable attorneys' fees, incurred by Mortgagee in connection therewith. All amounts incurred by Mortgagee hereunder shall be secured hereby and shall be due and payable by Mortgagor to Mortgagee forthwith on demand.

6. **Acceleration.** Should a default occur as specified in Paragraph 16 herein, or in the event judicial proceedings are instituted to foreclose a lien upon the mortgaged Premises or any part thereof, Mortgagee may at any time after such default, and without notice, declare the principal balance of the indebtedness secured hereby, together with interest thereon, to be due and payable immediately. The commencement of proceedings to foreclose this Mortgage shall, in any event, be deemed such declaration. In addition to any right or remedy which Mortgagee may now or hereafter have by law, Mortgagee shall have the right and power: (a) to foreclose this Mortgage by legal action as provided by Illinois law and the rules of practice relating thereto; and (b) to enter upon and take possession of the Premises with the irrevocable consent of Mortgagor as given and evidenced by its execution of this instrument, and as Mortgagee in possession, let the Premises, and receive all the rents, issues and profits thereof, which are overdue, due or to become due, and to apply the same, after the payment of all reasonable charges and expenses deemed by Mortgagee to be necessary, on account of the indebtedness secured hereby,

UNOFFICIAL COPY

Mortgagor for themselves and any subsequent owner of the Premises hereby agreeing to pay to Mortgagee in advance a reasonable Rent for the Premises, and, in default of so doing, hereby agree that they may be dispossessed by the usual legal proceedings available against any defaulting tenant of real estate and further agreeing to permit any action to be brought to dispossess any tenant defaulting in the payment of Rent to Mortgagee or violating the terms of its occupancy, which right and power are effective and may be enforced either with or without any action to foreclose this Mortgage.

7. **Application of Proceeds of Foreclosure.** Upon a foreclosure sale of the Premises or any part thereof, the proceeds of such sale shall be applied in the following order:

(a) **Costs.** To the payment of all costs of the sale of foreclosure, including reasonable attorneys' fees and the costs of title searches and abstracts;

(b) **Other Expenses.** To the payment of all other expenses of Mortgagee incurred in connection with the foreclosure, including all money expended by Mortgagee and all other amounts payable by Mortgagor to Mortgagee hereunder;

(c) **Principal and Interest.** To the payment of the Principal, Interest and other Indebtedness secured hereby; and

(d) **Surplus.** The surplus, if any, to Mortgagor or to whomever else is lawfully entitled thereto.

8. **Waiver of Homestead; Waiver of Redemption.** To the extent permitted by applicable law, Mortgagor waives and releases any and all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois and all other exemption laws, moratorium laws or other laws limiting the enforcement hereof. To the extent permitted by applicable law, **MORTGAGOR WAIVE ANY AND ALL RIGHTS OF REDEMPTION UNDER ANY JUDGMENT OF FORECLOSURE OF THIS MORTGAGE, AND ANY REDEMPTION RIGHTS GRANTED BY ILLINOIS LAW, ON BEHALF OF MORTGAGOR, AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PREMISES AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE.** Further, Mortgagor hereby waive the benefit of all appraisal, valuation, stay or extension laws, and any reinstatement rights provided by Illinois law, now or hereafter in force, and all rights of marshalling in the event of any sale hereunder of the mortgaged Premises or any part thereof or any interest therein.

9. **Receiver; Mortgagee in Possession.** Upon or at any time after the filing of any complaint or petition to foreclose this Mortgage, the court may, upon application of Mortgagee, place Mortgagee in possession or appoint a Receiver of the mortgaged Premises. Such appointment may be made either before or after the sale, without notice, and without regard to the solvency or insolvency, at the time of application for appointment, of the person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the then value of the mortgaged Premises or whether the same shall be then occupied as a homestead or not, and without bond being required of the applicant. Such Receiver or "mortgagee in possession," to the extent permitted by law, shall have the power to take possession, control and care of the Premises, and to collect the rent, issues and profits of the Premises during the pendency of such foreclosure, and, in case of a sale and deficiency, during the full statutory

UNOFFICIAL COPY

period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagor, their heirs, personal representatives and assigns, except for the intervention of such mortgagee in possession or receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises, during the whole of said period. The court from time to time may authorize the Receiver to apply the net income in his/her hands in payment in whole or in part of:

(a) **Costs.** The costs of management of the Premises and collection of Rents including, but not limited to, the fees of the Receiver or "mortgagee in possession," premiums for Receiver's bonds, and reasonable attorneys' fees;

(b) **Indebtedness.** The Indebtedness secured hereby or of any judgment foreclosing this Mortgage or any tax, special assessment or other lien which may be or become superior to the lien hereof, or of such judgment, provided such application is made prior to the foreclosure sale; and

(c) **Deficiency.** The deficiency in case of sale and deficiency. Any such proceeding shall in no manner prevent or retard the collection of said indebtedness by foreclosure or otherwise.

10. **Condemnation.**

(a) **Assignment of Award.** Any and all awards hereafter made or to be made to the present and all subsequent owners of the Premises, by any governmental or other lawful authority for taking, by condemnation or eminent domain, the whole or any part of the Premises or any improvement located thereon or any easement therein or appurtenant thereto (including any award from the United States government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof), are hereby assigned by Mortgagor to Mortgagee, which award Mortgagee is hereby authorized to collect and receive from the condemnation authorities, and Mortgagee is hereby authorized to give appropriate receipts therefor.

(b) **Notice.** Mortgagor covenants and agrees that Mortgagor will give Mortgagee immediate notice of the actual or threatened commencement of any such proceedings under condemnation or eminent domain, affecting all or any part of the Premises or any easement therein or appurtenance thereto, including severance and consequential damage and change in grade of streets and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings.

(c) **Further Assignments.** Mortgagor further covenants and agrees to make, execute and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation heretofore and hereafter to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

UNOFFICIAL COPY

(d) **Proceeds.** Mortgagee shall make available the proceeds of any award received in connection with and in compensation for any such damage or taking for the purpose of rebuilding and restoring so much of the improvements within the Premises affected thereby, subject to the following conditions:

(i) **No Default.** That WOOD is not then in default under any of the terms, covenants and conditions of the Business Financing Agreement, the Factoring Agreement, the Term Note, or any Security Documents under the Business Financing Agreement;

(ii) **Continuation of Leases.** That all then-existing Leases affected in any way by such damage or taking shall continue in full force and effect without reduction or abatement of Rent (except during the period of untenability);

(iii) **Restoration.** That Mortgagee shall first be given satisfactory proof that such improvements have been fully restored or that by the expenditure of such money will be fully restored, free and clear of all liens;

(iv) **Deficiency.** That, in the event such award shall be insufficient to restore or rebuild the said improvements, Mortgagee shall deposit promptly with Mortgagee the amount of such deficiency, which, together with the award proceeds, shall be sufficient to restore and rebuild the Premises;

(v) **Failure to Restore.** That, in the event Mortgagee shall fail within a reasonable time, subject to delays beyond its control, to restore or rebuild the said improvements, Mortgagee, at its option, may restore or rebuild the said improvements for or on behalf of Mortgagee and for such purpose may do all necessary acts; and

(vi) **Excess.** That the excess of said award not necessary for completing such restoration shall be applied as hereinafter provided as a credit upon any portion, as selected by Mortgagee, of the Indebtedness secured hereby.

(vii) **Miscellaneous.** In the event any of the said conditions is not or cannot be satisfied, then the proceeds shall be paid over to Mortgagee and shall be applied toward the payment of all amounts payable by WOOD to Mortgagee, whether or not then due and payable. Under no circumstances shall Mortgagee become personally liable for the fulfillment of the terms, covenants and conditions contained in any of the said Leases of the Premises nor obligated to take any action to restore the said improvements.

11. Business Purpose. MORTGAGOR WARRANTS THAT THE PROCEEDS RECEIVED UNDER THE BUSINESS FINANCING AGREEMENT, THE FACTORING AGREEMENT, THE TERM NOTE, AND ANY OTHER NOTES OR FINANCING AGREEMENTS PURSUANT TO THE BUSINESS FINANCING AGREEMENT, AS SECURED BY THIS MORTGAGE, WILL BE USED SOLELY FOR A BUSINESS PURPOSE OF WOOD, IN ACCORDANCE WITH THE BUSINESS FINANCING AGREEMENT.

UNOFFICIAL COPY

12. **Severability.** Nothing contained herein shall be construed or shall so operate either presently or prospectively: (a) to require Mortgagor to pay Interest at a rate greater than is now lawful in such case to contract for, but shall require payment of Interest only to the extent of such lawful rate, or (b) to require Mortgagee to make any payment or do any act contrary to law, and if any clause or provision herein contained shall otherwise so operate to invalidate this Mortgage, in whole or in part, then such clauses and provisions only shall be held for naught as though not herein contained and the remainder of this Mortgage shall remain operative and in full force and effect, and Mortgagee shall be given a reasonable time to correct any error.

13. **Partial Releases.** Mortgagee, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens, may release any part of the Premises or any person liable for any Indebtedness secured hereby, without in any way affecting the liability of any party to the Note, this Mortgage or any other Security Document given for the Indebtedness secured hereby and without in any way affecting the priority of the lien of this Mortgage, and may agree with any party obligated on said Indebtedness herein to extend the time for payment of any part or all of the Indebtedness secured hereby. Such agreement shall not, in any way, release or impair the lien created by this Mortgage, or reduce or modify the liability, of any person or entity personally obligated for the Indebtedness secured hereby.

14. **Environmental Matters.**

(a) **Warranty.** Mortgagor hereby represents and warrants to Mortgagee that neither Mortgagor nor, to best of Mortgagor's knowledge after reasonable investigation, any other person or entity, has ever caused or permitted any Hazardous Material (as hereafter defined) to be placed, held, located or disposed of on, under or at the Premises or any part thereof, and that the Premises have never been used by Mortgagor or, to the best of Mortgagor's knowledge after reasonable investigation, by any other person or entity as a temporary or permanent dump or storage site for any hazardous, toxic or dangerous waste, substance or material defined as Such in (or for the purposes of) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, any so-called "Superfund" or "Superlien" law, and shall include, but shall not be limited to, any substances, materials or wastes that are regulated by any local governmental authority, the State of Illinois, or the United States of America because of toxic, flammable, explosive, corrosive, reactive, radioactive or other properties that may be hazardous to human health or environment, including petroleum products, asbestos and including any material or substances that are listed in the United States Department of Transportation Hazardous Material Table, as amended, 49 C.F.R. 172. 101, or in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. subsections 9601 et seq., or the Resources Conservation and Recovery Act, as amended, 42 U.S.C. subsections 6901, et seq., or any other applicable governmental law or regulation imposing liability or standards of conduct concerning any hazardous, toxic or dangerous Substances, waste or material, as now or at any time hereafter in effect.

UNOFFICIAL COPY

- (b) **Survival.** The representations and warranties made in this Section 14 shall survive:
- (i) **Sale.** The sale, transfer or conveyance of all or any portion of the Premises;
 - (ii) **Foreclosure.** The foreclosure of any liens on the Premises by Mortgagee or a third party or the conveyance thereof by deed in lieu of foreclosure; and
 - (iii) **Repayment.** The repayment of all Indebtedness due and payable under the Business Financing Agreement, including the Factoring Agreement, the Term Note, and any other Note(s) or Financing agreements pursuant to the Business Financing Agreement.

15. Warrant and Defense of Title. At the time of the execution and delivery of this instrument, Mortgagor is truly seized of the Premises in fee simple, free of all liens and encumbrances whatsoever. Mortgagor will forever warrant and defend the same against any and all claims whatsoever, and the lien created hereby is and will be kept a lien upon the Premises and every part thereof. Mortgagor shall pay when due all real estate taxes, water charges, sewer service charges and all other amounts which might become a lien upon the Premises prior to this Mortgage and shall, upon written request, furnish to Mortgagee duplicate receipts therefor.

16. Default.

(a) **Events.** The occurrence of any of the following events or conditions shall constitute a default hereunder ("Event of Default"):

(i) **Documents.** An "Event of Default" occurs under: (aa) the Business Financing Agreement; (bb) the Factoring Agreement; (cc) the Term Note; (dd) any other Security Documents under the Business Financing Agreement consisting of various Mortgages (including this Mortgage) and Junior Mortgages, Personal Guaranties (including but not limited to that of Guarantor George L. Jewell), Collateral Assignment of Life Insurance Policy; or (ee) any subsequent Note(s) or Financing agreement(s) pursuant to the Business Financing Agreement.

(ii) **Bankruptcy.** A petition under the Federal Bankruptcy Reform Act of 1978, as amended, or any similar law, state or federal, whether now or Hereafter existing, is filed by or against WOOD which is not dismissed within forty-five (45) calendar days thereafter;

(iii) **Insolvency.** WOOD is unable to pay its business debts as they become due;

(iv) **"ABC."** WOOD makes an assignment for the benefit of creditors;

(v) **Covenants.** Mortgagor fails to perform or observe any term, covenant or condition in this Mortgage;

UNOFFICIAL COPY

(vi) **Receiver.** A Trustee or a Receiver is appointed for all or any portion of the Premises or for Mortgagor's interest therein, and such Trustee or Receiver is not discharged within forty-five (45) calendar days thereafter;

(vii) **Misrepresentation.** Any statement or certificate of any type, including all financial statements of WOOD previously submitted to Mortgagee, is materially false, incorrect or incomplete;

(viii) **Judgment.** WOOD suffers final judgment(s) for payment of money aggregating in excess of five percent (5%) of the total Overall Financing Limit under the Business Financing Agreement;

(ix) **Lien.** A judgment creditor of Mortgagor, WOOD or a Guarantor obtains a lien on or possession of the Premises by any means, which is not discharged or released within forty-five (45) calendar days thereafter;

(x) **Levy.** A notice of lien, levy or assessment is delivered to Mortgagor or is filed of record with respect to the Premises or any part thereof by the United States or any department, instrumentality or agency thereof, or by any state, county, municipal or other governmental agency;

(xi) **Damage.** There occurs any material uninsured damage to or destruction of the Premises;

(xii) **Third Parties.** WOOD fails to pay any material indebtedness due to any third party and such failure continues beyond any applicable grace period, or Mortgagor suffers to exist any other "Event of Default", by acceleration or otherwise, under any note, loan agreement, lease, mortgage or trust deed, contract for deed, security agreement or other contractual obligation binding upon WOOD; and

(xiii) **Further Encumbrance.** If Mortgagor shall mortgage, grant or convey the Premises to any person or entity other than Mortgagee.

(This Mortgage, the Business Financing Agreement between BFS and WOOD, the Factoring Agreement, the Term Note, the Security Documents under the Business Financing Agreement consisting of a Security Agreement regarding the corporate/business assets of WOOD, various Mortgages (including this Mortgage) and Junior Mortgages, various Personal Guaranties (including but not limited to that of Guarantor George L. Jewell), Collateral Assignment of Life Insurance Policy by Guarantor George L. Jewell, and any other Related Documents under the Business Financing Agreement, are collectively referred to herein as the "Loan Documents").

(b) **Remedies.**

(i) **Acceleration.** Upon the occurrence of an Event of Default hereunder or under any of the Loan Documents, the entire Indebtedness and all obligations secured hereby shall, at the option of Mortgagee, upon notice to Mortgagor, become immediately due and payable.

UNOFFICIAL COPY

(ii) **Foreclosure.** Thereupon, or at any time during the existence of any such default, Mortgagee may proceed to foreclose this Mortgage by judicial proceedings according to the statutes in such case provided, and any failure to exercise said option shall not constitute a waiver of the right to exercise the same at any other time. Mortgagee shall additionally have the right to file an action at law on the Term Note, any Guaranty, or any other Note or Financing Agreement secured hereby and to avail itself of any other remedy provided for therein or by applicable law, which remedies shall be concurrent and may be pursued simultaneously.

(iii) **Possession.** In any case in which, under the provisions of this Mortgage, Mortgagee has a right to institute foreclosure proceedings, whether or not the entire Principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof, or before or after sale thereunder, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the Premises, or any part thereof, personally or by its agents or attorneys, as for condition broken and Mortgagee in its discretion may enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts of Mortgagor or the then owner of the Premises relating to the ownership, operation and maintenance of the Premises, and may exclude Mortgagor, any Guarantors, and their agents, wholly therefrom and may, as attorney-in-fact or agent of the Mortgagor, or in its own name as Mortgagee and under the powers herein granted:

(aa) **Operation.** Hold, operate, manage and control the Premises, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues and profits of the Premises including actions for recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor;

(bb) **Leases.** Cancel or terminate any Lease or Sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; elect to perform or disaffirm any Lease or Sublease made subsequent to this Mortgage or subordinated to the lien hereof, extend or modify any then-existing leases and make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date of the Term Note or any other Note or Financing agreement under the Business Financing Agreement and the date of issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interest in the Premises are subject to the lien hereof and to be binding also the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;

UNOFFICIAL COPY

(cc) **Repairs.** Make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as Mortgagee may deem judicious; and

(dd) **Insurance.** Insure and reinsure the Premises against all risks incidental to Mortgagee's possession, operation and management thereof and receive all avails, rents, issues and profits therefrom.

(c) **Proceeds.** Any avails, rents, issues and profits of the Premises received by Mortgagee after having possession of the Premises or pursuant to any assignment thereof to Mortgagee under the provisions of this Mortgage shall be applied in payment of or on account of the following, in such order as Mortgagee (or in case of a receivership, as the court) may determine in its reasonable business judgment:

(i) **Operating Expenses.** To the payment of the operating expenses of the Premises, including reasonable compensation to Mortgagee or the receiver and its agent or agents, if management of the Premises has been delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases, established claims for damages, if any, and premiums on insurance hereinabove authorized;

(ii) **Taxes.** To the payment of taxes, special assessments and water taxes now due or which may hereafter become due on the Premises, or which may become a lien prior to the lien of this Mortgage;

(iii) **Repairs.** To the payment of all reasonable repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Premises, to place said Premises in such condition as will, in the reasonable judgment of Mortgagee or receiver, make it readily saleable or rentable; and

(iv) **Indebtedness.** To the payment of any Indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

17. **Transfer of Premises.** If all or any part of the Premises is sold, transferred, conveyed, assigned, further encumbered or alienated (which shall include the execution of any form of installment agreement for deed) by Mortgagor without the Mortgagee's prior written consent, Mortgagee may, at Mortgagee's option, declare all the Indebtedness secured by this Mortgage to be immediately due and payable upon notice.

18. **Notice.** All notices, demands and requests required or permitted to be given to Mortgagor or Mortgagee hereunder or by law shall be deemed given when delivered in person or two days after deposit in the United States mail with full postage prepaid by certified or registered mail, return receipt requested, addressed as follows:

Belcorp Financial Services, Inc.
 c/o Norman J. Beles, President
 120 West Ogden Avenue, Suite 124
 Hinsdale, Illinois 60522-0250

Wood Enterprises, Inc.
 c/o James Palmatier, VP and COO
 424 N. Wood Street
 Chicago, IL 60622

UNOFFICIAL COPY

or to such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

19. Remedies Cumulative. Each and all of the rights, remedies and benefits provided to Mortgagee herein shall be cumulative and shall not be exclusive of any other rights, remedies or benefits provided by the Factoring Agreement, the Term Note, any Security Document, or any of other Note or Financing agreement pursuant to the Business Financing Agreement, or of any other rights, remedies or benefits allowed by law. Any waiver by Mortgagee of any default shall not constitute a waiver of any similar or other default.

20. Successors and Assigns Bound; Joint and Several Liability; Captions. All of the covenants and conditions hereof shall run with the land and shall be binding upon and inure to the benefit of Mortgagor and Mortgagee and their respective executors, administrators, representatives, heirs, beneficiaries, successors and assigns and all persons claiming through or under them. Any reference herein to Mortgagee shall include the successors and assigns of Mortgagee. The captions and headings of the paragraphs of this Mortgage are for convenience and are not to be used to interpret or define the provisions hereof. Notwithstanding anything in this Mortgage to the contrary, Mortgagor may not assign, transfer or convey in any manner any of its rights, obligations or liabilities hereunder without the prior written consent of Mortgagee, which consent may be withheld or granted by Mortgagee in its sole and absolute discretion for any reason whatsoever.

21. Gender and Number. All nouns, pronouns and relative terms relating to Mortgagor shall be deemed to be masculine, feminine or neuter, singular or plural, as the context may indicate.

D. ASSIGNMENT OF LEASES AND RENTS.

1. Security Interest in Leases and Rents.

a. In General. Mortgagor also hereby grants to Mortgagee a Security Interest in, and hereby collaterally assigns, transfers and sets over to Mortgagee, all of Mortgagor's right, title and interest in and to any and all Leases for the Premises and Rents collected thereunder, upon an Event of Default under the Business Financing Agreement, the WOOD Revolving Credit Note, Security Documents thereunder, or any other Note or loan agreement under the Business Financing Agreement.

b. In Particular. Mortgagor hereby grants to Mortgagee a Security Interest in and hereby collaterally assigns, transfers and sets over to Mortgagee all of Mortgagor's right, title and interest in and to that certain **Industrial Building Lease dated February 17, 2003** ("Lease") between Mortgagor and WOOD (10-year Term). Such Lease was recorded May 6, 2003 as Cook County, IL document # 0312632153.

UNOFFICIAL COPY

2. **Collateral Security.** Such Assignment is granted as further security for the payment of all amounts due under and the performance and observance of all covenants and conditions contained in the Business Financing Agreement, the Factoring Agreement, the Term Note, the Personal Guaranty of Guarantor George L. Jewell, and other Security Documents, as well as any other Note or Financing agreement under the Business Financing Agreement, including and any and all renewals, extensions, amendments and replacements thereof.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage and Assignment of Leases and Rents as of the date first written above and hereby certifies that **the Premises is not homestead property.**



Chicago Title Land Trust Company
Trustee under Trust Agreement dated
October 2, 1991 asnd known as
Trust # 1096188

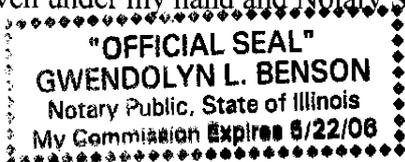
By:

Name: LIDIA MARINCA
Title: ASST. VICE PRESIDENT

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that LIDIA MARINCA, Trust Officer of Chicago Title and Trust Company, 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 under oath signing and delivering the said instrument in such capacity as a free and voluntary act, and as the free and voluntary act of said Trust Company as Land Trustee, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this 6th day of August, 2003.


Notary Public

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION

424 N. Wood Street
Chicago, IL 60622
PIN's: 17-07-237-011, -012,
-013, -014, -015 and -016

LOTS 21, 22, 23, 24, 25, 26, 27 AND 28, ALL IN GREENEBAUM'S RESUBDIVISION OF BLOCK 30 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

TRUSTEE'S EXCULPATION

It is expressly understood and agreed by and between the parties hereto, anything to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against CHICAGO TITLE LAND TRUST COMPANY, on account of this instrument or on account of any warranty, indemnity, representation, covenant or agreement of the said Trustee in this instrument obtained, either expressed or implied, all such personal liability, if any, being expressly waived and released.