

PREPARED BY AND RETURN TO:
PRINCIPAL MUTUAL LIFE INSURANCE COMPANY
711 HIGH STREET
DES MOINES IA 50392
ATTN: DAVID GRAVES

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MORTGAGE AND SECURITY AGREEMENT

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THIS MORTGAGE AND SECURITY AGREEMENT made as of December 16, 1994, by and between SHADRALL ASSOCIATES, a New York general partnership, having a principal place of business at c/o Auburndale Properties, Inc., 372 Washington Street, Wellesley, Massachusetts 02181, herein called Mortgagor, and PRINCIPAL MUTUAL LIFE INSURANCE COMPANY, an Iowa corporation and NIPPON LIFE INSURANCE COMPANY OF AMERICA, having the principal servicing and post office address at c/o The Principal Financial Group, Des Moines, Iowa 50392-1450, herein called Mortgagee,

WITNESSETH:

THAT Mortgagor is justly indebted to Mortgagee for money borrowed in the principal sum of One Million Five Hundred Fifty Thousand and no/100 Dollars (\$1,550,000.00), evidenced by (i) Mortgagor's promissory note, to Principal Mutual Life Insurance Company in the principal amount of \$1,250,000.00 and (ii) Mortgagor's promissory note to Nippon Life Insurance Company of America in the principal amount of \$300,000.00, each of said notes bearing even date herewith and in which Mortgagor promises to pay to each respective Mortgagee the said principal sum or so much thereof as may be advanced from time to time by Mortgagee, together with interest at the rate, at the times, and in installments as provided in each note, until the entire principal and accrued interest have been paid, but in any event, the principal balance (if any) remaining due on each note shall be due and payable on the first day of December 2000 ("Maturity Date"). Each note is equally and ratably secured by this Mortgage, without priority or one over the other. The \$1,250,000.00 note and the \$300,000.00 note hereinafter collectively referred to as the "Note".

NOW, THEREFORE, to secure the payment of the said indebtedness in accordance with the terms and conditions hereof and of the Note and the performance of the covenants and agreements contained herein, and also to secure the payment of any and all other indebtedness, direct or contingent, that may now or hereafter become owing from Mortgagor to Mortgagee, and in consideration of Ten Dollars in hand paid, receipt of which is hereby acknowledged, Mortgagor does by these presents mortgage and convey unto Mortgagee, its successors and assigns forever, that certain real estate and all of Mortgagor's estate, right, title and interest therein, located in the County of Cook, State of Illinois, more particularly described in Exhibit A attached hereto and made a part hereof, which real estate, together with the following described property, rights and interests, is collectively referred to herein as the "Premises."

Together with Mortgagor's interest as lessor in and to all leases of the said Premises, or any part thereof, heretofore or hereafter made and entered into by Mortgagor during the life of this mortgage or any extension or renewal hereof and all rents, issues, proceeds and profits accruing and to accrue from the Premises (which are pledged primarily and on a parity with the real estate and not secondarily).

Together with all and singular the tenements, hereditaments, easements, appurtenances, passages, waters, water courses, riparian rights, other rights, liberties and privileges thereof or in any way now or hereafter appertaining, including homestead and any other claim at law or in equity as well as any after-acquired title, franchise or license and the reversion and reversions and remainder and remainders thereof.

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-2-

Together with all right, title and interest of Mortgagor in any and all buildings and improvements of every kind and description now or hereafter erected or placed on the said real estate and all materials intended for construction, reconstruction, alteration and repairs of such buildings and improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Premises immediately upon the delivery thereof to the Premises, and all fixtures now or hereafter owned by Mortgagor and attached to or contained in and used in connection with the Premises including, but not limited to, all machinery, motors, elevators, fittings, radiators, awnings, shades, screens, and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures and appurtenances thereto; and all items of furniture, furnishings, equipment and personal property owned by Mortgagor used or useful in the operation of the Premises; and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to said buildings or improvements in any manner; it being mutually agreed, intended and declared that all the aforesaid property owned by Mortgagor and placed by it on the real estate or used in connection with the operation or maintenance of the Premises shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and for the purpose of this mortgage to be real estate and covered by this mortgage, and as to any of the property aforesaid which does not so form a part and parcel of the real estate or does not constitute a "fixture" (as such term is defined in the Uniform Commercial Code) this mortgage is hereby deemed to be, as well, a Security Agreement under the Uniform Commercial Code for the purpose of creating hereby a security interest in such property which Mortgagor hereby grants to Mortgagee as Secured Party.

Together with all right, title and interest of Mortgagor, now or hereafter acquired, in and to any and all strips and gores of land adjacent to and used in connection with the Premises and all right, title and interest of Mortgagor, now owned or hereafter acquired, in, to, over and under the ways, streets, sidewalks and alleys adjoining the Premises.

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

Mortgagor represents that it is the absolute owner in fee simple of the Premises described in Exhibit A, which Premises are free and clear of any liens or encumbrances except as set out in Exhibit B attached hereto, and except for taxes which are not yet due or delinquent. Mortgagor shall forever warrant and defend the title to the Premises against all claims and demands of all persons whomsoever and will on demand execute any additional instrument which may be required to give Mortgagee a valid first lien on all of the Premises, except as stated in Exhibit B.

Mortgagor further represents that: (i) the Premises is not subject to any casualty damage; (ii) to the best of Mortgagor's knowledge, information and belief, following due inquiry and investigation there is no Hazardous Material (as hereinafter defined) on the Premises, except as disclosed in that certain report dated August 30, 1994, prepared by Environmental Management Group, Inc., nor has any Hazardous Material been discharged from the Premises or penetrated any surface or subsurface rivers or streams crossing or adjoining the Premises or the aquifer underlying the Premises; (iii)

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-3-

Mortgagor has complied and caused the Premises to comply with all statutes, laws, ordinances, rules and regulations of all local, state or federal authorities having jurisdiction over the Premises or its use relative to any Hazardous Material; and (iv) there is no other property presently owned or used by Mortgagor from which the existence or discharge of Hazardous Material would result in any charge or lien upon the Premises. Hazardous Material as used in this mortgage means any hazardous or toxic material, substance or waste which is defined by those or similar terms or is regulated as such under any statute, law, ordinance, rule or regulation of any local, state or federal authority having jurisdiction over the Premises or its use, including but not limited to any material, substance or waste which is: (a) defined as a hazardous substance under Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1317) as amended; (b) defined as a hazardous waste under Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. §6901 et. seq.) as amended; or (c) defined as a hazardous waste substance under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, (42 U.S.C. §9601 et. seq.) as amended.

MORTGAGOR COVENANTS AND AGREES AS FOLLOWS:

1. Mortgagor shall
 - (a) pay each item of indebtedness secured by this mortgage when due according to the terms hereof and of the Note;
 - (b) pay a late charge equal to two percent (2%) of any payment of principal, interest or premium which is not paid on or before the due date thereof to cover the expense involved in handling such late payment;
 - (c) pay on or before the due date thereof any indebtedness which may be secured by a lien or charge on the Premises, and upon request of Mortgagee exhibit satisfactory evidence of the discharge thereof;
 - (d) complete within a reasonable time the construction of any building now or at any time in process of construction upon the real estate;
 - (e) make no material alteration to the Premises without the prior written consent of Mortgagee, except such as are required by law or ordinance;
 - (f) remove or demolish no building or other improvement at any time a part of the Premises, and shall keep the Premises, including the buildings and improvements, in good condition and repair, without waste, and free from mechanics' liens or other liens or claims for liens and encumbrances not expressly subordinated to the lien hereof;

Notwithstanding anything contained hereinabove to the contrary, Mortgagor may contest any mechanic's liens in the same manner and pursuant to the same terms as the last paragraph of paragraph 2 hereinbelow.

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-4-

- (g) comply, and cause each lessee or other user of the Premises to comply, with all requirements of law and ordinance, and all rules and regulations, now or hereafter enacted, by authorities having jurisdiction of the Premises and the use thereof, all orders and directions of the National Fire Protection Association or similar body, and all restrictions of record pertaining to the Premises, including the buildings and improvements, and the use thereof;
- (h) cause or permit no change to be made in the general nature of the occupancy of the Premises without Mortgagee's prior written consent;
- (i) initiate or acquiesce in no zoning reclassification or material change in zoning without Mortgagee's prior written consent;
- (j) make or permit no use of the Premises that could with the passage of time result in the creation of any right of use, or any claim of adverse possession or easement on, to or against any part of the Premises in favor of any person or the public;
- (k) promptly repair, restore or rebuild any buildings or improvements now or hereafter a part of the Premises which may become damaged or be destroyed by any cause whatsoever, so that upon completion of the repair, restoration and rebuilding of the buildings and improvements there will be no liens of any nature arising out of the construction and the Premises will be of substantially the same character and will have a commercial value at least as great as the commercial value thereof prior to the damage or destruction;
- (l) not, directly or indirectly, due to assignment of beneficial interest under a trust, partnership interest in a partnership, or otherwise, cause or permit any sale, transfer or conveyance of the Premises or create, suffer or permit any encumbrance or lien on the Premises other than the lien hereof, the leases of the Premises assigned to Mortgagee and other exceptions expressly referred to herein, it being understood and agreed that the indebtedness evidenced by the Note and its terms are personal to Mortgagor and in accepting the same Mortgagee has relied upon what it perceived as the willingness and ability of Mortgagor to perform its obligations hereunder, under the Note, and as lessor under leases of the Premises; Mortgagee may consent to a sale, transfer, conveyance or encumbrance and expressly waive this provision in writing to Mortgagor, however any such consent and waiver shall not constitute any consent or waiver of this provision as to any sale, transfer, conveyance or encumbrance other than that for which the consent and waiver was expressly granted; Mortgagee's ability to consent to any sale, transfer, conveyance or encumbrance and waive this provision implies no standard of reasonableness in determining whether or not such consent shall be granted and the same may be based upon what Mortgagee solely deems to be in its best interest; without limiting Mortgagee's right to withhold its consent and waiver entirely, such consent and

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-5-

waiver may be conditioned upon an increase in the rate of interest under the Note and the imposition of other terms and conditions thereunder or hereunder; any sale, transfer, conveyance or encumbrance made, created or permitted in violation of this provision shall be null and void and in addition to the other rights and remedies available to Mortgagee hereunder, Mortgagee shall have the option of declaring the unpaid principal balance of the Note, together with all accrued and unpaid interest, premium, if any and all other sums and charges evidenced thereby or owing hereunder, immediately due and payable;

Notwithstanding anything hereinabove to the contrary, Mortgagee does hereby consent to a one time sale, transfer or conveyance of the Premises and subsequent assumption of the obligations of Mortgagor under this Mortgage and the Note secured hereby subject to: (i) Mortgagee's approval of the proposed purchaser, which approval shall be conditioned upon but not limited to: the proposed purchaser's creditworthiness, financial strength and real estate management expertise, (ii) Mortgagee's receipt of payment of an assumption fee in the amount of one percent (1%) of the then outstanding principal balance of the Note (iii) Mortgagee's receipt of a \$1000 processing fee for the handling of this transaction and (iv) a reaffirmation by the guarantors or their continuing obligations under that certain Guaranty of even date herewith. In the event of a transfer pursuant to the provisions of this paragraph, Mortgagee agrees to release the Guarantors from their obligations under that certain Guaranty of even date herewith provided and only if Mortgagee receives a substitute guaranty in form and substance acceptable to Mortgagee from a guarantor or guarantors acceptable to Mortgagee in Mortgagee's discretion which have a minimum combined tangible net worth of at least \$25,000,000.00 and liquid assets of at least \$3,000,000.00.

- (m) not cause or permit any Hazardous Material to exist on or discharge from the Premises, and promptly: (i) pay any claim against Mortgagor or the Premises, (ii) remove any charge or lien upon the Premises related thereto, and (iii) indemnify and hold Mortgagee harmless from any and all loss or damage, resulting from any Hazardous Material that exists on or is discharged from the Premises;
- (n) not cause or permit any Hazardous Material to exist on or discharge from any property owned or used by Mortgagor which would result in any charge or lien upon the Premises;
- (o) notify Mortgagee of any Hazardous Material that exists on or is discharged from the Premises within ten (10) days after Mortgagor first has knowledge of such existence or discharge;
- (p) deliver to Mortgagee within thirty (30) days after such coverage becomes available from an ALTA member title insurance company doing business in the state where the Premises is located, a new title policy, endorsement or amendment in form and

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-6-

substance acceptable to Mortgagee which provides Mortgagee with affirmative coverage against loss of priority of the lien of this mortgage resulting from the existence of any Hazardous Material on the Premises;

- (q) if other than a natural person, do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges under the laws of the state of its formation and, if other than its state of formation, the state where the Premises is located; and
 - (r) do all things necessary to preserve and keep in full force and effect Mortgagee's title insurance coverage insuring the lien of this mortgage as a first and prior lien, subject only to the exceptions stated in Exhibit B, including without limitation, delivering to Mortgagee not less than 30 days prior to the effective date of any rate adjustment, modification or extension of the Note any new policy or endorsement which may be required to assure Mortgagee of such continuing coverage.
 - (s) indemnify and hold Mortgagee harmless from and against any and all loss cost or damage resulting from the encroachment of the building onto the easements reserved to the village of Lansing and the public utilities in the instruments recorded July 21, 1975 as Document 23156744 and the easement recorded September 9, 1981 as Document 25993770.
2. (a) Mortgagor shall pay when due and before any penalty attaches or interest accrues all general taxes, special taxes, assessments (including assessments for benefits from public works or improvements whenever begun or completed), water charges, sewer service charges, vault or space charges and all other like charges against or affecting the Premises or against any property or equipment located on the Premises, or which might become a lien on the Premises, and shall, within 30 days following the last day on which any such tax, assessment or charge may be paid without incurring any penalty or interest for nonpayment thereof, furnish to Mortgagee a duplicate receipt of such payment. If any such tax, assessment or charge may legally be paid in installments, Mortgagor may, at its option, pay such tax, assessment or charge in installments.
- (b) To prevent default hereunder Mortgagor shall pay in full, under protest in the manner provided by law, any tax, assessment or charge which Mortgagor may desire to contest; provided, however, that
- (i) if contest of any tax, assessment or charge may be made without the payment thereof, and
 - (ii) such contest shall have the effect of preventing the collection of the tax, assessment or charge so contested and the sale or forfeiture of the Premises or any part thereof or any interest therein to satisfy the same,

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-7-

- (c) Mortgagor may at its option and in its discretion and upon the giving of written notice to Mortgagee of its intended action and upon the furnishing to Mortgagee of such security or bond as Mortgagee may require, contest any such tax, assessment or charge in good faith and in the manner provided by law. All costs and expenses incidental to such contest shall be paid by Mortgagor. In the event of a ruling or adjudication adverse to Mortgagor, Mortgagor shall promptly pay such tax, assessment or charge. Mortgagor shall indemnify and save harmless the Mortgagee and the Premises from any loss or damage arising from such contest and shall, if necessary to prevent sale, forfeiture or any other loss or damage to the Premises or to the Mortgagee, pay such tax, assessment or charge or take whatever action is necessary to prevent any sale, forfeiture or loss.
3. Mortgagor shall at all times keep all buildings and improvements which now are or hereafter become a part of the Premises insured under an 'all risk' form of insurance policy containing both a replacement cost and an agreed amount endorsement (and against all other hazards as reasonably may be required by Mortgagee, which may include, without limitation, insurance against loss or damage by flood and earthquake risk) and, if requested by Mortgagee, shall procure and maintain in force boiler insurance (if any building or improvement has a boiler) and rent insurance against loss of rent due to fire or other casualties named in standard policies of insurance against loss of rent in an amount equal to six months' rent plus all lessees' liabilities for such period for real estate taxes, assessments and insurance. All insurance shall be in form, content and amounts approved by Mortgagee and written by an insurance company or companies or governmental agency or instrumentality approved by Mortgagee. The policies for such insurance shall have attached thereto standard mortgagee clauses in favor of and permitting Mortgagee to collect any and all proceeds payable under all such insurance. All such policies or certificates thereof shall be delivered to and held by Mortgagee as further security for the payment of the Note and other moneys herein mentioned, with evidence of renewal coverage delivered to Mortgagee at least 20 days before the expiration date of any policy. Not less frequently than once every three years, Mortgagor, at its expense, will furnish Mortgagee with an appraisal of the full insurable replacement cost value of the Premises, made by fire insurance appraisers satisfactory to Mortgagee and to fire insurance companies generally. Mortgagee agrees that if Mortgagor provides evidence of insurance coverage which contains replacement cost and agreed amount endorsements guarantying the full replacement of the improvements, the above referenced appraisal will not be required. Mortgagor shall also carry public liability insurance protecting Mortgagor and any tenant or other user of the Premises against liability for injuries to persons and property occurring in, on or adjacent to the Premises, in forms, companies and amounts satisfactory to Mortgagee with the policy or policies evidencing such insurance to contain a 10 day notice of cancellation clause in favor of Mortgagee. Mortgagor shall not carry separate insurance, concurrent in kind or form and contributing in the event of loss, with any insurance required herein.

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-8-

4. Mortgagor shall, upon request of Mortgagee, deposit with and pay to Mortgagee, on each payment date specified in the Note secured by this mortgage, a sum equivalent to: (1) the taxes and assessments assessed or levied against and next due on the Premises divided by the number of payments that will become due and payable under the Note before the date when such taxes and assessments will become due and payable, plus (2) the premiums that will next become due and payable for insurance required by this mortgage to be furnished by Mortgagor divided by the number of payments that will become due and payable under the Note before the date when such premiums will become due and payable. Mortgagee shall use such deposits to pay the taxes, assessments and premiums when the same become due. Mortgagee shall not be liable for interest on such deposits. Mortgagor shall procure and deliver to Mortgagee, in advance, statements for such charges. If the total payments made by Mortgagor under this paragraph exceed the amount of payments actually made by Mortgagee for taxes, assessments and insurance premiums, such excess shall be credited by Mortgagee on subsequent deposits to be made by Mortgagor. If, however, the deposits are insufficient to pay the taxes, assessments and insurance premiums when the same shall be due and payable, Mortgagor will pay to Mortgagee any amount necessary to make up the deficiency, on or before the date when payment of such taxes, assessments and insurance premiums shall be due. If at any time Mortgagor shall tender to Mortgagee, in accordance with the provisions of the Note secured by this mortgage, full payment of the entire indebtedness represented thereby, Mortgagee shall, in computing the amount of such indebtedness, credit to the account of Mortgagor any balance remaining in the funds accumulated and held by Mortgagee under the provisions of this paragraph. If there is a default under any of the provisions of this mortgage resulting in a public sale of the Premises, or if Mortgagee otherwise acquires the Premises after default, Mortgagee shall apply, at the time of commencement of such proceedings, or at the time the Premises is otherwise acquired, the balance then remaining in the funds accumulated under this paragraph as a credit on the interest accrued and unpaid and the balance to the principal then remaining unpaid under the Note. The enforceability of the covenants relating to taxes, assessments and insurance premiums provided for in this mortgage shall not be affected except to the extent that said obligations have been actually met by compliance with this paragraph.

Notwithstanding anything hereinabove to the contrary so long as (i) that certain lease by and between Mortgagor as successor in interest to Lasalle National Bank, a National Banking Association as Trustee and Dominick's Finer Foods, Inc. dated August 28, 1978 (hereinafter the "Dominick's Lease") is in full force and effect and no default has occurred thereunder and (ii) no default in the payment of taxes, assessments or insurance premiums has accrued hereunder, Mortgagor agrees not to require the monthly deposits required in the foregoing paragraph.

5. In the event of any damage to or destruction of the buildings or improvements which are a part of the Premises:

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-9-

- (a) Mortgagor will promptly notify Mortgagee thereof in the manner provided in this mortgage for the giving of notices. Mortgagee may in its discretion (and it is hereby authorized to) either settle and adjust any claim under such insurance policies, or allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, the proceeds shall be paid to Mortgagee and Mortgagee is authorized to collect and to give receipts therefor. In the event Mortgagee elects to either settle or adjust any claim under such insurance policies, and provided there is no Event of Default, or event which with the passage of time or notice or both would constitute an Event of Default, which has occurred and is continuing, Mortgagor shall have the right to participate in said settlement or adjustment; provided, however, that any settlement or adjustment shall be subject to the written approval of Mortgagee.
- (b) Such proceeds, after deducting therefrom any expenses incurred in the collection thereof, including attorneys' fees and costs, shall be applied at the option of Mortgagee either to the cost of rebuilding and restoring the buildings and improvements or in reduction of the indebtedness secured hereby whether or not then due and payable, provided however, that if no Event of Default has occurred and Mortgagee has not otherwise accelerated the whole or any part of the indebtedness secured hereby, such reduction shall be without premium. Any excess proceeds remaining after said indebtedness is fully paid shall be promptly remitted to Mortgagor.

Notwithstanding anything to the contrary contained in this Mortgage, such insurance proceeds shall be held by Mortgagee without any allowance of interest and shall be made available to reimburse Mortgagor for the cost of the rebuilding or restoration of buildings or improvements on the Premises, subject to paragraph 5(d) hereinbelow and the following conditions:

- (i) there has been no Event of Default or event which with the passage of time or notice or both would become an Event of Default under the Note, this Mortgage or any other instrument or agreement by which it is secured;
- (ii) the annual net operating income from all approved executed leases in effect on the Premises with no uncured defaults shall equal or exceed 1.10 times the annual debt service on the Note with approved leases that have at least 3 years remaining prior to the expiration of their term;
- (iii) Dominick's Finer Foods, Inc. or its successor and Mortgagor confirm in writing to Mortgagee that (x) Dominick's Finer Foods, Inc. or its successor intends to reoccupy the Premises after the restoration is completed, (y) the lease is in full force and effect and (z) no defaults have occurred and are continuing thereunder;

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-10-

- (iv) Mortgagor provides suitable completion or performance bonds and builder's all risk insurance;
- (v) no insurer covering the damage or destruction asserts any defense against Mortgagor or a tenant under a lease covering all or any portion of the Premises pursuant to any casualty insurance policies covering the improvements on the Premises;
- (vi) there shall be sufficient funds on deposit with Mortgagee at all times to complete the repair and restoration, as certified from time to time by an inspecting architect approved by Mortgagee, provided, however, in the event the insurer disburses to Mortgagee less than all insurance proceeds available for any particular loss, then there shall be sufficient insurance proceeds on deposit with Mortgagee to fund that portion of the repair or restoration for which Mortgagor is requesting reimbursement and there shall be sufficient insurance proceeds retained by the insurer to complete the repair and restoration, as certified from time to time by an inspecting architect approved by Mortgagee;
- (vii) said rebuilding or restoration shall be, in Mortgagee's opinion, economically feasible;
- (viii) Mortgagor pays to Mortgagee a non-refundable processing fee equal to 1% of the amount of such proceeds which shall be no less than \$500 and no greater than \$5000 within sixty (60) days of the occurrence of any such damage or destruction and before Mortgagee disburses any proceeds;
- (ix) In the event of casualty damage that is equal to or exceeds \$250,000, such other conditions to such disbursements, in Mortgagee's discretion as would be customarily required by a construction lender doing business in the area.

If the foregoing conditions are not met, Mortgagee at its option may require Mortgagor to use any proceeds to either immediately rebuild any portion or all of the improvements or apply the insurance proceeds to the reduction of the indebtedness secured hereby, whether due or not, without the imposition of a premium. Mortgagor agrees and acknowledges that all such proceeds shall be deemed to be "Cash Collateral" as that term is defined in Section 363 of the Bankruptcy Code in any bankruptcy proceeding of Mortgagor.

- (c) Regardless of the cause of the damage or destruction or the availability or sufficiency of insurance proceeds until all indebtedness secured hereby shall be fully paid, Mortgagor shall be obligated to repair, restore and rebuild any buildings or improvements so damaged or destroyed, provided however, that if any insurance proceeds have been paid to Mortgagee under any insurance policies maintained by

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-11-

Mortgagor under the provisions of Paragraph 3 hereof, Mortgagor shall be so obligated only if Mortgagee elects to apply such proceeds to the cost of rebuilding and restoration. Repair and restoration of the buildings and improvements shall be commenced promptly after the occurrence of the loss and shall be prosecuted to completion diligently, and the buildings and improvements shall be so restored and rebuilt as to be of at least equal value and substantially the same character as prior to such damage and destruction. In the event the estimated costs of rebuilding and restoration exceed 25% of the indebtedness then remaining unpaid as secured hereby, the drawings and specifications pertaining to such rebuilding and restoration shall be subject to the prior written approval of Mortgagee.

- (d) In the event that Mortgagor is to be reimbursed out of the insurance proceeds, such proceeds shall be made available from time to time upon the furnishing to Mortgagee of satisfactory evidence of the estimated cost of completion thereof and such architect's certificates, waivers of lien, contractor's sworn statements, and other evidence of cost and of payment and of the continued priority of the lien hereof over any potential liens of mechanics and materialmen as Mortgagee may require and approve. No payment made by Mortgagee prior to the final completion of the work shall, together with all payments theretofore made, exceed 90% of the value of the work performed to the time of payment, and at all times the undisbursed balance of said proceeds shall be at least sufficient to pay for the cost of completion of the work free and clear of liens. Any proceeds remaining after payment of the cost of rebuilding and restoration shall, at the option of Mortgagee, either be applied in reduction of the indebtedness secured hereby or paid to Mortgagor.
- (e) Should such damage or destruction occur after foreclosure or sale proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied in rebuilding or restoration of the buildings or improvements, shall be used to pay the amount due in accordance with any decree of foreclosure or deficiency judgment that may be entered in connection with such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if he shall then be entitled to the same, or otherwise as any court having jurisdiction may direct. Following any foreclosure sale, or other sale of the Premises by Mortgagee pursuant to the terms hereof, Mortgagee is authorized without the consent of Mortgagor to assign any and all insurance policies to the purchaser at the sale and to take such other steps as Mortgagee may deem advisable to cause the interests of such purchaser to be protected by any of such insurance policies.

6. Mortgagor hereby assigns, transfers and sets over to Mortgagee the entire proceeds of any award or claim for damage to any of the Premises taken or damaged under the power of eminent domain or by condemnation. In the event of the commencement of any eminent domain or condemnation proceeding affecting the Premises:

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-12-

- (a) Mortgagor shall notify Mortgagee thereof in the manner provided in this mortgage for the giving of notices. Mortgagee may participate in such proceeding, and Mortgagor shall deliver to Mortgagee all documents requested by it to permit such participation.
- (b) Mortgagee may elect to apply the proceeds of the award upon or in reduction of the indebtedness secured hereby whether or not then due and payable, provided however, that if no Event of Default has occurred and Mortgagee has not otherwise accelerated the whole or any part of the indebtedness secured hereby, such reduction shall be without premium, or require Mortgagor to restore or rebuild, in which event the proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the cost of restoring and rebuilding all buildings and improvements in accordance with plans and specifications to be submitted to and approved by Mortgagee.
- (c) In the event Mortgagee elects to reimburse Mortgagor for the costs of restoring and rebuilding the Premises, then the proceeds of the award shall be paid out in the same manner as provided in this mortgage for the payment of insurance proceeds in reimbursement of the costs of rebuilding and restoration. If the amount of such award is insufficient to cover the cost of restoring and rebuilding, Mortgagor shall pay such cost in excess of the award before being entitled to reimbursement out of the award. Any proceeds remaining after payment of cost of restoring and rebuilding shall, at the option of Mortgagee, either be applied on account of the indebtedness secured hereby or be paid to Mortgagor.
7. If by the laws of the United States of America or of any state or governmental subdivision having jurisdiction of Mortgagor or of the Premises or of the transaction evidenced by the Note and this mortgage, any tax or fee is due or becomes due in respect of the issuance of the Note hereby secured or the making, recording and registration of this mortgage, Mortgagor covenants and agrees to pay such tax or fee in the manner required by such law, and to hold harmless and indemnify Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any such tax or fee.
8. In the event of the enactment after the date hereof of any applicable law deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then and in any such event Mortgagor shall, upon demand by Mortgagee, pay such taxes or assessments or reimburse Mortgagee therefor; provided, however, that, if in the opinion of counsel for Mortgagee (a) it would be unlawful to require Mortgagor to make such payment or (b) the making of such payment would be construed as imposing a rate of interest beyond the maximum permitted by law, then and in such event Mortgagee may elect to declare all of the indebtedness secured hereby to be

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-13-

and become due and payable 60 days from the giving of written notice of such election to Mortgagor, provided that if no Event of Default has occurred and Mortgagee has not otherwise accelerated the whole or any part of the indebtedness secured hereby such prepayment shall be without the imposition of a Make Whole Premium.

9. (a) Upon the occurrence and during the continuance of any Event of Default or any event, the occurrence of which would, with the lapse of time or the giving of notice or both, constitute an Event of Default under this mortgage, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor, in any form and manner deemed expedient and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said Premises, or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all reasonable expenses paid or incurred in connection with the commencement or prosecution of any of the aforementioned acts, including reasonable attorneys' fees and costs and attorneys' fees and costs on appeal, and any other money advanced by Mortgagee to protect the Premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the Default Rate (as hereinafter defined) from the date of expenditure or advance until paid.
- (b) In making any payment hereby authorized relating to taxes or assessments or for the purchase, discharge, compromise or settlement of any prior lien, Mortgagee may make such payment according to any bill, statement or estimate secured from the appropriate public office without inquiry into the accuracy thereof or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof or without inquiry as to the validity or amount of any claim for lien which may be asserted.
10. If one or more of the following events (herein called "Events of Default") shall have occurred:
- (a) default shall be made in the payment of any principal, interest or premium, taxes or assessments referred to in this mortgage or insurance premiums for the insurance required pursuant to this mortgage when due under the Note or this mortgage, and such default shall have continued for 10 days; or
- (b) Mortgagor shall be dissolved, or a decree or order for relief shall be entered by a court having jurisdiction in the Premises in respect of Mortgagor in a voluntary or involuntary case under the Federal Bankruptcy Code as now or hereafter constituted, or Mortgagor shall file a voluntary petition in bankruptcy or for reorganization or an arrangement or any composition, readjustment, liquidation, dissolution or similar relief pursuant to any similar present or future state or federal bankruptcy law, or shall be adjudicated a bankrupt or become insolvent, or shall commit any act of

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-14-

bankruptcy as defined in such law, or shall take any action in furtherance of any of the foregoing; or

- (c) a petition or answer shall be filed proposing the adjudication of Mortgagor as a bankrupt or its reorganization or arrangement, or any composition, readjustment, liquidation, dissolution or similar relief with respect to it pursuant to any present or future federal or state bankruptcy or similar law, and Mortgagor shall consent to the filing thereof, or such petition or answer shall not be discharged within 60 days after the filing thereof; or
- (d) by the order of a court of competent jurisdiction, a receiver, trustee or liquidator of the Premises or any part thereof or of Mortgagor or of substantially all of its assets shall be appointed and shall not be discharged or dismissed within 60 days after such appointment, or if Mortgagor shall consent to or acquiesce in such appointment; or
- (e) with respect to the matters not described in the other subparagraphs of this paragraph 10, default shall be made in the due observance or performance of any covenant, condition or agreement of the Mortgagor contained in this Mortgage or in the Note or in any other instrument or agreement further securing the Note, and such default shall have continued for 30 days after notice specifying such default is given by Mortgagee to Mortgagor; or
- (f) any representation or warranty made by Mortgagor herein or in the Note or in any instrument further securing the Note shall prove to be untrue or inaccurate in any material respect; or
- (g) the failure of Mortgagor to give notice to Mortgagee in the manner provided in this mortgage for the giving of notices within 30 days after the death of any natural person who is personally liable for the payment of the indebtedness secured hereby or any part thereof, whether such person is the Mortgagor or any indemnitor or guarantor and whether or not such person has executed the Note or this Mortgage; or
- (h) the death of any natural person who is personally liable for the payment of the indebtedness secured hereby or any part thereof, whether such person is the Mortgagor or any indemnitor or guarantor and whether or not such person has executed the Note or this mortgage. Notwithstanding anything in the foregoing provision to the contrary, Mortgagee agrees that so long as any individual guarantor remaining obligated under that certain Guaranty of even date herewith remain alive and maintain in the aggregate a tangible net worth of at least \$25 million with at least \$3 million in liquid assets then Mortgagee agrees that the death of any other guarantor shall not constitute an Event of Default herein;

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-15-

- (i) failure of mortgagor to provide to Mortgagee within six months from the date hereof evidence satisfactory to Mortgagee that the Premises has been separately assessed for real estate taxing purposes;
- (j) failure of Mortgagor to make or provide for the timely payments of any real estate tax or assessment attributable to the land currently assessed with the Premises until such time as Premises is separately assessed for real estate taxing purposes;
- (k) failure of Mortgagor to provide to Mortgagee within six months from the date hereof letters from all applicable utility companies specifying that they do not have any utilities located within the vacated alleys and vacated Glen Oak Avenue under the building on the Premises;

then, in each and every such case, the whole of said principal sum hereby secured shall, at the option of the Mortgagee and without further notice to Mortgagor, become immediately due and payable together with accrued interest thereon and a Make Whole Premium calculated in accordance with the provisions hereof, and whether or not Mortgagee has exercised said option, interest shall accrue on the entire principal balance and any interest or premium then due, at the Default Rate until fully paid or if Mortgagee has not exercised said option, for the duration of any Event of Default.

If any Event of Default under "(e)" above shall be of such nature that it cannot be cured or remedied within 30 days, Mortgagor shall be entitled to a reasonable period of time to cure or remedy such Event of Default, provided Mortgagor commences the cure or remedy thereof within the 30 day period following the giving of notice and thereafter proceeds with diligence to complete such cure or remedy.

11. Mortgagor agrees that if Mortgagee accelerates the whole or any part of the principal sum hereby secured, or applies any proceeds as if such application had been made as a result of such acceleration, pursuant to the provisions hereof, Mortgagor waives any right to prepay the principal sum hereby secured in whole or in part without premium and agrees to pay, as yield maintenance protection and not as a penalty, a "Make Whole Premium." The Make Whole Premium shall be the greater of one percent (1%) of the principal amount to be prepaid or a premium calculated as follows:

- (a) Determine the "Reinvestment Yield." The Reinvestment Yield will be equal to the yield on the November 2000 8 1/2 U.S. Treasury Issue ("primary issue")* published two weeks prior to the date of prepayment and converted to an equivalent monthly compounded nominal yield.

*In the event there is no market activity involving the primary issue at the time of prepayment, Mortgagee shall choose a comparable Treasury Bond, Note or Bill ("secondary issue") which Mortgagee deems to be similar to the primary issue's characteristics (i.e., rate, remaining time to maturity, yield).

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-16-

- (b) Calculate the "Present Value of the Mortgage." The Present Value of the Mortgage is the present value of the payments to be made in accordance with the Note (all installment payments and any remaining payment due on the Maturity Date) discounted at the Reinvestment Yield for the number of months remaining from the date of prepayment to the Maturity Date. In the event of a partial prepayment as a result of the aforementioned application of proceeds, the Present Value of the Mortgage shall be calculated in accordance with the preceding sentence multiplied by the fraction which results from dividing the amount of the prepaid proceeds by the principal balance immediately prior to prepayment.
- (c) Subtract the amount of the prepaid proceeds from the Present Value of the Mortgage as of the date of prepayment. Any resulting positive differential shall be the premium.
12. Upon the occurrence and during the continuance of any Event of Default, Mortgagee shall have the right to foreclose the lien hereof, and to the extent permitted herein and by applicable law to sell the Premises by sale independent of the foreclosure proceedings. Upon commencement of a foreclosure, any uncured Event of Default shall be deemed to be continuing and not subject to cure to commence after foreclosure and Mortgagor agrees to compensate Mortgagee for any expenses set forth below if Mortgagee terminates the foreclosure action. In any suit to foreclose the lien hereof, and in any sale of the Premises, there shall be allowed and included as additional indebtedness payable by Mortgagor to Mortgagee and secured hereby all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees and costs, including attorneys' fees and costs on appeal, appraisers' fees, expenditures for documentary and expert evidence, stenographer's charges, publication and advertising costs, survey costs and costs (which may be estimated as to items to be expended after the entry of any decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates and similar data and assurances with respect to title as Mortgagee deems reasonably necessary either to prosecute such suit or to consummate such sale or to evidence to bidders at any sale the true condition of the title to or the value of the Premises.

When the indebtedness secured hereby shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof in accordance with the Illinois Mortgage Foreclosure Act, Ill. Rev. Stat. ch. 110, para. 15-1101 et seq. (1987) (the "Act") and to exercise any other remedies of Mortgagee provided in the Note or this Mortgage, or which Mortgagee may have at law, at equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title,

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-17-

title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Premises, and any other expenses and expenditures which may be paid or incurred by or on behalf of Mortgagee and permitted by the Act to be included in such decree. All expenditures and expenses of the nature mentioned in this paragraph, and such other expenses and fees as may be incurred in the protection of the Premises and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Lender in any litigation or proceedings affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional indebtedness and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate until paid.

13. The proceeds of any foreclosure sale, or other sale of the Premises in accordance with the terms hereof or as permitted by law, shall be distributed and applied in the following order of priority, except to the extent otherwise required by the Act: First, to the payment of all costs and expenses incident to the foreclosure and/or sale proceedings, including all items as are mentioned in any preceding or succeeding paragraph hereof; second, to the payment of all other items which under the terms hereof constitute secured indebtedness in addition to that evidenced by the Note, with interest thereon as herein provided; third, to the payment of all principal and accrued interest remaining unpaid on the Note; fourth, any overplus to the Mortgagor, its successors or assigns, as their rights may appear.
14. During the continuance of any Event of Default, Mortgagor shall forthwith upon demand of Mortgagee surrender to Mortgagee possession of the Premises, 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, with or without force and with or without process of law, 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 the Mortgagor or the then owner of the Premises relating hereto, and may exclude Mortgagor, its agents or assigns 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:
 - (a) hold, operate, manage or control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion it deems proper or necessary to enforce the payment or security of the income, rents, issues and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rents, 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;

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-18-

- (b) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same;
- (c) elect to cancel any lease or sublease made subsequent to this Mortgage unless this mortgage has specifically been made subordinate to such lease or sublease or subordinated to the lien hereof;
- (d) extend or modify any then existing leases and make new leases, which extensions, modifications or 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 Note and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and shall be binding also upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the indebtedness secured hereby, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser;
- (e) make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as it may deem judicious, insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof, and receive all income, rents, issues and profits.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any lease, and the Mortgagor shall and does hereby agree to indemnify and to hold Mortgagee harmless of and from all liability, loss or damage which it might incur under said leases or under or by reason of the assignment thereof, and of and from any and all claims or demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases, however, Mortgagor's agreement to indemnify Mortgagee shall not apply to Mortgagee's acts of gross negligence or willful misconduct. Should Mortgagee incur any such liability, loss or damage under any of said leases, or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees and costs, including attorneys' fees and costs on appeal, shall be secured hereby and Mortgagor shall reimburse Mortgagee therefor immediately upon demand, together with interest at the Default Rate from the date of payment by Mortgagee to the date of reimbursement.

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-19-

15. Mortgagee in the exercise of the rights and powers hereinabove conferred upon it shall have the full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Mortgagee may determine:
- (a) to the payment of the expenses of operating the Premises, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agent or agents if management is 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 as hereinabove authorized;
 - (b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises;
 - (c) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Premises and of placing the Premises in such condition as will in the judgment of Mortgagee make it readily rentable; and/or
 - (d) to the payment of any indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

Without limiting the generality of the foregoing, Mortgagee shall have all power, authority and duties as provided in the Act. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises.

16. Upon the filing of a complaint to foreclose this Mortgage or at any time thereafter, the court in which such complaint is filed may appoint upon petition of Mortgagee, and at Mortgagee's sole option, a receiver of the Premises pursuant to the Act. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of Mortgagor at the time of application for such receiver, and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by the Act, including the power to make leases to be binding upon all parties, including the mortgagor, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Premises after entry of a judgment of foreclosure, all as provided in the Act. In addition, such receiver shall also have the power to extend or modify any then existing leases, which extensions and modifications may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Note and beyond the date the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other provisions to be contained therein, shall be binding on Mortgagor and all the persons

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-20-

whose interest in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, reinstatement, discharge of the indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser. In addition, such receiver shall have the power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and such receiver shall have 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 may, from time to time, authorize the receiver to apply the net income from the Premises in payment in whole or in part of: (a) the indebtedness secured hereby or the indebtedness secured by a decree foreclosing this Mortgage, or any tax, special assessment, or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure sale; or (b) the deficiency in case of a sale and deficiency.

17. (a) Mortgagor agrees that all reasonable costs, charges and expenses, including attorneys' fees, incurred or expended by Mortgagee arising out of or in connection with any action, proceeding or hearing, legal, equitable or quasi-legal, including the preparation therefor and any appeal therefrom, in any way affecting or pertaining to this mortgage, the Note or the Premises, shall be promptly paid by Mortgagor. All such sums not promptly paid by Mortgagor shall be added to the indebtedness secured hereby and shall bear interest at the Default Rate from the date of such advance and shall be due and payable on demand.
- (b) Mortgagor hereby waives any notice of default, except as may be otherwise expressly herein provided, Mortgagee shall serve a demand for payment and notice of intent to accelerate the maturity and all or any portion of the indebtedness secured hereby upon the occurrence of a default. Mortgagor hereby agrees that upon the occurrence of an Event of Default and the acceleration of the principal sum secured hereby pursuant to this mortgage, to the full extent that such rights can be lawfully waived, Mortgagor hereby waives and agrees not to insist upon, plead, or in any manner take advantage of, any stay, extension, exemption, homestead, marshaling or moratorium law or any law providing for the valuation or appraisal of all or any part of the Premises prior to any sale or sales thereof under any provision of this mortgage or before or after any decree, judgment or order of any court or confirmation thereof, or claim or exercise any right to redeem all or any part of the Premises so sold and hereby expressly waives to the full extent permitted by applicable law on behalf of itself and each and every person or entity acquiring any right, title or interest in or to the all or any part of the Premises, all benefit and advantage of any such laws which would otherwise be available to Mortgagor or any such person or entity, and agrees that neither Mortgagor nor any such person or

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-21-

entity will invoke or utilize any such law to otherwise hinder, delay or impede the exercise of any remedy granted or delegated to Mortgagee herein but will permit the exercise of such remedy as though any such laws had not been enacted. Mortgagor hereby further expressly waives to the full extent permitted by applicable law on behalf of itself and each and every person or entity acquiring any right, title or interest in or to all or any part of the Premises any and all rights of redemption from any sale or any order or decree of foreclosure obtained pursuant to provisions of this mortgage.

Borrower acknowledges that the Premises do not constitute agricultural real estate as defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act.

18. Mortgagor hereby assigns to Mortgagee directly and absolutely, and not merely collaterally, the rents, issues, profits, royalties, and payments payable under any lease of the Premises, or portion thereof, including any oil, gas or mineral lease, or any installments of money payable pursuant to any agreement or any sale of the Premises or any part thereof. Mortgagee, without regard to the adequacy of any security for the indebtedness hereby secured, shall be entitled to (a) collect such rents, issues, profits, royalties, payments and installments of money and apply the same as more particularly set forth in this paragraph, all without taking possession of the Premises, or (b) enter and take possession of the Premises or any part thereof, in person, by agent, or by a receiver to be appointed by the court and to sue for or otherwise collect such rents, issues, profits, royalties, payments and installments of money. Mortgagee may apply any such rents, issues, profits, royalties, payments and installments of money so collected, less costs and expenses of operation and collection, including reasonable attorneys' fees and costs and attorneys' fees and costs on appeal, upon any indebtedness secured hereby, in such order as Mortgagee may determine, and, if such costs and expenses and attorneys' fees and costs shall exceed the amount collected, the excess shall be immediately due and payable. The collection of such rents, issues, profits, royalties, payments and installments of money and the application thereof as aforesaid shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done pursuant to such notice, except to the extent any such Event of Default is fully cured. Failure or discontinuance of Mortgagee at any time, or from time to time, to collect any such moneys shall not impair in any manner the subsequent enforcement by Mortgagee of the right, power and authority herein conferred on Mortgagee. Nothing contained herein, including the exercise of any right, power or authority herein granted to Mortgagee, shall be, or be construed to be, an affirmation by Mortgagee of any tenancy, lease or option, or an assumption of liability under, or the subordination of the lien or charge of this Mortgage to any such tenancy, lease or option. Mortgagor hereby agrees that, in the event Mortgagee exercises its rights as in this paragraph provided, Mortgagor waives any right to compensation for the use of Mortgagor's furniture, furnishings or equipment in the Premises for the period such assignment of rents or receivership is in effect, it being understood that the rents, issues, profits, royalties, payments and installments of money derived from the use of any such

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-22-

items shall be applied to Mortgagor's obligations hereunder as above provided. Mortgagor has been granted a license to collect rents payable under the leases of the Premises pursuant to and in strict accordance with the terms and provisions of the Assignment of Leases and Rents.

19. (a) Mortgagor has executed and delivered that certain Assignment of Leases and Rents of even date herewith assigning to Mortgagee directly and absolutely, and not merely collaterally, the interest of Mortgagor as lessor under the existing leases of the Premises, as well as all other leases which may hereafter be made in respect of the Premises, and the rents and other income arising thereunder and from the use of the Premises. Said Assignment of Leases and Rents grants to Mortgagee specific rights and remedies in respect of said leases and the collection of rents and other income thereunder and from the use of the Premises, and such rights and remedies so granted shall be cumulative of those granted herein.
- (b) Mortgagor shall keep and perform all terms, conditions and covenants required to be performed by it as lessor under the aforesaid leases; shall promptly advise Mortgagee in writing of any claim of default by Mortgagor made by a lessee under any such lease or of any default thereunder by a lessee; and shall promptly provide Mortgagee with a copy of any notice of default or other notice served upon Mortgagor by any such lessee. Mortgagor will not cancel, modify or alter, or accept the surrender of, any existing or future lease of the Premises or any part thereof without first obtaining written consent of Mortgagee.
20. (a) All rights and remedies granted to Mortgagee herein or in the Note or any other instrument securing the Note shall be in addition to and not in limitation of any rights and remedies to which it is entitled in equity, at law or by statute, and the invalidity of any right or remedy herein provided by reason of its conflict with applicable law or statute shall not affect any other valid right or remedy afforded to Mortgagee. No waiver of any Event of Default or of any default in the performance of any covenant contained in the Note or any other instrument securing the Note shall at any time thereafter be held to be a waiver of any rights of the Mortgagee hereunder, nor shall any waiver of a prior Event of Default or default operate to waive any subsequent Event of Default or default. All remedies provided for herein, in the Note and in any other instrument securing the Note are cumulative and may, at the election of Mortgagee, be exercised alternatively, successively, or concurrently. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision or to proceed against one portion of the Premises to the exclusion of any other portion.
- (b) This mortgage is upon any existing statutory condition and upon the further condition that all covenants and agreements of Mortgagor herein shall be fully or timely performed, time being of the essence under this mortgage, and that no breach of any such condition or agreement shall be permitted, for any breach of which Mortgagee

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-23-

shall have any statutory power of sale and this mortgage shall be subject to foreclosure as provided by law.

21. By accepting payment of any sum secured hereby after its due date, Mortgagee does not waive its right either to require prompt payment when due of all other sums or installments so secured or to declare a default for failure to pay such other sums or installments.
22. Notwithstanding anything herein or in the Note to the contrary, no provision contained herein or in the Note which purports to obligate Mortgagor to pay any amount of interest or any fees, costs or expenses which are in excess of the maximum permitted by applicable law, shall be effective to the extent that it calls for the payment of any interest or other sums in excess of such maximum. Any such excess shall, at the option of Mortgagee, either be paid to Mortgagor or be credited to principal on the Note. All agreements between Mortgagor and Mortgagee, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand for payment of or acceleration of the maturity of any of the indebtedness secured hereby or otherwise, shall the interest contracted for, charged or received by Mortgagee exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to Mortgagee in excess of the maximum lawful amount, the interest payable to Mortgagee shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance Mortgagee shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall at Mortgagee's option, be refunded to Mortgagor or be applied to the reduction of the principal balance of the indebtedness secured hereby and not to the payment of interest or, if such excessive interest exceeds the unpaid balance of principal of the indebtedness secured hereby, such excess shall be refunded to Mortgagor. This paragraph shall control all agreements between Mortgagor and Mortgagee.
23. In the event one or more provisions of this mortgage or of the Note shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this mortgage shall be construed as if any such provision had never been contained herein.
24. If the payment of the indebtedness secured hereby or of any part thereof shall be extended or varied, or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said Premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Mortgagee notwithstanding such variation or release.

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-24-

25. Upon payment in full of the indebtedness secured hereby and the performance by Mortgagor of all of the obligations imposed on Mortgagor herein and in the Note, these presents shall be null and void, and Mortgagee shall release this mortgage and the lien hereof by proper instrument executed in recordable form.
26. If no Event of Default has occurred and is continuing under this mortgage, Mortgagor shall have the privilege of making prepayments on the principal of the Note (in addition to the required payments) if and only to the extent and upon the terms and conditions, if any, expressly set forth in the Note. If not expressly so set forth, the Note is not subject to such prepayment.
27. Mortgagee, its agents, employees or assigns, shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose, subject to the rights of tenants under any lease of the Premises.
28. Within 15 days after any written request by Mortgagee, Mortgagor shall certify, by a written statement duly acknowledged, the amount of principal and interest then owing on the Note and whether any offsets or defenses exist against the indebtedness secured hereby.
29. Mortgagor shall furnish to Mortgagee within 90 days after the end of each fiscal year of Mortgagor a financial report in form and substance acceptable to Mortgagee covering the full and complete operation of the Premises, including without limitation: (i) income and expense statements with a listing of sales volumes attained by lessees of the Premises under percentage leases for the immediately preceding year, and, (ii) a report of the leasing status of the Premises as of the end of such year, identifying the lessee, square footage leased, rental amount, rental concessions and/or rental deferrals, if any, and expiration date under each lease of the Premises. Such reports shall be prepared by an accountant who may be an employee of Mortgagor, or of an affiliate of Mortgagor, acceptable to Mortgagee. In addition to the reports referred to herein, Mortgagor shall promptly supply any additional information or records relating to the Premises or its operation as Mortgagee may from time to time request.
30. Mortgagor shall submit to Mortgagee, during the life of this Mortgage, within 90 days following the end of each fiscal year annual balance sheets and income statements for Mortgagor, and annual personal financial statements for any guarantor of the Mortgagor's obligations hereunder.
31. Any notice which any party hereto may desire or be required to give to the other shall be deemed to be an adequate and sufficient notice if given in writing and service is made by either (i) registered or certified mail, postage prepaid, in which case notice shall be deemed to have been received five (5) business days following deposit to the mail; or (ii) nationally recognized overnight air courier, next day delivery, prepaid, in which case such notice shall be deemed to have been received one (1) business day following delivery to such

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-25-

courier. All notices shall be addressed to Mortgagor at its address given on the first page hereof or to Mortgagee at 711 High Street, Des Moines, Iowa 50392, Attn: Commercial Real Estate Loan Administration, Loan No. D-750513, or to such other place as either party may by written notice to the other hereafter designate as a place for service of notice.

32. Mortgagor hereby grants to Mortgagee and its respective agents, attorneys, employees, consultants and contractors, an irrevocable license and authorization to enter upon and inspect the Premises and all facilities located thereon, and to perform such tasks, including without limitation, subsurface testing, soil and ground water testing, and other tests which may physically invade the Premises or facilities, as Mortgagee, in its sole discretion, determines as necessary to (i) investigate the condition of the Premises, (ii) protect the security interests created under this Mortgage or (iii) determine compliance with all laws relating to Hazardous Materials, the provisions of this Mortgage and other matters relating thereto. Mortgagee and Mortgagor hereby acknowledge that the Lessee under the Dominick's Lease has also granted Mortgagee the right to inspect the Premises pursuant to the Subordination, Non-Disturbance and Attornment Agreement dated November 9, 1994 by and between Mortgagee, Mortgagor and Dominick's Finer Foods, Inc.
33. This mortgage and all the provisions hereof shall extend to and be binding upon Mortgagor and all persons claiming by, under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons and all persons liable for the payment of the indebtedness secured hereby or any part thereof, whether or not such persons have executed the Note or this mortgage. The word "Mortgagee" as used herein shall include the successors and assigns of the Mortgagee named herein, and the holder or holders from time to time of the Note secured hereby.
34. This mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.
35. As used herein, the term "Default Rate" means a rate equal to the lesser of (i) 4% per annum above the then applicable interest rate payable under the Note or (ii) the maximum rate allowed by applicable law.
36. Notwithstanding any provision of this Mortgage, the Note or any other instruments evidencing or securing the loan evidenced by the Note which might be construed to the contrary, the assignment of rents and other amounts provided for herein is an absolute assignment and not merely a collateral assignment or a security interest, and is effective whether or not any Event of Default occurs hereunder, subject only to a license granted by Mortgagee to Mortgagor with respect thereto prior to the occurrence of an Event of Default hereunder. It is the intention of Mortgagor and Mortgagee that the assignment effectuated by this Mortgage with respect to such rents and other amounts payable under the leases shall be a direct and currently effective assignment and shall not constitute merely the granting of a lien, security interest or pledge for the purpose of securing the

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-26-

indebtedness secured hereby. In the event that a court of competent jurisdiction determines that, notwithstanding such expressed intent of the parties, Mortgagee's interest in the rents and other amounts payable under the leases constitutes a lien on or security interest in or pledge thereof, it is agreed and understood that the forwarding of a notice to Mortgagor after the occurrence of an Event of Default, advising Mortgagor of the revocation of any license then in favor of Mortgagor to collect such rents or other amounts payable under the leases, or of the existence of an Event of Default, shall be sufficient action by Mortgagee to (i) perfect such lien on or security interest in or pledge of the rents and other amounts payable under the leases, (ii) take possession thereof, and (iii) entitle Mortgagee to immediate and direct payment of the rents and other amounts payable under the leases, for application as provided in this Mortgage, all without the necessity of any further action by Mortgagee, including, without limitation, any action to obtain possession of the land, improvements or any other portion of the premises. Notwithstanding the direct and absolute assignment of the rents and other amounts payable under the leases as herein described, there shall be no pro tanto reduction in any portion of the indebtedness secured by this Mortgage except with respect to rents and other amounts payable under the leases actually received by Mortgagee and applied by Mortgagee toward payment of the indebtedness. Mortgagee may, upon written notice to Mortgagor, elect to (i) exclude from the assignment provided in this Mortgage any of the leases as specified in such notice so that the interest under such indicated lease is not assigned to Mortgagee, and (ii) subordinate the lien and other terms and provisions of this Mortgage to any of the leases as indicated in said notice to Mortgagor.

37. Mortgagor is personally liable for the payment of principal, interest and premium due under the Note and the liabilities and obligations under this Mortgage and all other instruments and agreements by which the Note is secured, and Mortgagee shall have full recourse thereon against Mortgagor.
38. This mortgage and the indebtedness secured hereby is for the sole purpose of conducting or acquiring a lawful business, professional or commercial activity or for the acquisition or management of real or personal property as a commercial investment, and all proceeds of such indebtedness shall be used for said business or commercial investment purpose. Such proceeds will not be used for the purchase of any security within the meaning of the Securities Exchange Act of 1934, as amended, or any regulation issued pursuant thereto, including without limitation, Regulations G, T and X of the Board of Governors of the Federal Reserve System. This is not a purchase money mortgage and the Premises secured hereby is not a residence or homestead or used for mining, grazing, agriculture, timber or farming purposes.

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-27-

IN WITNESS WHEREOF, Mortgagor has caused this mortgage to be duly executed and delivered as of the date first above written.

SHADRALL ASSOCIATES, a New York general partnership

By: Shadrall Corp., a Massachusetts corporation,
its managing general partner

By

Name: Joseph F. Dempsey, Jr.

Title: President

DG:jp/s:750513/mtg
9/20/94

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COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK, ss.

On this 16th day of December, 1994, before me, Frank P. Conrad the undersigned, a Notary Public in and for said County and State, personally appeared Joseph J. Dempsey, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the President of Shadrall Corp., managing general partner of Shadrall Associates, 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 behalf of which the person acted, executed the instrument of its free act and deed.

WITNESS my hand and official seal.



Notary Public

My Commission Expires: 9/15/2000

FRANK P. CONRAD

Notary Public

My Commission Expires Sept. 15, 2000

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EXHIBIT A - PROPERTY DESCRIPTION

PARCEL 1:

That part of Block 4 and vacated alley in said Block, together with that part of vacated street adjoining said Block, in Torrence - Bernice Addition, a subdivision of part of the Southwest 1/4 of the Northwest 1/4 of Section 30, Township 36 North, Range 15 East of the Third Principal Meridian, according to the plat thereof recorded March 13, 1926 as Document No. 9206165, all taken as one tract bounded and described as follows: Commencing at the Northwest corner of said Block 4; thence South 0 degrees 00 minutes 20 seconds West, 329.09 feet along the West line of said Block to the point of beginning of the following described parcel of land; thence South 89 degrees 58 minutes 03 seconds East, 298.47 feet along a line drawn parallel with the North line of said Block to the point of intersection with a line 18.59 feet West of and parallel with the West line of Block 5 in the aforesaid Torrence-Bernice Addition; thence South 0 degrees 01 minutes 23 seconds West, 258.55 feet along said parallel line to the Southerly line of Glen Oak Avenue as vacated per Ordinance No. 527 passed by the Village of Lansing, Cook County, Illinois, said Southerly line being a line drawn from the Southwest corner of Lot 12 in said Block 5 to a point on the East line of Lot 27 in said Block 4, which is 10.00 feet North of the Southeast corner of said Lot 27; thence North 81 degrees 23 minutes 02 seconds West, 47.95 feet along said Southerly line of vacated Glen Oak Avenue to the East line of said Lot 27; thence North 90 degrees 00 minutes 00 seconds West, 125.49 feet along the North line of the South 10.00 feet of Lots 24 to 27 and the North line of the South 10.00 feet of the East 1/2 of alley West of and adjoining Lot 24 in said Block 4 to the West line of the East 1/2 of said alley; thence North 0 degrees 00 minutes 51 seconds East, 20.69 feet along said West line to the point of intersection with the Easterly projection of the South line of Lot 22 in said Block 4; thence North 89 degrees 58 minutes 03 seconds West, 60.00 feet along said South line and its Easterly projection to a point 50.00 feet West of the Southeast corner of said Lot 22; thence North 33 degrees 12 minutes 30 seconds West, 119.56 feet to the Northwest corner of Lot 19 in said Block 4; thence North 0 degrees 00 minutes 20 seconds East, 130.78 feet along the West line of said Block 4 to the hereinabove described point of beginning (excepting the West 12 feet therefrom as condemned in Case No. 93L50383), all in Cook County, Illinois.

PIN: 30-30-116-040-0000
30-30-117-033-0000

PROPERTY ADDRESS: 17365 TORRENCE AVENUE
LANSING ILLINOIS

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-2-

PARCEL 2:

A non-exclusive easement to use the common areas (as defined therein) for ingress, egress and parking and other uses as provided therein over the following described property as described in a Declaration of Easement dated April 8, 1980 and recorded May 17, 1982 as Document Number 26231778; all that part of Blocks 4, 5 and 6 and vacated alleys in said Blocks, together with that part of vacated streets adjoining said Blocks, all in Torrence-Bernice Addition, a subdivision of part of the Southwest 1/4 of the Northwest 1/4 of Section 30, Township 36 North, Range 15 East of the Third Principal Meridian, according to the Plat thereof recorded March 13, 1926 as Document Number 9206165, also that part of the West 6 rods of the East 10 rods of the West 16 rods of the East 32 rods of the North 80 rods of the Southwest 1/4 of the Northwest 1/4 of said Section 30, all taken as one tract bounded and described as follows:

Beginning at a point on the North line of Block 4, said point being 20.00 feet East of the Northwest corner of said Block; thence South 89 degrees, 58 minutes, 03 seconds East, 899.48 feet along the North line of said Blocks 4, 5 and 6 and the Easterly and Westerly projections of said North line to the Northeast corner of said Block 6; thence South 0 degrees 03 minutes 29 seconds West, 286.87 feet along the East line of said Block 6 to the Southeast corner of Lot 22 in said Block 6; thence 23 degrees 37 minutes 47 seconds West, 74.19 feet to the point of intersection of the Northerly South line of Lot 20 in said Block 6 with the West line of the East 66.00 feet of that part of the aforesaid West 6 rods of the East 10 rods of the West 16 rods of the East 32 rods of the North 80 rods of the Southwest 1/4 of the Northwest 1/4 of said Section 30 lying South of the Northerly South line and its Easterly projection, of Lot 20 in said Block 6 and lying North of the North line of Bernice Road as improved and occupied, said North line being also the Easterly extension of the South line of the aforesaid Block 6; thence South 0 degrees 03 minutes 01 seconds West 235.27 feet along the West line of the aforesaid East 66.00 feet, to the point of intersection with the aforesaid North line of Bernice Road; thence North 90 degrees 00 minutes 00 seconds West 572.32 feet along said North line of Bernice Road as improved and occupied and along the North line of said Bernice Road per Torrence-Bernice Addition aforesaid, to the Southwest corner of Lot 12 in said Block 5; thence North 81 degrees 23 minutes 02 seconds West 18.80 feet along the Southerly line of Glen Oak Avenue as vacated per Ordinance No. 527 passed by The Village of Lansing, Cook County, Illinois, to the point of intersection with a line drawn 18.59 feet West of and parallel with the West line of said Block 5; thence North 0 degrees 01 minutes 23 seconds East, 258.55 feet along said parallel line to the point of intersection with a line drawn parallel with the North line of said Block 4 through a point on the West line of said Block 4 which is 329.09 feet (as measured along said West line) South of the Northwest corner of

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-3-

said Block 4; thence North 89 degrees 58 minutes 03 seconds West 298.47 feet along the last described parallel line to the West line of said Block 4; thence North 0 degrees 00 minutes 20 seconds East, 309.09 feet along the West line of said Block 4, to a point 20.00 feet South of the Northwest corner of said Block; thence North 45 degrees 01 minutes 08 seconds East a distance of 28.28 feet to the point of beginning, all in Cook County, Illinois.

PIN: 30-30-116-040-0000
30-30-117-033-0000
30-30-118-030-0000

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EXHIBIT B - (MORTGAGE)

1. The ordinance vacating the streets and alleys in Blocks 4, 5 and 6 recorded July 21, 1975 as Document 23156744 and the reservation contained therein.
2. The ordinance vacating a portion of Glen Oak Avenue in Block 5, recorded September 9, 1981 as Document 25993770 and the reservation contained therein.
3. Declaration of Easement for the non-exclusive right to use the common areas of the "Shopping Center" as delineated on sketch attached to said Declaration recorded/filed May 17, 1982 as Document No. 26231778, and the terms and provisions contained therein.
4. Temporary Easement in favor of the public and of the State of Illinois over the land described in a petition filed June 11, 1993 in the Circuit Court of Cook County as Case Number 93L50561.
5. Matters as disclosed by an ALTA survey dated August 9, 1994 by National Survey Services, Inc., as Survey No. 11880 are as follows:
 - (a) The fact that overhead wires are located over the southerly portion of the Premises;
 - (b) The fact that various manholes and one inlet are located within the Premises.
6. Encroachment of the one-story brick building on the Premises onto possible easements located within that portion of vacated Glen Oak Avenue as reserved in ordinances described in items 1 and 2 above.

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