

UNOFFICIAL COPY

04059071

04059071

DEPT-01 RECORDING \$37.50
T05555 TRAN 0643 12/20/94 13:38:00
#8239 + JJ # -04-059071
COOK COUNTY RECORDER

(Space above this line for Recording Data)

MORTGAGE

This mortgage made and entered into this 14th day of December, 1994, by and between Donice Pannells, divorced and not since remarried, (herein, together with their heirs, successors and assigns, including each person now or hereafter claiming any interest in the Premises hereinafter referred to, called "Mortgagor"), as Grantor and Mortgagor, to Edena Bank whose address is 3245 W. Lake Ave, Wilmette, Ill:60091 (herein together with its successors or assigns, called "Mortgagee").

Lot 26 in Block 7 in George A. Seaverns Subdivision of the SE 1/4 of the SW 1/4 of Section 25, Township 40 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

04059071

WITNESSETH:

WHEREAS, Mortgagor is the owner in fee of that certain piece parcel or tract of real property and the improvements located thereon, situated in the City of Chicago Cook County, Illinois.

Permanent Index Number 13-25-322-041 which has the address of 2900 W. Fullerton Avenue, Chicago, Ill.

WHEREAS, Mortgagor has executed and delivered to Mortgagee (herein, together with its successors and assigns, including each and every owner and holder of Note hereinafter sometimes also referred to as "Lender" or "Holder") Mortgagor's Promissory Note dated as of the date hereof, bearing interest as therein stated, in the principal sum of \$ 30,000.00 payable to the order of Mortgagee (hereinafter referred to as "Note"); and

WHEREAS, the indebtedness evidenced by the Note, including the principal thereof and interest and premium, if any, thereon and all extensions and renewals thereof in whole or in part and any and all other sums which may at any time be due and owing or required to be paid as provided for in the Note or herein, and any other indebtedness of the Mortgagor, payable to the Mortgagee, evidenced by a promissory note, or a guaranty of a promissory note, executed and delivered by Mortgagor while the Note remains unpaid, stating that said indebtedness is secured by this Mortgage, including the principal thereof and interest and premium, if any, thereon and all extensions and renewals thereof in whole or in part and any and all other sums which may at any time be due and owing or required to be paid as provided for in said promissory note or herein, are herein called the "Indebtedness Hereby Secured." At no time shall the principal amount of the Indebtedness Hereby Secured, not including the sums advanced in accordance herewith to protect the security of this Mortgage, exceed the original amount of the Note, plus One Million (\$1,000,000.00) Dollars.

NOW, THEREFORE:

GRANTING AND PLEDGING PROVISIONS

04059071

For good and valuable consideration, including the Indebtedness Hereby Secured herein recited, the receipt of which is hereby acknowledged, Mortgagor does hereby GRANT, DEMISE, CONVEY, ALIEN, TRANSFER, and MORTGAGE unto the Mortgagee and its successors and assigns forever, under and subject to the terms and conditions herein set forth, all and sundry the rights, interest, and property hereinafter described (herein together called the "Premises"), to-wit:

- (a) All right, title, and interest of Mortgagor in and to any other rights, interests or greater estate in the Premises or other rights and properties comprising the Premises, now owned or hereafter acquired by Mortgagor;
- (b) All buildings and other improvements now or at any time hereafter constructed or erected upon or located on the Premises, together with all tenements, easements, fixtures and appurtenances thereto belonging (the Fee Parcel being herein called the "Real Estate"), together with and including, but not limited to, all fixtures, equipment, machinery, appliances and other articles and attachments now or hereafter forming part of, attached to, or incorporated in any such buildings or improvements (all herein generally called the "Improvements");
- (c) All privileges, reservations, allowances, hereditaments, tenements, and appurtenances now or hereafter belonging or pertaining to the Real Estate or Improvements;
- (d) All estates, right, title, and interest of Mortgagor in any and all leases, subleases, arrangements or agreements relating to the use and occupancy of the Real Estate and Improvements or any portion thereof, now or hereafter existing or entered into (all herein generally called "Leases"), together with all cash or security deposits, advance rentals and other deposits or payments of similar nature given in connection with any Leases;
- (e) All rents, issues, profits, royalties, income, avails and other benefits now or hereafter derived from the Real Estate and Improvements, under Leases or otherwise (all herein generally called "Rents"), subject to the right, power and authority given to the Mortgagor in the Assignment hereinafter referred to, to collect and apply the rents;
- (f) Any interests, estates or other claims, both in law and in equity, which Mortgagor now has or may hereafter acquire in the Real Estate or Improvements or other rights, interests or properties comprising the Premises now owned or hereafter acquired;

37.50



11/12/94
R12-1058U

(g) All right, title, and interest of Mortgagee now owned or hereafter acquired in and to (i) any land or vaults lying within the right-of-way of any street or alley, open or proposed, adjoining the Real Estate, (ii) any and all alleys, sidewalks, strips and gores of the land adjacent to or used in connection with the Real Estate and improvements, (iii) any and all rights and interests of every name or nature forming part of or used in connection with the Real Estate and/or the operation and maintenance of the improvements, and (iv) all easements, rights of way and rights used in connection with the Real Estate or improvements or as a means of access thereto.

(h) All the estate, interest, right, title or claim or demand which Mortgagee now has or may hereafter have or acquire with respect to (i) the proceeds of insurance in effect with respect to the Premises; and (ii) any and all awards, claims for damages and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceedings; or by any proceeding or purchase in law thereof, of the whole or any part of the Premises, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for sovereign damages (all herein generally called "Awards").

TO HAVE AND TO HOLD the Premises and each and every part thereof unto the Mortgagee, its successors and assigns forever, for the purposes and upon the uses herein set forth.

FOR THE PURPOSE OF SECURING

(a) The equal and ratable payment of principal and interest and premium, if any, on the Note and all redemptions, extensions and renewals thereof, according to their tenor and effect, without preference or priority of principal over interest or interest over principal.

(b) Payment of all other Indebtedness Hereby Secured with interest thereon.

(c) Performance by Mortgagee of all obligations of Mortgagee hereunder and all agreements of Mortgagee incorporated by reference herein or contained herein whether or not the Mortgagee shall be personally obligated or liable therefor.

(d) Performance and observance of all the terms, provisions, conditions, and agreements on Mortgagee's part to be performed and observed under and pursuant to that certain Assignment of Rights dated the date hereof (herein called the "Assignment") from Mortgagee to Mortgagee given as additional security for the Indebtedness Hereby Secured.

(e) Payment of all sums advanced by holder to perform any of the covenants and agreements of Mortgagee hereunder or otherwise advanced by Mortgagee or any holder or holder pursuant to the provisions hereof to protect, enforce, and preserve the Premises and/or the Note hereof, together with interest on all such sums at the Default Rate specified in the Note herein called the "Default Rate", to be as intended and agreed that all such sums with interest thereon being for all purposes hereof deemed so much additional Indebtedness Hereby Secured.

The Note, this Mortgage, and the Assignment of Rights are herein together called the "Loan Documents".

PROVIDED, NEVERTHELESS, and these presents are on the express condition that if the Mortgagee shall pay when due the Indebtedness Hereby Secured and shall perform and observe all of the terms, provisions, covenants, and agreements hereunder and in the other Loan Documents provided to be performed and observed by the Mortgagee, then this Mortgage and the estate, right, and interest of the Mortgagee in the Premises shall cease and become void and of no effect, otherwise to remain in full force and effect.

AND the Mortgagee does hereby further covenant and agree as follows:

1 The Mortgagee will (a) pay when due the principal and interest and interest and premium, if any, on the Indebtedness Hereby Secured, and all other sums which may become due pursuant to the Note, hereof and all other Loan Documents (all of which shall constitute so much additional Indebtedness Hereby Secured); (b) pay and punctually perform and observe as provided as provided herein or in the Note, any conditions, covenants, and agreements on the Mortgagee's part to be performed or observed as provided herein or in the Note, any other note or guarantee executed and delivered by Mortgagee to Mortgagee, or other Loan Documents (and this Mortgage shall secure such payment, performance and observance); (c) pay when due all Indebtedness secured by a lien upon the Premises, whether such lien is prior to, on a parity with or subordinate to, the lien hereof, and perform and observe all of the terms, provisions, and conditions contained in all instruments creating such liens or evidencing or securing any such liens or to vary the provisions of Section 20 hereof; (d) at all times duly and punctually perform and observe all of the terms, provisions, and conditions of Mortgagee's part as Lessor to be performed and observed under any Lease to the end that no default shall exist under the Lease; and (e) not cause, suffer or permit to exist any default under, or event or condition which would itself or with the payment of time or the giving of notice, or both, constitute a default under any Lease, or any Assignment or under the Lease; and (f) promptly repair, restore or rebuild any building or improvement now or hereafter to be constructed hereunder to terminate the Lease or the owner of paramount title to any Lease hereof.

2 The Mortgagee will (a) promptly repair, restore or rebuild any building or improvement now or hereafter on the Premises which may become damaged or be destroyed, (b) keep the Premises in good repair, without waste, and free from mechanics, materialmen's or laborer's liens or other liens or claims for lien, (c) complete, within a reasonable time, any building or building now or at any time in the process of erection upon the Premises, (d) comply with all requirements of law, municipal ordinance or restrictions of record with respect to the Premises and the use thereof; (e) make or permit no material alterations in the Premises except as required by law or ordinance without the prior written consent of the Lessor; (f) comply with all provisions and conditions on Lessor's part to be performed under the terms of the Premises; (g) suffer or permit no change in the general nature of the occupancy of the Premises; (h) not, without Mortgagee's consent, in late or acquire in any zoning classification, ordinance or restriction of record with respect to the Premises, (i) suffer or permit no unlawful use of, or nuisance to exist upon, or waste of the Premises; and (j) not remove any telephone wiring or equipment installed within the Premises if to do so would materially damage or destroy any portion of the Premises unless Mortgagee first deposits such sums with the Mortgagee or any holder as may be required to restore the Premises to its pre-existing condition. Notwithstanding anything herein contained to the contrary, Mortgagee shall have the right to contest any mechanic's lien placed upon the property, provided that Mortgagee shall obtain the insurance over said mechanic's lien covering the interest of Mortgagee in said property.

3 Except as permitted in Section 2 hereof, the Mortgagee will not create or suffer or permit any lien, charge or encumbrance to attach to the Premises, other than permitted hereunder, whether such lien or encumbrance is in favor or superior to the lien of the Mortgagee, excepting only the lien of real estate taxes and assessments not due or delinquent.

4 The Mortgagee will pay all general taxes before any penalty or interest attaches, and shall pay special taxes, special assessments, water charges, sewer service charges, and all other charges against the Premises of any nature whatsoever when due, and will, upon written request, furnish to Mortgagee duplicate receipts therefor within thirty (30) days following the date of payment. The Mortgagee shall pay to full "under protest", any tax or assessment which Mortgagee may desire to contest, in the manner provided by law.

5 Mortgagee shall deposit with the Mortgagee, or the Mortgagee's designated agent (hereinafter called "Collection Agent"), commencing on the date of disbursement of the proceeds of the loan secured hereby and on the first day of each month following the month in which said disbursement occurs (unless otherwise agreed to by Mortgagee), a sum equal to the amount of all real estate taxes and assessments (general and special) next due upon or for the Premises (the amount of such taxes next due to be based upon the Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed) reduced by the amount, if any, then on deposit with the Mortgagee, divided by the number of months to elapse before two months prior to the date when such taxes and assessments will first become due and payable. Such deposits are to be held without any allowance or payment to Mortgagee and are to be used for the payment of taxes and assessments (general and special) on the Premises next due and payable. If the funds so deposited are insufficient to pay any such taxes and assessments (general and special) when the Mortgagee becomes due and payable, the Mortgagee shall, within ten (10) days after receipt of demand therefor from the Mortgagee, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year the excess shall be applied on a subsequent deposit or deposits. Said deposits

170655040

UNOFFICIAL COPY

need not be kept separate and apart from any other funds of the Mortgagee. Anything in this Section 5 to the contrary notwithstanding, if the funds so deposited are insufficient to pay any such taxes or assessments (general or special) or any installment thereof, Mortgagee will, not later than the thirtieth (30) day prior to the last day on which the same may be paid without penalty or interest, deposit with the Mortgagee the full amount of any such deficiency. In any such taxes or assessments (general or special) shall be levied, charged, assessed or imposed upon or for the Premises, or any portion thereof, and if such taxes or assessment shall also be a levy, charge, assessment or imposition upon or for any other premises not encumbered by the lien of this Mortgage, then the computation of any amount to be deposited under this Section 5 shall be based upon the entire amount of such taxes or assessments, and Mortgagee shall not have the right to apportion the amount of any such taxes or assessments for the purposes of such computation.

8. For the purpose of providing funds with which to pay premiums when due on all policies of fire and other hazard insurance covering the Premises and the Collateral (defined in Section 22) and unless waived by Mortgagee in writing, the Mortgagee shall deposit with the Mortgagee or the Collection Agent, commencing on the date of disbursement of the proceeds of the loan secured hereby and on the first day of each month following the month in which said disbursement occurs (unless otherwise agreed to by Mortgagee), a sum equal to the Mortgagee's estimate of the premiums that will next become due and payable on such policies reduced by the amount, if any, then on deposit with the Mortgagee, divided by the number of months to elapse before two (2) months prior to the date when such premiums become due and payable. No interest shall be allowed or paid to Mortgagee on account of any deposit made hereunder and said deposit need not be kept separate and apart from any other funds of the Mortgagee.

7. In the event of a default hereunder, the Mortgagee may, at its option but without being required so to do, apply any monies at the time on deposit pursuant to Section 5 and Section 8 hereof on any of Mortgagee's obligations contained herein or in the Note, in such order and manner as the Mortgagee may elect. When the Indebtedness Secured Hereby has been fully paid, any remaining deposits shall be paid to Mortgagee or to the then owner or owners of the Premises as the same appear on the records of the Mortgagee. A security interest, within the meaning of the Illinois Uniform Commercial Code is hereby granted to the Mortgagee in and to all monies at any time on deposit pursuant to Section 5 and Section 8 hereof and such monies and all of Mortgagee's right, title and interest therein are hereby assigned to Mortgagee, all as additional security for the indebtedness hereunder and shall, in the absence of default hereunder, be applied by the Mortgagee for the purposes for which made hereunder and shall be subject to the direction or control of the Mortgagee; provided, however, that Mortgagee shall not be liable for any failure to apply to the payment of taxes or assessments or insurance premiums any amount so deposited unless Mortgagee, while not in default hereunder, shall have furnished Mortgagee with the bills therefor and requested Mortgagee in writing to make application of such funds to the payment of the particular taxes or assessments or insurance premiums for payment of which they were deposited, accompanied by the bills for such taxes or assessments or insurance premiums. Mortgagee shall not be liable for any act or omission taken in good faith, but only for its gross negligence or willful misconduct.

8. The Mortgagee will insure and keep insured all of the buildings and improvements now or hereafter constructed or erected upon the Premises and each and every part and parcel thereof, against such perils and hazards as the Mortgagee or the Holder may from time to time reasonably require with no more than \$1,000 deductible in any case, and in any event including any and all insurance required by any Lease, and the following:

(a) Insurance against loss or damage to the improvements by fire, risks covered by the so-called standard extended coverage endorsement, vandalism and malicious mischief endorsement and so-called "all perils" endorsement and such other risks as the Mortgagee or the Holder may reasonably require in amounts equal to the full replacement value of the Premises plus the cost of debris removal, with a full replacement cost endorsement, and Lender's Loss Payable endorsement;

(b) Comprehensive general public liability insurance against bodily injury and property damage arising in connection with the Premises, with such limits as the mortgagee or any holder may reasonably require;

(c) If there are pressure fired vehicles or vessels within the Premises, broad form boiler and machinery insurance on all equipment and objects customarily covered by such insurance, providing for full repair and replacement cost coverage;

(d) Other insurance of the types and in amounts as the Mortgagee or any Holder may reasonably require, but in any event not less than customarily carried by persons owning or operating like properties;

(e) During the construction of any improvements or making of any alterations to the Premises, (i) builders completed value risk insurance against "all risks of physical loss" including collapse and transit coverage during such construction in non-reporting form, covering the total value of work performed and equipment, supplies, and materials furnished, containing "permission to occupy upon completion" endorsement; (ii) insurance covering claims based on the owner's contingent liability not covered by the insurance provided above; and, (iii) employer's liability and workmen's compensation insurance covering all persons engaged in making such construction, alterations or improvements; and

(f) Federal Flood Insurance in the maximum obtainable amount, if the Premises is in a "flood plain area" as defined by the Federal Insurance Administration pursuant to the Federal Flood Disaster Protection Act of 1973, as amended.

9. All policies of insurance to be maintained and provided as required by Section 8 hereof shall be in form and substance, and written by companies and in amounts (subject to the provisions of Section 8 hereof) satisfactory to the Holder and in connection with such insurance:

(a) All policies of casualty insurance shall have attached thereto mortgagee clauses or endorsements in favor of and with loss payable to the Holder as its interest may appear, all in form satisfactory to Holder.

(b) Mortgagee will deliver all policies, including additional and renewal policies to the Collection Agent for the benefit of the Holder, and in case of insurance policies about to expire, the Mortgagee will deliver renewal policies not less than ten (10) days prior to the respective dates of expiration.

(c) If under the terms and provisions of any Lease now in effect or of any other Lease specifically approved by the Holder, the Lessee under such Lease is required to maintain insurance in the types and amounts as set forth in Section 8 hereof, then:

(i) If pursuant to the terms of such Lease, such insurance is to be maintained for the benefit of both Lessor and any Mortgagee of Lessor, the Holder will accept such policy or policies in lieu of policies required by Section 8 or this Section 9 hereof, provided that the policies furnished by such Lessee meet the requirements set forth in Section 8 and this Section 9 hereof, and

(ii) In the event any such Lessee shall fail to keep such insurance in full force and effect, and deliver the same as provided for in Section 8 and in this Section 9 hereof, then the Mortgagee shall obtain and deliver such policy or policies as required by Section 8 and this Section 9 hereof.

(d) Each policy of insurance shall be endorsed to provide that (i) it may not be cancelled or amended except upon ten (10) days prior written notice to Collection Agent and Holder; and, (ii) no act or negligence of the insured or any occupant, and no occupancy of the Premises or use thereof for purposes more hazardous than permitted by the terms of the policy will affect the validity or enforceability of the insurance as against the Mortgagee or any Holder.

10. The Mortgagee will give the Mortgagee, each Holder and the Collection Agent prompt notice of any damage to or destruction of the Premises, and:

(a) In case of loss covered by policies of insurance, the Holder (or, after entry of decree for foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such policies without the consent of the Mortgagee, or (ii) allow the Mortgagee to agree with the insurance company or companies on the amount to be paid upon the loss; provided, that the Mortgagee may itself adjust losses aggregating not in excess of Fifty Thousand (\$50,000.00) Dollars, and provided further that in any case the Mortgagee (at the direction of the Holder or the Collection Agent on its behalf, if so directed) shall, and is hereby authorized to, collect and receipt for any such insurance proceeds; and the expenses incurred by the Mortgagee, Holder or Collection Agent in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness Secured, and shall be reimbursed to Holder upon demand.

(b) In the event of any insured damage to or destruction of the Premises or any part hereof (herein called an "Insured Casualty"), the Holder (or the Collection Agent on its behalf) may, at its election either:

04059071

(c) The Mortgagee or any Holder, in making any payment thereon by a check, or in paying any taxes and assessments, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (ii) for the purchase, discharge, compromise or settlement of any other lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

18. The Mortgagee and any Holder and the Collection Agent upon prior notice shall have the right to inspect the Premises at all reasonable times, and access thereto shall be permitted for that purpose.

19. The Mortgagee will (a) within ninety (90) days after the end of each of its fiscal years, furnish to the Holder at the place where interest on the indebtedness hereby secured is then payable, financial and operating statements of the Premises, and (b) within ninety (90) days after the end of each of the fiscal year of Mortgagee, a personal financial statement of Mortgagee. The foregoing statements shall be prepared and certified by Mortgagee. These statements shall in each case include a balance sheet and income statement and in connection with the Premises, a rent roll, and statement of income and expense, all in such detail as the Holder may require. Such statements shall be prepared in accordance with the basis that Mortgagee's accountants typically employ. If such statements are not prepared in accordance with generally accepted accounting principles, or if Mortgagee fails to furnish them on time, any Holder may audit the books of the Premises and of Mortgagee's beneficiary, all at Mortgagee's expense, and the cost thereof shall be so much additional indebtedness hereby secured, bearing interest at the Default Rate until paid, and payable upon demand.

20. Subject to the provisions of Section 21 hereof, it shall be an immediate Event of Default and default hereunder if, without the prior written consent of the Holder:

(a) The Mortgagee shall create, effect or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Premises or any part thereof, or interest therein, excepting only sales or other dispositions of Collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral, subject to the lien hereof, of at least equal value and utility;

(b) If the Mortgagee is or at any time shall be a corporation, any shareholder of such corporation shall create, effect or consent to, or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any such shareholder's share in the corporation;

(c) If the Mortgagee is or at any time shall be a partnership or joint venture, any partner or joint venturer thereof shall create, effect or consent to, or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any part of the general partnership or joint venture interest, as the case may be, of such partnership or joint venture.

In each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is affected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise, the provisions of this Section 20 shall be operative with respect to, and shall be binding upon any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon the Premises, or such beneficial interest in, share of stock or of partnership or joint venture interest.

21. The provisions of Section 20 hereof shall not apply to the following transfers and encumbrances, each of which shall be deemed consented to:

(a) Liens securing the indebtedness hereby secured;

(b) The lien of current taxes and assessments not in default;

(c) Transfer of the Premises, or parts thereof, or interest therein or any beneficial interest, shares of stock or partnership or joint venture interests, (the transfer of which would otherwise result in an Event of Default pursuant to the provisions of Section 20 hereof, by or on behalf of an owner thereof who is deemed or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives and/or committee;

(d)

22. In addition to the lien which this Mortgage places upon the real estate conveyed hereunder, this Mortgage also constitutes a Security Agreement under the Uniform Commercial Code of the State of Illinois (herein called the "Code") with respect to all rents, issues, profits and avails of any Lease of the Premises, and with respect to any part of the Premises which may or might now or hereafter be deemed to be personal property, fixtures or property other than real estate (all for the purpose of this Section 22 called "Collateral"); all of the terms, provisions, conditions, and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this Section 22 shall not limit the generality or applicability of any other provision of this Mortgage but shall be in addition thereto:

(a) The Mortgagee (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral.

(b) The Collateral is to be used by the Mortgagee solely for business purposes, being installed upon the Premises for Mortgagee's own use or as the equipment and furnishings by Mortgagee, as Landlord, to tenants of the Premises.

(c) The Collateral will be kept at the Real Estate comprised in the Premises, and will not be removed therefrom without the consent of the Holder and Mortgagee (being the Secured Party as that term is used in the Code); and the Collateral may be affixed to the Real Estate but will not be affixed to any other real estate.

(d) The only persons having any interest in the Premises are (i) the Mortgagee, (ii) the Mortgagee and the Holder; and (iii) Lessees under existing Leases.

(e) No financing statement covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto, and Mortgagee will at its own cost and expense, upon demand, furnish to the Mortgagee and Holder such further information and will execute and deliver to the Mortgagee or any Holder such financing statements and other documents in form satisfactory to the Mortgagee or any Holder and will do all such acts and things as the Mortgagee or any Holder may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the indebtedness hereby secured, subject to any adverse liens or encumbrances; and the Mortgagee will pay the cost of filing the same or filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Mortgagee or any Holder to be necessary or desirable.

(f) Upon the occurrence of any default or Event of Default hereunder (regardless of whether the Code has been enacted in the jurisdiction where rights or remedies are asserted) and at any time thereof (such default not having previously been cured), the Mortgagee (at the request of the Holder) or any Holder at its option may declare the indebtedness hereby secured immediately due and payable, all as more fully set forth in Section 23 hereof, and thereupon the Mortgagee and the Holder shall have the remedies of a secured party under the Code, including without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for what purpose may, so far as the Mortgagee can give authority therefor, with or without judicial process enter (if this can be done without breach of the peace), upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and the Mortgagee and the Holder and each of them shall be entitled to hold, maintain, preserve and prepare the Collateral for sale until disposed of, or may propose to retain the Collateral subject to Mortgagee's right of redemption in satisfaction of the Mortgagee's obligations, as provided in the Code. The Mortgagee and the Holder without removal may render the Collateral unusable and dispose of the Collateral on the Premises. The Mortgagee and the Holder may require the Mortgagee to assemble the Collateral and make it available to the Mortgagee and the Holder for their possession at a place to be designated by them which is reasonably convenient to both parties. The Mortgagee or Holder, as the case may be, will give Mortgagee at least five (5) days notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by registered or certified mail, postage prepaid, to the address specified for notices to Mortgagee as set forth in Section 37 hereof at least five (5) days from the time of the sale or disposition. The Mortgagee or any Holder may buy at any public sale and if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee or any Holder may buy at private sale. Any such sale may be held as part

04053071

23. If one or more of the following events (hereinafter referred to as "Events of Default") shall occur...

24. When the Indebtedness hereby Secured shall become due, whether by acceleration or otherwise, the Mortgagee or any Holder shall have the right to enter into and upon the Premises and take possession thereof...

25. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court with which such complaint is filed shall have the power to appoint a receiver or receiver of the Premises, and the Mortgagee or any Holder of the Collection Agent may be appointed as such receiver...

26. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court with which such complaint is filed shall have the power to appoint a receiver or receiver of the Premises, and the Mortgagee or any Holder of the Collection Agent may be appointed as such receiver...

27. The terms and provisions contained in this Section 27 shall, unless the context otherwise requires, have the meaning and be construed as provided in the Code, and the Holder shall be deemed secured parties for the purpose of the Code, with respect to this Section 27.

28. If an Event of Default pursuant to Section 20 hereof shall occur and be continuing, the Holder shall be deemed secured parties for the purpose of the Code, with respect to this Section 28.

29. The remedies of the Mortgagee and Holder hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any or all of the other remedies of the Mortgagee or any Holder, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness hereby Secured remains unpaid.

30. If any default shall occur (and shall not be cured) within any applicable grace period under the provisions of Section 30 hereof or under the Assignment referred to in said Section 30, the Mortgagee shall have the right to enter into and upon the Premises and take possession thereof...

31. If any Event of Default or default shall occur under any of the Loan Documents, and any applicable grace periods shall have expired, the Holder shall be deemed secured parties for the purpose of the Code, with respect to this Section 31.

32. If an Event of Default pursuant to Section 32 hereof shall occur and be continuing, the Holder shall be deemed secured parties for the purpose of the Code, with respect to this Section 32.

33. The remedies of the Mortgagee and Holder hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any or all of the other remedies of the Mortgagee or any Holder, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness hereby Secured remains unpaid.

34. If any default shall occur (and shall not be cured) within any applicable grace period under the provisions of Section 34 hereof or under the Assignment referred to in said Section 34, the Mortgagee shall have the right to enter into and upon the Premises and take possession thereof...

35. If any Event of Default or default shall occur under any of the Loan Documents, and any applicable grace periods shall have expired, the Holder shall be deemed secured parties for the purpose of the Code, with respect to this Section 35.

36. The remedies of the Mortgagee and Holder hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any or all of the other remedies of the Mortgagee or any Holder, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness hereby Secured remains unpaid.

37. If any default shall occur (and shall not be cured) within any applicable grace period under the provisions of Section 37 hereof or under the Assignment referred to in said Section 37, the Mortgagee shall have the right to enter into and upon the Premises and take possession thereof...

38. If any Event of Default or default shall occur under any of the Loan Documents, and any applicable grace periods shall have expired, the Holder shall be deemed secured parties for the purpose of the Code, with respect to this Section 38.

39. The remedies of the Mortgagee and Holder hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any or all of the other remedies of the Mortgagee or any Holder, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness hereby Secured remains unpaid.

40. If any default shall occur (and shall not be cured) within any applicable grace period under the provisions of Section 40 hereof or under the Assignment referred to in said Section 40, the Mortgagee shall have the right to enter into and upon the Premises and take possession thereof...

41. If any Event of Default or default shall occur under any of the Loan Documents, and any applicable grace periods shall have expired, the Holder shall be deemed secured parties for the purpose of the Code, with respect to this Section 41.

42. The remedies of the Mortgagee and Holder hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any or all of the other remedies of the Mortgagee or any Holder, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness hereby Secured remains unpaid.

43. If any default shall occur (and shall not be cured) within any applicable grace period under the provisions of Section 43 hereof or under the Assignment referred to in said Section 43, the Mortgagee shall have the right to enter into and upon the Premises and take possession thereof...

Intervention of such receiver, would be entitled to possession of 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 may, from time to time, authorize the receiver to apply the net income from the Premises in said receiver's hands in payments in whole or in part of:

(a) The indebtedness Hereby Secured or the indebtedness secured by any 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.

27. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Section 25 hereof; Second, all other items which, under the terms hereof, constitute indebtedness Hereby Secured additional to that evidenced by the Note, with interest on such items as herein provided; Third, to principal and interest remaining unpaid upon the Note, ratably and without priority; and, lastly, any surplus to the Mortgagee, and its successors or assigns, as their rights may appear.

28. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in rebuilding or restoring the building or improvements, as aforesaid, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. In the case of foreclosure of this Mortgage, the court, in its decree, may provide that the loss clause attached to each of the casualty insurance policies may be canceled and that the decree creditor may cause a new loss clause to be attached to each of said casualty insurance policies making the loss thereunder payable to said decree creditors; and any such foreclosure decree may further provide that in case of one or more redemptions under said decree, pursuant to the statute in such case made and provided, then in every such case, each and every successive redeemer may cause the preceding loss clause attached to each casualty insurance policy to be canceled and a new loss clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale, the Mortgagee or any Holder is hereby authorized without the consent of the Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as the Mortgagee or such holder may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies.

29. The Mortgagor hereby covenants and agrees to the full extent permitted by law (but not otherwise) that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any advantage of, any stay, exemption or extension law, any "Homestead Law" or any so-called "Moratorium Law" now or at any time hereafter in force, nor claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales hereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or alter such sale or sales claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof. Mortgagor hereby expressly waives any and all rights of redemption from foreclosure under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of such person, excepting only decrees or judgment creditors of the Mortgagor acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Chapter 110, Paragraph 15-1001 of the Illinois Revised Statutes (1989) or other applicable replacement statutes. Insofar as the Mortgagor may lawfully so agree, the Mortgagor covenants and agrees not to invoke or utilize any such law or laws or otherwise to delay or impede the execution of any right, power or remedy herein otherwise granted or delegated to the Mortgagee or any holder, but covenants and agrees to suffer and permit the execution of every such right, power, and remedy as though no such law or laws had been made or enacted.

30. As further security for the indebtedness Hereby Secured, the Mortgagor has, concurrently herewith, executed and delivered to the Holder, the Assignment wherein and whereby, among other things, the Mortgagor has assigned to the Holder, all of the rents, issues, and profits and any and all Leases and/or the rights of management of the Premises, all as therein more specifically set forth, which said Assignment is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length. The Mortgagor agrees that it will duly perform and observe all of the terms and provisions on its part to be performed and observed under the Assignment. The Mortgagor further agrees that it will duly perform and observe all of the terms and provisions on Lessor's part to be performed and observed under all Leases of the Premises to the end that no defaults on the part of Lessor shall exist thereunder. Nothing herein contained shall be deemed to obligate the Mortgagee or any Holder or the Collection Agent to perform or discharge any obligation, duty or liability of Lessor under any Lease of the Premises, and the Mortgagee shall and does hereby indemnify and hold the Mortgagee and any Holder and the Collection Agent harmless from any and all liability, loss or damage which the Mortgagee or any Holder or the Collection Agent, may or might incur under any Lease of the Premises or by reason of the Assignment; and any and all such liability, loss or damage incurred by the Mortgagee or any Holder or the Collection Agent, together with the costs and expenses, including reasonable attorneys' fees, incurred by the Mortgagee or any Holder or the Collection Agent in the defense of any claims or demands therefor, whether successful or not, shall be so much additional indebtedness Hereby Secured, and the Mortgagor shall reimburse the Mortgagee and Holder and the Collection Agent therefor on demand, together with interest at the Default Rate from the date of demand to the date of payment.

31. Nothing herein contained shall be construed as constituting the Mortgagee or any Holder as a holder in possession.

32. Mortgagor covenants and agrees at all times to be in full compliance with provisions of law prohibiting discrimination on the basis of race, color, creed or national origin including, but not limited to, the requirements of Title VIII of the 1968 Civil Rights Act.

33. At the request of Mortgagee or any Holder, the Mortgagor will cause this Mortgage and all other documents securing the indebtedness Hereby Secured at all times to be properly filed and/or recorded at Mortgagor's own expense, and in such manner and in such places as Mortgagee or any Holder may request in order to fully preserve, perfect, and protect the title and security of the Mortgagee or any Holder.

34. In the event that the ownership of the Premises becomes vested in a person or persons other than the Mortgagor, the Mortgagee, any Holder and Collection Agent may, without notice to the Mortgagor, deal with such successor or successors in interest of the Mortgagor with reference to this Mortgage and the indebtedness Hereby Secured in the same manner as with the Mortgagor; and the Mortgagor will give immediate written notice to the Mortgagee, any Holder and Collection Agent of any conveyance, transfer or change of ownership of the Premises, but nothing in this Section contained shall vary or negate the provisions of Section 20 hereof.

35. Each right, power, and remedy herein conferred upon the Mortgagee, any Holder and Collection Agent is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power, and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee and any Holder, and the exercise of the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of the Mortgagee or any Holder or any or in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

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

37. The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

04059071

IN WITNESS WHEREOF, the undersigned have caused these presents to be signed by me, on the day, month, and year first above written.

UNOFFICIAL COPY

Donice Pannells
Donice Pannells

CORPORATE ACKNOWLEDGEMENT

STATE OF ILLINOIS)
) ss
COUNTY OF)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that on this day personally appeared before me, _____ and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and personally known to me to be the _____ and _____, respectively, of _____ and acknowledged that they signed, sealed, and delivered the said instrument and their free and voluntary act and deed, for the uses and purposes therein set forth, and that the seal affixed to the foregoing instrument is the corporate seal and the said instrument was signed, sealed, and delivered in the name and in behalf of said corporation by the authority of their stockholders and board of Directors as the free and voluntary act of said corporation for the uses and purposes set forth, including the waiver of rights of redemption and waiver of all rights and benefits under and by virtue of the homestead exemption laws.

GIVEN under my hand and notarial seal this _____ day of _____, 19____.

(NOTARIAL SEAL)

Notary Public

My commission expires: _____

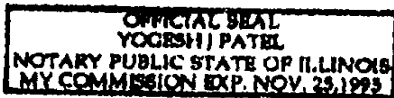
INDIVIDUAL ACKNOWLEDGEMENT

STATE OF ILLINOIS)
) ss
COUNTY OF Cook)

I, **Yogesh J. Patel**, a Notary Public in and for said County, in the State aforesaid, do hereby certify that on this day personally appeared before me, **Donice Pannells** and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act and deed, for the uses and purposes therein set forth, including the waiver of rights of redemption and waiver of all rights and benefits under and by virtue of the homestead exemption laws of this state.

GIVEN under my hand and notarial seal this **14th** day of **December**, 19**94**.

(NOTARIAL SEAL)



Yogesh J. Patel
Notary Public

04059071

My commission expires: **November 25, 1995**

This Instrument Prepared by: **Yogesh J. Patel**
and mail to same

Edens Bank 3245 W. Lake Ave, Wilmette, Ill:60091



UNOFFICIAL COPY

Property of Cook County Clerk's Office

04059071