

UNOFFICIAL COPY



Doc#: 1120741122 Fee: \$64.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/28/2011 11:42 AM Pg: 1 of 15

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

CTEFS000078 5015 CP

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 20-03-122-043-0000

Address:

Street: 318-328 E. 43RD STREET

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60657

Lender: HAYEL SWEIS

Borrower: THE FORUM ON 43RD LLC

Loan / Mortgage Amount: \$0.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 7770 et seq. because it is commercial property.

Certificate number: 683D1447-2AB3-45E9-A1B0-E8B104BF8F66

Execution date: 07/08/2011

S Y
P 15
S N
SC Y
INT CP

BOX 333-CT

Property of Cook County Clerk's Office

UNOFFICIAL COPY

MORTGAGE

THIS INDENTURE is made as of the 8th day of June, 2011 by The Forum on 43rd, LLC, an Illinois limited liability company ("Mortgagor"), in favor of Hayel Sweis, an individual ("Mortgagee").

WITNESSETH

THAT WHEREAS, the Mortgagor is justly indebted to Mortgagee in the principal sum of Fifty Thousand and No/100 Dollars (\$50,000.00) evidenced by one certain Promissory Note ("Note") of Mortgagor of even date herewith, made payable to the order of Mortgagee and delivered to the Mortgagee in and by which Mortgagor promises to pay the principal sum of Fifty Thousand and No/100 Dollars (\$50,000.00) and interest at the rate (sometimes referred to as "mortgage rate") as provided in said Note, with a final payment of the balance due on September 1, 2013.

NOW, THEREFORE, for the purpose of securing the payment of said principal sum of money and said interest on the Note, of even date herewith, and the performance of the covenants and agreements herein contained, by Mortgagor to be performed, and in further consideration of the sum of One Dollar (\$1.00) in hand paid, the Mortgagor, does by these presents hereby MORTGAGE, CONVEY, AND WARRANT unto Mortgagee, its successors and assigns, the following described real estate situated in the County of Cook and State of Illinois to wit.:

LEGAL DESCRIPTION ATTACHED

COMMONLY KNOWN AS: 318-328 E. 43rd Street, Chicago, Illinois

PERMANENT INDEX NUMBER: 20-03-122-043-0000

TOGETHER with all and singular tenements, easements, privileges appendages and

UNOFFICIAL COPY

appurtenances thereto belonging or in any wise appertaining, all buildings, and improvements now located thereon or which may hereafter be placed thereon, fixtures, and appurtenances thereto belonging or in any wise appertaining, and all rents, issues and profits thereof (which are hereby expressly assigned to the Mortgagee) for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and all shades, awnings, Venetian blinds, screens, screen doors, storm doors and windows, gas and electric fixtures, curtain fixtures, partitions, attached floor covering, furnace pumps and all other fixtures, apparatus, and equipment including inventory equipment or articles now or hereafter therein or thereon used to supply, heat, gas, air conditions, water, light, power, sprinkler protection, waste removal, refrigeration (weather single units or centrally controlled), and ventilation; it being understood that the enumeration of any specific articles of property shall in no wise exclude or be held to exclude any items of property not specifically mentioned. All of the land, estate and property here in above described, real, personal, and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified) and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the real estate, and to be appropriated to the use of the real estate, and shall for the purposes of this mortgage be deemed to be real estate and conveyed and mortgaged hereby.

TO HAVE AND TO HOLD the mortgaged premises and property unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, hereby releasing and waiving all rights of the Mortgagor under and by virtue of the Homestead Exemption Laws of the State of Illinois in and to the premises hereby conveyed.

IN CONSIDERATION of the premises and for the better securing of the payment of said principal sum, interest, and of all indebtedness hereby secured, the said Mortgagor (hereby covenants and agrees to and with the Mortgagee for the use of Mortgagee, as follows:

1. To pay said indebtedness and the interest under the Note as is provided in said Note, or according to any agreement extending the time of payment thereof; to pay prior to the delinquent date in each year, all taxes and assessments levied or assessed upon said premises or any part thereof, and, upon demand by the Mortgagee, or any noteholder, to exhibit receipts therefor; to pay, within thirty (30) days after the same shall become due under the ordinances, requirements or regulations of the municipality in which the real estate described herein is situated, all water charges against said premises, and, upon demand by the Mortgagee, or any noteholder, to exhibit receipts therefor; not to do, nor permit to be done upon said premises, anything that might impair the value thereof, or the security intended to be effected by virtue of this instrument; and in case of the failure of the Mortgagor so to pay taxes, water charges, or special assessments, free from any liens thereon, then the Mortgagee, or the legal holder of any notes may pay such taxes, water charges, or special assessments, or redeem said premises from any tax sale, or discharge or purchase any tax claims or other liens thereon, or pay out any other sum or sums necessary for the protection, enforcement, or collection of this security, and any and all monies paid for any such purpose, shall become so much additional indebtedness secured hereby, and shall be included in any decree of foreclosure hereof, and shall be paid out of the rents and proceeds of sale of said premises if not otherwise paid by said Mortgagor; and it shall not be obligatory, in advancing or disbursing monies for any purpose above authorized, to

UNOFFICIAL COPY

inquire into the validity of any claim or lien for which such disbursement is made. Nothing herein contained shall be construed as requiring the Mortgagee or noteholder to advance or expend monies for any of the aforesaid purposes.

PAYMENT OF TAXES

2. Mortgagor shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor to prevent default hereunder; and in case of the failure of the Mortgagor to pay such taxes, water charges, or special assessments, then the Mortgagee or legal holder of the Note may but not be obligated to pay such taxes, water charges or special assessments, or redeem said premises from any tax sale, or discharge or purchase any tax claims or other liens thereon, or pay-out any other sum or sums necessary for the protection, enforcement, or collection of this security, and any and all monies paid for such purpose, shall become so much additional indebtedness secured hereby and shall be included in any decree of foreclosure hereof, and shall be paid out of the rents and proceeds of sale of said premises, if not otherwise paid by the Mortgagor. The Mortgagor shall not be required to pay any tax or assessment deemed excessive or invalid so long as Mortgagor shall, in good faith, object to or otherwise contest the validity of same by appropriate legal proceedings which shall operate to prevent the collection of any such taxes or assessments, or the sale of any part of the property to satisfy the same, provided always that prior to the institution of any such proceedings the Mortgagor shall, upon demand by the Mortgagee or any subsequent noteholder as protection and indemnity against loss or damage resulting therefrom, deposit either in cash or securities acceptable to the Mortgagee an amount sufficient in its judgement to cover the unpaid or protested portion of any such tax or special assessment together with any costs and penalties thereon which may thereafter accrue. During the pendency of such legal proceedings neither the Mortgagee nor any noteholder shall have a right to pay any taxes or assessment so contested unless (a) the Mortgagor shall fail, in the judgement of the Mortgagee or such noteholder, to prosecute such proceeding with reasonable diligence, (b) a tax receiver shall be appointed for said premises, or (c) said premises shall be advertised for sale for nonpayment of any such taxes or assessments. In any one of which events the Mortgagee or any noteholder shall have the right to make such payment, and during the pendency of such proceedings, and upon the termination of the same and the overruling or sustaining of such objections or proceeds, in whole or in part, the Mortgagee or any noteholder is hereby given full power and authority, without notice to the Mortgagor, to use and apply so much of said cash or securities as may be necessary, in its sole judgement and discretion, to pay any balance owing and unpaid upon any taxes, assessments, or water charges so contested, together with interest, penalties, and costs, and the Mortgagor further covenant to make such additional deposits as the Mortgagee and any noteholder from time to time may deem necessary in order that the Mortgagee shall at all times have on deposit a sufficient amount to protect it against any loss or damage as aforesaid.

INSURANCE

3. Mortgagor shall obtain general liability insurance with a general aggregate limit for personal injury, death and property damage of not less than \$1,000,000. All policies of insurance

UNOFFICIAL COPY

to be furnished hereunder shall be in forms, from companies and in amounts reasonably satisfactory to Mortgagee, with mortgage clauses attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidence thereby shall not be terminated or materially modified without ten (10) days prior written notice to Mortgagee. Mortgagor shall deliver all policies to Mortgagee upon request, and, in the case of insurance about to expire, shall deliver renewal policies not less than ten (10) days prior to their respective dates of expiration.

ADJUSTMENT OF LOSSES WITH INSURER AND APPLICATION OF PROCEEDS OF INSURANCE.

4. In case of loss, Mortgagee (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) is hereby authorized either (a) to settle and adjust any claim under such insurance policies without consent of Mortgagor, or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. However, so long as no event of default has occurred under this Mortgage or the Note and Mortgagor is diligently pursuing its rights and remedies with respect to a claim, Mortgagee will obtain Mortgagor's written consent (which consent shall not be unreasonably withheld or delayed) before making proof of loss for or settling or compromising such a claim.

In either case Mortgagee is authorized to collect and receipt for any such insurance money. If the insurers do not deny liability as to the insurers, such proceeds, after deducting therefrom any expenses incurred in the collection thereof, shall be used to finance the cost of rebuilding or restoration of buildings and improvement on said premises. In all other cases, such insurance proceeds may, at the option of Mortgagee, either be applied in reduction of the indebtedness secured hereby, whether due or not, or be held by Mortgagee and used to finance the cost of the rebuilding or restoration of buildings or improvements on said premises. The buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction. In the event Mortgagor is entitled to reimbursement out of the insurance proceeds, such proceeds shall be made more available, from time to time, upon Mortgagee being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractors' sworn statements and other evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractors' sworn statements and other evidence of cost and of payments as Mortgagee may reasonably require and approve, and if the estimated cost of the work exceeds ten percent (10%) of the original principal amount of the indebtedness secured hereby, with all plans and specifications for such rebuilding or restoration as Mortgagee may reasonably require and approve. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed, from time to time, and at all times the undisbursed balance of said proceeds remaining in the hands of Mortgagee shall be at least sufficient to pay for the cost of the work free and clear of liens.

In case of loss after foreclosure proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoring the buildings or improvements, shall be used to pay the amount due in accordance with any decree

UNOFFICIAL COPY

of foreclosure that may be entered in any 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 as the court may direct. In case of the foreclosure of this mortgage, the court in its decree may provide that the Mortgagee's clause attached to each of said insurance policies may be canceled; 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 and in every such case, each successive redeemer may cause the proceeding loss clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

STAMP TAX

5. If, by the laws of the United States of America, or of any state having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the issuance of the Note hereby secured, Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agree to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agree to indemnify Mortgagee, its successor or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the note secured hereby.

INTENTIONALLY OMITTED

6. Intentionally Omitted.

PREPAYMENT PRIVILEGE

7. Mortgagor shall have the privilege of making prepayments on the principal of said Note in accordance with the terms and conditions, if any set forth in said Note.

INTENTIONALLY OMITTED

8. Intentionally Omitted.

EFFECT OF EXTENSIONS OF TIME

9. If the payment of said indebtedness or any part thereof 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 extension, variation or release.

Any person, firm or corporation taking a junior mortgage or other lien upon the premises or any interest therein, shall take the said lien subject to the rights of the Mortgagee herein to

UNOFFICIAL COPY

amend, modify and supplement this mortgage and the Note and to vary the rate of interest and the method of computing the same, and to impose additional fees and other charges, and to extend the maturity of the indebtedness hereby secured, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this mortgage losing its priority over the rights of any such junior lien;

Nothing in this Section contained shall be construed as waiving any provision of Sections 28 and 29 hereof.

INTENTIONALLY OMITTED

10. Intentionally Omitted.

MORTGAGEE'S PERFORMANCE OF DEFAULTED ACTS

11. In case of default therein, 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 of 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 monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other monies advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice. Inaction of Mortgagee shall never be considered as a waiver of a right accruing to it on account of any default on the part of Mortgagor.

MORTGAGEE'S RELIANCE ON TAX BILLS, ETC.

12. Mortgagee in making payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry as to the validity or amount of any claim for lien which may be asserted.

ACCELERATION OF INDEBTEDNESS IN CASE OF DEFAULT

13. Except for failure to provide the insurance described in paragraph 3 hereof for which there will be no cure period if (a) default may be made in the due and punctual payment under the Note, or any installment due in accordance with the terms thereof, either of principal or interest and such default shall not be cured within the earlier of ten (10) days following the sending of notice thereof to Mortgagor or as otherwise provided in said notes; or (b) Mortgagor shall file a petition in voluntary bankruptcy or under Chapter 7, Chapter 11, or Chapter 13 of the Federal Bankruptcy code or any similar law, state, or federal, whether now or hereafter existing, or an answer admitting insolvency or inability to pay its debts within ten (10) days; or (c) Mortgagor shall fail to obtain a vacation or stay of involuntary proceedings within sixty (60) days, as hereinafter provided; or (d) Mortgagor shall be adjudicated a bankrupt, or a mortgagee

UNOFFICIAL COPY

or a receiver shall be appointed for Mortgagor or for all of its property or the major part thereof in any involuntary proceeding, or any court shall have jurisdiction of the property for the reorganization, dissolution, liquidation or winding up of Mortgagor, and such mortgagee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within sixty (60) days; or (e) Mortgagor shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or mortgagee or liquidator of all of its property or the major part thereof; or, (f) default shall be made in the due observance or performance of any other of the covenants, agreements or conditions hereinbefore or hereinafter contained, required to be kept or performed or observed by Mortgagor and the same shall continue for thirty (30) days following the delivery of notice thereof to Mortgagor, then and in every such case the whole of said principal sum hereby secured shall, at once, at the option of Mortgagee, become immediately due and payable, together with accrued interest thereon, without notice to Mortgagor.

FORECLOSURE; EXPENSE OF ALL TYPES OF LITIGATION

14. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the 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 may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of said premises, including probate, housing and building code violation, and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor and shall be secured by this mortgage.

APPLICATION OF PROCEEDS OF FORECLOSURE SALE

15. 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 the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal interest remaining unpaid on the note; fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

REMEDIES; FORBEARANCE

UNOFFICIAL COPY

16. Mortgagee's forbearance to exercise any remedy hereunder shall not be deemed and shall not constitute a waiver of any right or remedy hereunder.

APPOINTMENT OF RECEIVER

17. Upon, or at any time after the filing of a complaint to foreclose this mortgage, the court in which such complaint is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency or 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 holder of the note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of; (a) the indebtedness secured hereby, or 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 foreclosure sale; (b) the deficiency in case of a sale and deficiency.

MORTGAGEE'S RIGHT OF POSSESSION ON CASE OF DEFAULT

18. In any case in which under the provisions of this mortgage Mortgagee has a right to institute foreclosure proceedings, after the whole principal sum secured hereby is declared to be immediately due as aforesaid and after the institution of legal proceedings to foreclose the lien hereof and after sale thereunder, forthwith, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the premises or any part thereof personally, or by its agents or attorneys. And Mortgagee may, after the whole principal sum secured hereby is declared to be immediately due as aforesaid and after the institution of legal proceedings to foreclose the lien hereof and after sale thereunder, forthwith, enter upon and take and maintain possession of all or any part of said premises, together with all documents, books, records, papers and accounts of mortgagor or the then owner of the premises relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may as attorney in fact or agent of Mortgagor, or in its own name as mortgagor and under the powers herein granted, hold, operate, manage and 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 or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter without notice to Mortgagor, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the

UNOFFICIAL COPY

payment or security of the avails, rents, issues, and profits of the premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor, and with full power to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same, to elect to disaffirm any lease or sublease made subsequent of this mortgage or subordinated to the lien hereof, to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements to the premises as to it may seem judicious, insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof and to receive all of such avails, rents, issues and profits.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under leases, and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and for many and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge and of the terms, covenants or agreements contained in said leases. Should Mortgagee incur any such liability, loss or damage, under 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, expense and reasonable attorneys' fees, shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefore immediately upon demand.

APPLICATION OF INCOME RECEIVED BY MORTGAGEE

19. Mortgagee is the exercise of the rights and powers herein conferred upon it by paragraph 18 hereof shall have 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 operating expenses of said property, including cost of management and leasing thereof (which shall include reasonable compensation and expenses of seeking and procuring tenants and entering into leases); established claims for damages, if any, and premiums on insurance hereinabove authorized;
- (b) to the payment of taxes and special assessments now due or which may hereafter become due on said premises;
- (c) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of said premises, and of placing said property in such condition as will, in the judgement of Mortgagee, make it readily rentable;
- (d) to the payment of any indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

MORTGAGEE'S RIGHT OF INSPECTION

UNOFFICIAL COPY

20. Mortgagee shall have the right to inspect the premises at all reasonable times and upon no less than 48 hours notice and access thereto shall be permitted for that purpose.

CONDEMNATION

21. Mortgagor hereby assign, transfer and set over unto Mortgagee the entire proceeds of any award or any claim for damages for any of the mortgaged property taken or damaged under the power of eminent domain or by condemnation. Mortgagee shall apply the proceeds of the award upon or in reduction of the indebtedness secured hereby, whether due or not, or to require Mortgagor to restore or rebuild, in which event the process shall be held by Mortgagee and used to finance the cost of the rebuilding or restoring of buildings or improvements on said premises, in accordance with plans and specifications to be submitted to and approved by Mortgagee. If Mortgagor is obligated to restore or replace the damaged or destroyed building or improvements under the terms of any lease or leases which are or may be prior to the lien of this mortgage and if such taking does not result in cancellation or termination of such lease, the award shall be used to finance Mortgagor for the cost of the rebuilding or restoring of buildings or improvements on said premises, provided Mortgagor is required or authorized, either by Mortgagee's election as aforesaid, or by virtue of any such lease, to the same manner as is provided in paragraph 4 hereof for the payment of insurance proceeds toward the cost of rebuilding or restoration. If the amount of such award is insufficient to cover the cost of rebuilding or restoration, Mortgagor shall not be required to rebuild or restore the premises. Any surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall be applied on account of the indebtedness secured hereby or be paid to any other party entitled thereto.

RELEASE UPON PAYMENT AND DISCHARGE OF MORTGAGOR'S OBLIGATION

22. Mortgagee shall terminate and return the original Note to Mortgagor and provide Mortgagor with a recordable release of this mortgage upon payment of all indebtedness under the Note.

GIVING OF NOTICE

23. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and the mailing thereof by certified mail addressed to Mortgagor at 4245 S. King Dr., Chicago, Illinois 60653 or to the Mortgagee at 17055 Meadowcrest Dr., Homer Glen, IL 60491 or at such other place as any party hereto may be notice in writing designate as a place for service of notices, shall constitute service of notice hereunder.

INTENTIONALLY OMITTED

24. Intentionally Omitted.

INTENTIONALLY OMITTED

25. Intentionally Omitted.

UNOFFICIAL COPY

BINDING ON SUCCESSORS AND ASSIGNS

26. This mortgage and all provisions hereof, shall extend to and be binding upon Mortgagor and all persons claiming 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 or any part thereof, whether or not such persons shall have executed the Note or this mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of Mortgagee named herein, and the holder of holders, from time to time, of the note secured hereby.

LESSEE ATTORNMENT

27. In the event of the enforcement by Mortgagee of the remedies provided for by the law or by this Mortgage, the lessee under each lease of all or any part of the Premises made after the date of recording this Mortgage, if any, shall, at the option of the Mortgagee attorn to any person succeeding to the interest of Mortgagee, as a result of such enforcement and shall recognize such successor in interest as landlord under such lease without change in the terms or other provisions thereof, provided, however, that the said successor in interest shall not be bound by any payment of rent or additional rent for more than one month in advance or any amendment or modification to any lease made without the proper written consent of Mortgagee or said successor in interest, shall execute and deliver an instrument or instruments confirming such attornment, and Mortgagor shall cause such lease of all or any part of the Premises to contain a covenant on the lessee's part evidencing its agreement to such attornments.

TRANSFER OF PROPERTY OR INTEREST BY MORTGAGOR; ASSUMPTION

28. Upon sale or transfer of all or any part of the premises or any interest therein, to any person or entity, Mortgagee may, at its option, declare all sums secured by this Mortgage to be immediately due and payable, and Mortgagee may invoke any other remedies provided by this Mortgage, law or equity. This option shall not apply when the Mortgagee prior to the transfer or sale consents in writing to such transfer or sale and said consent by Mortgagee shall not be unreasonably withheld.

29. Mortgagor covenants and agrees that it will not, without the prior written consent of Mortgagee, which shall not be unreasonably withheld, further mortgage, grant a deed of trust, pledge or otherwise dispose of or further encumber, whether by operation of law or otherwise, any or all of its interest in the premises in any manner that shall cause Mortgagor to lose its first lien priority in the premises, and any such mortgage, deed of trust, pledge or encumbrance that causes Mortgagor to lose its first lien priority on the premises and that is made without the Mortgagee's prior written consent shall be null and void and the making thereof shall constitute a default under this Mortgage.

30. The Mortgagor represent and warrant that to the best of its knowledge the Premises complies in all material respects and covenants and agrees to cause the Premises to at all times comply, with all applicable federal, state, regional, county or local laws, statutes, rules,

UNOFFICIAL COPY

regulations or regulations or ordinances, including, but not limited to, the Comprehensive Environmental Response, compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. ss 9601 et seq., the Resource conservation and Recovery Amendments of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. ss 6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. ss 2601 et seq., the Emergency Planning and Community Right-to-know Act of 1986, 42 U.S.C. s11001 et seq., te Clean Air Act of 1966, as amended, 42 U.S.C. ss 7401 et seq., the National Environmental Policy Act of 1975, 42 U.S.C. ss 7401 et seq., the National Environmental Policy Act of 1975, 42 U.S.C. ss 4321, the Rivers and Harbours Act of 1899, 33 U.S.C. ss 401 et seq., the Occupational Safety and Health Act of 1970, 29 U.S.C. ss 651 et seq., and te Safe Drinking Water Act of 1974, as amended, 42 U.S.C. s300(1) et seq., and all rules, regulations and guidance documents promulgated or published thereunder, and any state, regional, county or local statute, law, rule, regulation or ordinance relating to public heath, safety or the environment, including, without limitation, relating to release, discharges, emissions or disposals to air, water, land or groundwater, to the withdrawal or use of groundwater, to the use, handling or disposal of polychlorinated biphenyls (PCB's), asbestos or area formaldehyde, to the treatment, storage disposal or management of hazardous substances (including, without limitation, petroleum, and its derivatives, by-products or other hydrocarbons), to exposure to toxic, hazardous, or other controlled, prohibited or regulated substances, to the transportation storage, disposal, management or release of gaseous or liquid substances, and any regulation, order, injunction, judgement, declaration, notice of demand issued thereunder. Notwithstanding anything contained herein to the contrary, Mortgagor shall only be liable or responsible for environmental hazards or hazardous substances deemed to originate after (and not before) the date in which Mortgagor received title to the premises from Mortgagee.

31. The Mortgagor represent and warrant that it has not given, nor should it give, nor has it received, any notice, letter, citation, order, warning, complaint, injury, claim or demand that: (i) the mortgagor has violated or is about to violate, any federal, state, regional, county or local environmental, health or safety statute, law, rule, regulation, ordinance, judgement or order; (ii) there has been a release, or there is threat of release, of hazardous substances (including, without limitation, petroleum by its by-products or derivatives or other hydrocarbons) from the Premises; (iii) the mortgagor may be or is liable, in whole or in part for the costs of cleaning up, remediating or responding to a release of hazardous substances (including, without limitation, petroleum by its by-products or derivatives or other hydrocarbons); (iv) any of the mortgagor's property or assets are subject to a lien in favor of any governmental Body for any liability, costs or damages, under federal, state or locale environmental law, rule or regulation arising from or costs incurred by such governmental entity in response to a release of a hazardous substance (including, without limitation, petroleum, its by-products or derivatives, or other hydrocarbons). In the event that the Mortgagor receives or gives any notice o the type described in this Section 26, the Mortgagor shall promptly provide a copy of to Mortgagee, and in no event, later than fifteen (15) days from the Mortgagor's receipt or submission thereof.

CAPTION

32. The captions and headings of various paragraphs of this mortgage are for

UNOFFICIAL COPY

LEGAL DESCRIPTION

LOTS 13, 14, 15, 16, AND 17 IN SUBDIVISION OF LOTS 25 TO 36 AND LOTS 61 TO 72 IN A.J. AVERILL'S SUBDIVISION OF THE SOUTH EAST ¼ OF THE SOUTH EAST ¼ OF THE NORTHWEST ¼ OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 318-328 E. 43rd Street, Chicago, Illinois

PERMANENT INDEX NUMBER: 20-03-122-043-0000

Property of Cook County Clerk's Office