

# UNOFFICIAL COPY

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WHEN RECORDED MAIL TO:

JEFFREY M. WESTON  
20 N. Clark Street  
Suite 1725  
Chicago, Illinois 60602

SPACE ABOVE THIS LINE FOR  
RECORDER'S USE

Property Summary:

County and State:

Cook County, Illinois

THIS INSTRUMENT PREPARED BY:

Legal Description of  
Property: See Exhibit A

JEFFREY M. WESTON  
20 N. Clark Street  
Suite 1725  
Chicago, Illinois 60602  
(312) 782-6220

Street Address:

333 West Higgins Road  
Schaumburg, Illinois 60193

PIN: 07-09-301-012-0000 and  
07-09-301-013-0000

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## COMMERCIAL MORTGAGE

THIS MORTGAGE made this 23rd day of December, 1986, by and between the HARRIS BANK/GLENCOE-NORTHBROOK, N.A., a National Banking Association, not personally but solely as Trustee under the provisions of a deed or deeds in trust duly recorded and delivered to said Trustee in pursuance of a Trust Agreement dated December 8, 1986 and known as Trust Number L-336, whose address is 333 Park Avenue, Glencoe, Illinois 60022, herein referred to as "Mortgagor," and HARRIS BANK/GLENCOE-NORTHBROOK, N.A., a National Banking Association, whose principal place of business is 333 Park Avenue, Glencoe, Illinois 60022, herein referred to as "Mortgagee".

The Mortgagor, in consideration of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the

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receipt and sufficiency whereof are hereby acknowledged, hereby MORTGAGES, WARRANTS and CONVEYS unto the Mortgagee, its successors and assigns, the following real estate as legally described in Exhibit A attached hereto and incorporated by reference herein, and all of its estate, right, title and interest therein.

Together with Mortgagor's interest as lessor in and to all leases of the said premises, or any part thereof, heretofore or hereafter made and entered into by Mortgagor during the life of this mortgage or any extension or renewal hereof.

Together with all improvements, buildings and structures now or at any time hereafter erected or situated on the real property, and all tenements, easements, fixtures and appurtenances thereto belonging, and all rents, issues and profits thereof (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, stoves and ranges, curtain fixtures, partitions, apparatus, equipment and articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration and ventilation, and all fixtures, apparatus, equipment and articles, other than such as constitute trade fixtures, used in the operation of any business conducted on the premises, all of which for the purposes of this mortgage shall be deemed to be real estate and conveyed and mortgaged hereby.

Together with all awards made to the present and all subsequent owners of the premises by any governmental or other lawful authority for taking by eminent domain the whole or any part of the premises or improvements thereon, the temporary use thereof or any easement thereon or thereunder, including any awards for any changes of grade of streets, which said awards are hereby assigned to Mortgagee, who is hereby authorized to collect and receive the proceeds of any such awards from said authorities and to give proper receipts and acquittances therefor.

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

TO HAVE AND TO HOLD the same unto the Mortgagee, together with all estates, titles, claims and demands whatsoever of the Mortgagor in and to said premises or any part thereof, and the Mortgagor does hereby covenant, warrant and agree that it is

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lawfully seized and possessed of said real estate in fee simple absolute and has good and lawful right and authority to sell, convey and mortgage same; that said real estate is free from all liens, claims, charges and encumbrances whatsoever, except as set forth herein, and that Mortgagor will warrant and defend the title to said real property against the lawful claims and demands of all persons.

TO HAVE AND TO HOLD the same unto the Mortgagee, its successors and assigns forever for the purpose of securing the payment of the Promissory Note of even date herewith in the principal sum of Two-Million Dollars (\$2,000,000.00) made by the Mortgagor and payable to the order of and delivered to the Mortgagee, in and by which said note the Mortgagor promises to pay the said principal sum and interest at the rate and in installments as provided in said Note, with a final payment of the balance due on the 2nd day of January, 1990, and all of said principal and interest are made payable at 333 Park Avenue, Glencoe, Illinois 60022, or at such place as the holders of the Note may, from time to time in writing appoint, and to further secure the performance and observance by Mortgagor of all of the covenants and agreements herein contained.

The Mortgagor further covenants, warrants and agrees with the Mortgagee as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Mortgagor will promptly pay the above described note according to the tenor and effect thereof and as in said note provided, and will also pay any other note or notes which hereafter may be given in renewal or extension thereof, and any and all other sums secured hereby at the time therein and herein designated. This mortgage shall be and remain security for the payment of all such notes. Privilege is reserved to make prepayments on said note only as set forth in said note.

2. PERFORMANCE OF COVENANTS AND CONDITIONS. Mortgagor shall keep and perform all covenants, conditions and terms of this mortgage and pay or cause to be paid to the Mortgagee the above described indebtedness with interest thereon according to the terms and conditions of said note, and shall keep and perform

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all covenants, conditions and terms in said note contained, all of which covenants, conditions and terms are incorporated by reference herein.

3. CONDITION OF PREMISES. Mortgagor shall:

- (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed;
- (b) keep said premises in good condition and repair, without waste, and free from mechanic's liens or other liens or claims for liens not expressly subordinated to the lien hereof;
- (c) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee;
- (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises;
- (e) comply with all requirements of law, municipal ordinances, rules, regulations or restrictions of record with respect to the premises and the use thereof;
- (f) make no material alterations, repairs, additions or improvements in or on said premises, except as required by law or municipal ordinance, without the written consent of Mortgagee;
- (g) suffer or permit no change in the general nature of the occupancy of the premises without Mortgagee's written consent;
- (h) initiate or acquiesce in no zoning reclassification without Mortgagee's written consent;
- (i) allow Mortgagee to inspect the premises at any reasonable time, and access thereto shall be permitted for that purpose.

4. PAYMENT OF TAXES. Mortgagor shall pay when first due and 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 first due, and shall, upon written request, furnish to Mortgagee duplicate receipts thereto. To prevent default hereunder Mortgagor shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagor may desire to

contest.

5. INSURANCE. Mortgagor shall keep all buildings and improvements now or hereafter situated on the premises insured against loss or damage by fire and other hazards as may be reasonably required by Mortgagee, including, without limitation of the generality of the foregoing, war damage insurance whenever in the opinion of Mortgagee such protection is necessary and available, in forms, companies and amounts satisfactory to Mortgagee, and with mortgagee clauses attached to all policies in favor of and on forms satisfactory to Mortgagee, and shall deliver all policies to Mortgagee. If Mortgagee elects and so notifies Mortgagor, but not more frequently than once every three years, Mortgagor, at its expense, shall furnish Mortgagee with an appraisal of the full insurable value of the premises, made by fire insurance appraisers satisfactory to Mortgagee and fire insurance companies generally. Mortgagor shall also carry liability insurance protecting Mortgagor (and any tenant or other user of the mortgaged premises) against liability for injuries to persons and property occurring in, on or adjacent to the mortgaged premises, in forms, companies, and amounts satisfactory to Mortgagee with the policy or policies evidencing such insurance to contain a ten (10) day notice of cancellation clause in favor of Mortgagee. Such liability policy or policies or certificates thereof shall be delivered to Mortgagee. Mortgagor shall, until the indebtedness secured hereby is paid in full, furnish Mortgagee at least ten (10) days prior to the date each coverage required herein would otherwise expire with evidence of the renewal or continuation of such coverage in the form of premium receipt or renewal policies or certificates. In the event the mortgaged premises or any part thereof are at any time leased and the lease or leases have been assigned to Mortgagee as additional security for the payment of indebtedness secured by this mortgage, Mortgagor shall, upon the request of Mortgagee, provide rent insurance payable to Mortgagee in an amount equal to the annual rental payable under such assigned lease or leases plus the lessee's approximate annual liability for taxes and insurance as provided in the lease or leases.

6. DESTRUCTION OF PREMISES. In the event of any damage to or destruction of the premises, covered by any policy or policies of insurance required to be carried by Mortgagor, Mortgagee may in its discretion (and it is hereby authorized to) either settle and adjust any claim under such insurance policies with the consent of Mortgagor, or allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, the proceeds shall be paid to Mortgagee, and Mortgagee is authorized to collect and to give receipt therefor. If (a) Mortgagor or any lessee is obligated to rebuild and restore the damaged or destroyed buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this mortgage, and (b) such damage or destruction does not result in the cancellation or termination of any such lease, and (c) the insurers do not deny liability with respect to

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the loss, such proceeds, after deducting therefrom any expenses incurred in the collection thereof, shall be used to reimburse Mortgagor or the lessee (whichever is obligated under the terms of the lease to accomplish the rebuilding and restoration) for the cost of rebuilding and restoring the buildings and improvements on the premises. In all other cases such insurance proceeds may, at the option of the Mortgagee, either be applied in reduction of the indebtedness secured here, whether or not then due and payable, or be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding and restoration of buildings and improvements on the premises. Following any damage to or destruction of the buildings or improvements on the premises (and regardless of the cause thereof, the availability of insurance proceeds or the manner of use of those proceeds by Mortgagee) until all indebtedness secured hereby shall be fully paid, Mortgagor shall be obligated to repair, restore and rebuild any buildings or improvements so damaged or destroyed. Repair and restoration of the buildings and improvements shall be commenced promptly after the occurrence of the loss and shall be so restored and rebuilt as to be of at least equal value and substantially the same character as prior to such damage and destruction, and in the event the estimated costs of rebuilding and restoration exceed twenty-five percent (25%) of the indebtedness then remaining unpaid as secured by this mortgage, the drawings and specifications pertaining to such rebuilding and restoration shall be subject to the prior written approval of Mortgagee. In the event that Mortgagor or any lessee is entitled to reimbursement out of the insurance proceeds, such proceeds shall be made available from time to time upon the furnishing to Mortgagee of satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractor's sworn statements and other evidence of cost and of payment as Mortgagee may reasonably require and approve. No payment made by Mortgagee prior to the final completion of the work shall, together with all payments theretofore made, exceed ninety percent (90%) of the value of the work performed to the time of payment, 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 completion of the work free and clear of liens. Should a loss occur after foreclosure or sale proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoration of the buildings or improvements, shall be used to pay the amount due in accordance with any decree of foreclosure, and the balance, if any, shall be paid as any court having jurisdiction may direct. Following any foreclosure sale, or other sale of the premises by Mortgagee pursuant to the terms hereof, Mortgagee is authorized without the consent of Mortgagor to assign any and all insurance policies to the purchaser of the sale and to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

7. TRANSACTION TAXES. If by the laws of the United

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States of America or of any state having jurisdiction of Mortgagor or of the mortgaged premises or of the transaction evidenced by the Note and this mortgage, any tax or fee is due or becomes due in respect of the issuance of the Note hereby secured or the making, recording, and registration of this mortgage, Mortgagor covenants and agrees to pay such tax or fee in the manner required by such law, and to hold harmless and indemnify Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any such tax or fee.

8. PREPAYMENTS. At such time as the Mortgagor is not in default under the terms of this Mortgage or the Note secured hereby, the Mortgagor shall have the privilege of making prepayments on the principal of the said Note (in addition to the required payments) to the extent permitted by and upon the terms and conditions set forth in the Note.

9. EXTENSION AND MODIFICATION OF DEBT. If the payment of the indebtedness secured hereby or of any part thereof, shall be extended or varied, or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Mortgagee notwithstanding such variation or release.

10. CHANGES OF LAW. In the event of the enactment after the date hereof of any law of the state in which the premises are located deducting from the value of land for the purposes of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges of liens herein required to be paid by Mortgagor, or changing any of the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then and in any such event Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessment or reimburse Mortgagee therefor; provided, however, that if in the opinion of counsel for Mortgagee it might be unlawful to require Mortgagor to make such payment, or the making of such payment might be construed as imposing a rate of interest beyond the maximum permitted by law, then, and in such event, Mortgagee may elect by notice in writing given to Mortgagor to declare all of the indebtedness secured hereby to become due and payable sixty (60) days from the giving of such notice.

11. NONPERFORMANCE OF COVENANTS BY MORTGAGOR. In case of any default therein by Mortgagor, other than payments due under said note, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor, in any form and manner deemed expedient and may, but need not, make full or partial payments of principal or interest on prior encumbrances,

if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises, or contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including all attorneys' fees and any other money 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 and with interest thereon at a per annum rate equal to three percent (3%) plus the per annum rate payable under the secured Promissory Note from the date of expenditure or advance until paid. No inaction on the part of Mortgagee shall be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

12. PAYMENTS BY MORTGAGEE ON BEHALF OF MORTGAGOR. In making any payment hereby authorized relating to taxes or assessments or for the purchase, discharge, compromise or settlement of any prior lien, Mortgagee may make such payment according to any bill, statement or estimate secured from the appropriate public office without inquiry into the accuracy thereof or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof or without inquiry as to the validity or amount of any claim for lien which may be asserted.

13. DEFAULT BY MORTGAGOR. If (a) default be made for five (5) days in the due and punctual payment of the Note or any installment thereof in accordance with its terms, either of principal or interest; or (b) Mortgagor shall file a petition in voluntary bankruptcy or under Chapter XI of the Federal Bankruptcy Code or any similar law, state or federal, whether now or hereafter existing, or any answer admitting insolvency or inability to pay its debts, or fail to obtain a vacation or stay of involuntary proceedings within thirty (30) days as hereinafter provided; or (c) Mortgagor shall transfer or assign all or a major portion of its assets, or shall be adjudicated a bankrupt, or a trustee or receiver shall be appointed for Mortgagor or for all or a major portion of its property in any involuntary proceeding, or any court shall have taken jurisdiction of the property of Mortgagor or of the major part thereof in an involuntary proceeding for the reorganization, dissolution, liquidation or winding up of Mortgagor and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within thirty (30) days; or (d) 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 trustee or liquidator of all of its property or the major part thereof; or (e) default shall be made in the due observance or performance or any other of the covenants or agreements or conditions herein contained, required to be kept or performed or observed by Mortgagor, and the same shall continue for thirty (30) days after notice specifying such default is

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given by Mortgagee to Mortgagor; or (f) any representation or warranty made herein by Mortgagor shall prove to be untrue or inaccurate in material respect and Mortgagor shall fail to make good or correct such untruth or inaccuracy within thirty (30) days following receipt of notice from Mortgagee; then in each and every such case the whole of said principal sum hereby secured shall at once at the option of the Mortgagee become immediately due and payable together with accrued interest thereon. In the event that any default specified by Mortgagee to Mortgagor under either "(e)" or "(f)" above shall be of such nature that it cannot be cured or remedied within thirty (30) days, Mortgagor shall be entitled to a reasonable period of time to cure or remedy such default, provided mortgagor commences the cure or remedy thereof within the thirty-day period following the giving of notice and thereafter proceeds with diligence to complete such cure or remedy. Mortgagor, in case of such default or failure to act or perform as set out herein, does hereby authorize and fully empower Mortgagee to immediately commence suit for the collection of the indebtedness secured hereby, or any part thereof, or for the foreclosure of this mortgage, or to obtain any other proper remedy deemed desirable by Mortgagee or any combination of the aforesaid remedies. Mortgagor agrees to pay all costs, charges and expenses reasonably incurred by the Mortgagee because of the failure of the Mortgagor to perform its duties and obligations under the mortgage and the note secured hereby or either, including attorneys' fees, appraiser's fees and title expenses and any and all expenses of foreclosure deemed reasonably necessary by Mortgagee to prosecute the foregoing action and to successfully obtain good and merchantable title to the premises. At any time after default, either before or after the commencement of an action in foreclosure, the holder of this mortgage shall be entitled to the appointment of a receiver for the mortgaged premises as a matter of right, and the power to collect the rents, issues and profits of said mortgaged premises, due and becoming due during the pendency of such foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured by this mortgage, without regard to the value of the mortgaged premises or the solvency of any person or persons liable for the payment of the mortgage indebtedness. The Mortgagor, for itself and any subsequent owner, hereby waives any and all defenses to the application for a receiver as above, and hereby specifically consents to such appointment, but nothing herein contained is to be construed to deprive the holder of the mortgage of any other right, remedy, or privilege it may now have under the law to have a receiver appointed. Whenever there is a default regardless of whether Mortgagee elects to foreclose this mortgage, the Mortgagee may collect all rents which may become due on the above property deducting therefrom any necessary operating expenses plus ten percent (10%) of the gross rental collected as compensation for making the collections and apply the remainder on the balance due on the note.

14. MORTGAGEE'S USE OF RENTS. Mortgagee in the exer-

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cise of the rights and power hereinabove conferred upon it shall have the full power to use and apply the avails, rents, issues and profits of the premises to the payment of or on account of the following, in such order as Mortgagee may determine:

- (a) to the payment of the expenses of operating said property, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agent or agents if management is delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance as herein above authorized;
- (b) to the payment of taxes and special assessments now due or which may hereinafter 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 judgment 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.

15. INSPECTION OF PREMISES. Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

16. CONDEMNATION. Mortgagor hereby assigns, transfers and sets over to Mortgagee the entire proceeds of any award or claim for damage for any of the mortgaged property taken or damages under the power of eminent domain or by condemnation. Mortgagee may elect to apply the proceeds of the award upon or in reduction of the indebtedness secured hereby, whether or not then due and payable, or to require Mortgagor to restore or rebuild, in which event the proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the cost of restoring and rebuilding all buildings and improvements on said premises in accordance with plans and specifications to be submitted to and approved by Mortgagee. If the Mortgagor or any lessee is obligated to restore and replace the damaged or destroyed buildings 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 reimburse Mortgagor or the lessee (whichever is obligated under the terms of the lease to accomplish the rebuilding and restoration) for the cost of rebuilding and restoring of the

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buildings and improvements of said premises, provided the Mortgagor is not then in default under this mortgage. In the event Mortgagee holds the proceeds to reimburse Mortgagor or any lessee for the costs of rebuilding and restoring the premises, then the proceeds of the award shall be paid out in the same manner as provided in Paragraph 6 hereof for the payment of insurance proceeds in reimbursement of the cost of rebuilding and restoration. If the amount of such award is insufficient to cover the costs of rebuilding and restoration, Mortgagor shall pay such cost in excess of the award before being entitled to reimbursement out of the award. Any surplus which may remain out of said award after payment of such cost of rebuilding and restoration shall, at the option of Mortgagee, be applied on account of the indebtedness secured hereby. Mortgagee shall be entitled to collect out of the proceeds of the award a premium on the amount prepaid at the same rate as though Mortgagor had elected at the time of such application of proceeds (or if Mortgagor then has no such election, at the first succeeding date Mortgagor could so elect) to prepay the indebtedness in accordance with the terms of the Note secured hereby.

17. SATISFACTION OF DEBT. Upon payment in full of the indebtedness secured hereby and the performance by Mortgagor of all of the obligations imposed on Mortgagor herein and in the Note, these presents shall be null and void, and Mortgagee shall release this mortgage and the lien hereof by proper instrument executed in recordable form.

18. NOTICE. Any notice which either party hereto may desire or be required to give to the other shall be deemed to be an adequate and sufficient notice if given in writing, and service is made by the mailing of such notice by registered or certified mail, addressed to Mortgagor at its address given on the first page hereof, or to Mortgagee at 333 Park Avenue, Glencoe, Illinois or to such other place as either party hereto may by notice in writing to the other party designate as a place for service of notice.

19. LEGAL PROCEEDINGS. In case Mortgagee is made a party to any suit or proceedings at law or in equity by reason of its interest in the premises as evidenced by this mortgage, Mortgagor promises to pay to Mortgagee all reasonable costs, charges and attorneys' fees incurred by Mortgagee in the preparation and trial of such suit or proceedings. Mortgagee may appear in and defend any action or proceeding purporting to affect the security hereof, and Mortgagor promises to pay all reasonable costs, charges and attorneys' fees so incurred. All sums extended or incurred by Mortgagee pursuant to this paragraph shall be secured hereby as so much additional indebtedness owing by Mortgagor to Mortgagee.

20. CONFORMITY OF PROVISIONS TO LAW. Notwithstanding anything herein or in the Note contained to the contrary, no provision contained herein and no provision contained in the Note

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shall be valid to the extent that it would require Mortgagor to pay any amount of interest or any fees, costs or expenses in excess of the legal maximum.

21. TAX RETURNS. All federal, state and other tax returns of Mortgagor required by law to be filed have been duly filed and all federal, state and other taxes, assessments and governmental charges upon Mortgagor, which to the knowledge of Mortgagor are due and payable, have been paid.

22. AUDITED FINANCIAL STATEMENTS. Mortgagor shall furnish, at the option of the Mortgagee, during the life of this mortgage, to the Mortgagee, within ninety (90) days after the close of each fiscal year, a detailed and analytical financial report covering the full and complete operation of the Mortgagor's business, including a balance sheet, statement of income and expenses, and a statement of surplus accounts as of the close of the preceding fiscal year. If Mortgagor is in default of any covenants or agreements to Mortgagee, Mortgagee shall have the right to require that the aforesaid financial report consist of audited financial statements prepared by a Certified Public Accountant previously approved by the Mortgagee in accordance with generally accepted accounting principles. In addition to the items named above, Mortgagor agrees to supply Mortgagee with such additional information and records as may be from time to time required by Mortgagee. Mortgagee shall be entitled to inspect the books and records of Mortgagor at any reasonable time.

23. INSOLVENCY OF MORTGAGOR AS DEFAULT. Mortgagor shall not file, or cause or permit to be filed, any bankruptcy or insolvency or reorganization proceedings, or apply for or consent to the appointment of a receiver or trustee for itself or the property (except when requested by Mortgagee) or permit any such appointment to be made, or make any assignment for the benefit of its creditors, or suffer any order to be entered adjudicating it to be bankrupt or insolvent, or appoint a receiver or trustee of it or the property or any part thereof.

24. FURTHER ASSURANCE. Mortgagor will, at Mortgagor's expense, at any time upon request by Mortgagee, execute and deliver all further assurances of title and all pertinent additional papers, information, records and instruments as may be required by Mortgagee for effectually carrying out the intentions of the parties hereto.

25. ASSIGNMENT OF LEASES. Mortgagor, in order to better secure the payment of the aforesaid note and the indebtedness evidenced thereby, does hereby sell, assign, transfer and set over unto Mortgagee, its successors and assigns, all its right, title and interest in and to all leases of the mortgaged premises or any part thereof heretofore made and entered into, and in and to all such leases hereafter made and entered into, during the life of this mortgage, including all extensions and renewals thereof and all rents, profits and income arising from



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any part of the mortgaged premises and any such leases, with the full right, but without the obligation on the part of the Mortgagee, to collect said rents and income. Mortgagor covenants that said leases and rents have not been previously assigned in any manner whatsoever and that they are subject to no liens of any kind and that all existing leases are in full force and effect.

26. MORTGAGEE IN POSSESSION. (a) In any case in which, under the provisions of this mortgage, the Mortgagee has a right to declare the principal sums secured hereby to be immediately due and payable, either before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, or in any case where the Mortgagee has a right to commence proceedings for the sale of the premises independent of any foreclosure proceedings, then Mortgagor shall forthwith upon demand of Mortgagee surrender to Mortgagee the possession of the premises and Mortgagee shall be entitled to take actual possession of the premises or any part thereof personally or by its agents or attorneys, as for condition broken, and Mortgagee in its discretion may enter upon and take and maintain possession of all or any part of the premises together with all documents, books, records, papers and accounts of the Mortgagor or the then owner of the premises relating thereto, and may exclude Mortgagor, its agents or assigns wholly therefrom, and may as attorney-in-fact or agent of the Mortgagor or in its own name as Mortgagee and under the powers herein granted, operate, manage or control the premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the income, rents, issues and profits of the premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rents, hereby granting full power and authority to exercise each and every one of the rights and privileges herein granted at any and all times hereafter, 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 to this mortgage or subordinate to the lien thereof (unless this mortgage has specifically been made subordinate to such lease or sublease), to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvement to the premises as may seem judicious, to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof, and to receive all of such income, rents, issues and profits.

(b) Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any lease, and the Mortgagor shall and does hereby agree to indemnify and to hold Mortgagee harmless from all liability, loss or damage which it

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might incur under said leases or under or by reason of the assignment thereof, and of and from any and all claims or demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should Mortgagee incur any such liability, loss, or damage under any of said leases, or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby and Mortgagor shall reimburse Mortgagee therefor immediately upon demand.

27. ESCROW ACCOUNT. (a) At the option of Mortgagee, Mortgagor shall deposit at such place as Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee at Glencoe, Illinois, on the first day of each month and until the indebtedness secured by the mortgage is fully paid, a sum equal to one-twelfth (1/12) of the last total annual taxes and assessment for the last ascertainable year (general and special) on said premises (unless said taxes are based upon an assessment which excludes the improvements or any part thereof now constructed, or to be constructed, in which event the amount of such deposits shall be based upon the Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed) plus such sufficient additional sums as Mortgagee shall deem necessary to take care of known increases in taxes and assessments, such deposits to be held without any allowance of interest and to be used for the payment of taxes and assessments (general and special) for any year when the same shall become due and payable, and the Mortgagor shall, within ten (10) days after receipt of demand therefore, 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 to a subsequent deposit or deposits.

(b) Mortgagor covenants and agrees, at the option of Mortgagee, to deposit at such place as the Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee at Glencoe, Illinois, on the 1st day of each month until the indebtedness secured by this mortgage is fully paid, an installment of the premium or premiums that will become due and payable to renew the insurance as hereinabove required by Paragraph 5 hereof. Each of such installments shall be in an amount which, by the payment of approximately equal installments, will result in there accumulating in the hands of the depository a sufficient amount to pay renewal premiums upon such policies of insurance at least one (1) month prior to the expiration date or dates of the policy or policies to be renewed; such deposits to be held without any allowance of interest and to be used for renewal of such insurance policies. If the funds so deposited are insufficient to pay all premiums for such renewals, the Mortgagor shall within ten

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(10) days after receipt of demand thereof deposit such additional funds as may be necessary to pay such premiums. If the funds so deposited exceed the amount required to pay such premiums, the excess shall be applied on a subsequent deposit or deposits.

(c) As long as Mortgagor is not in default under any of the provisions of the Note or Mortgage, and as long as all real estate taxes (including special assessments) and hazard insurance premiums are paid when due, and receipts thereof delivered to Mortgagee, Mortgagee will not require monthly deposits for these items to be paid as may be required pursuant to Paragraphs 27(a) and 27(b) hereof.

28. APPLICATION OF FUNDS. In the event of a default in any of the provisions contained in this mortgage or in the note secured hereby, the Mortgagee may at its option, without being required to do so, apply any monies at the time of deposit pursuant to Paragraphs 27 (a) and (b) hereof, as any one or more of the same may be applicable, on any of Mortgagor's obligations herein or in the note contained, 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 Mortgagor or to the then owner or owners of the mortgaged premises. Such deposits are hereby pledged as additional security for the indebtedness hereunder and shall be held in trust to be irrevocably applied by the depository for the purposes for which made hereunder and shall not be subject to the direction or control of the Mortgagor, provided, however, that neither the Mortgagee nor said depository shall be liable for any failure to apply to the payment of taxes and assessments any amount so deposited unless Mortgagor, while not in default hereunder, shall have requested said depository in writing to make application of such funds to the payment of the particular taxes or assessment for payment of which they were deposited, accompanied by the bills for such taxes and assessments.

29. DISTRIBUTION OF PROCEEDS. 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; Second, all other items which under the terms hereon constitute secured indebtedness additional to that evidenced by the note, with interest thereon as herein provided; Third, all principal and interest remaining unpaid on the note; Fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

30. ATTORNEYS' FEES AND EXPENSES. Mortgagor agrees that all costs, charges and expenses, including all attorneys' fees incurred by the Mortgagee arising out of or in connection with any action, proceeding or hearing, legal or quasi legal, or the preparation therefor, in any way affecting or pertaining to the mortgage, the note secured hereby or the mortgaged premises, shall be promptly paid by the Mortgagor. If funds for same are

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advanced by the Mortgagee, all such sums so advanced shall be added to the indebtedness secured hereby and shall bear interest at a per annum rate equal to three percent (3%) plus the per annum rate payable under the secured Promissory Note from the date of said advance, and shall be due and payable on demand.

31. DEFENSES. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good or available to the party interposing same in an action at law upon the Note hereby secured.

32. WAIVER OF STATUTORY RIGHT OF REDEMPTION. Mortgagor is authorized and empowered to, and does hereby waive any and all rights of redemption from sale under any order or decree of foreclosure, on behalf of the Mortgagor, the trust estate and all persons beneficially interested therein, and each and every person acquiring any interest in, or title to, the premises described herein subsequent to the date of the mortgage, and on behalf of all other persons to the fullest extent permitted by the provisions of Chapter 110, Section 12-125 and all other applicable provisions of the Illinois Revised Statutes.

33. DUE ON SALE. It shall be an event of default in the event that any of the following occur without the prior written consent of the holder of the note secured by this mortgage:

- (a) If the Mortgagor shall create, effect, or consent to, or shall suffer or permit any conveyance, sale, assignment, transfer, or other alienation or lien or encumbrance of the premises which is the subject matter of this mortgage; or
- (b) If any beneficiary of the Mortgagor shall create, effect, consent to, or shall suffer or permit any conveyance, sale, assignment, transfer, or other alienation or lien or encumbrance of such beneficiary's interest in the mortgage.

The provisions hereof shall apply in each case, without regard to whether any such conveyance, sale, assignment, transfer, alienation, lien or encumbrance is effected directly, indirectly, voluntarily, or involuntarily, by operation of law or otherwise. In the event of a default pursuant to the provisions of this paragraph, the holder of the note secured by this mortgage may, at its option, declare the principal sum remaining unpaid hereon, together with accrued interest thereon immediately due and payable.

34. SUCCESSORS AND ASSIGNS. This mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and all persons claiming by, under or through Mortgagor, and the word "Mortgagor" when used herein shall include the successors



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and assigns of the Mortgagor and all parties liable for the payment of the indebtedness or any part thereof, whether or not such parties shall have executed the Note or this mortgage. The word "Mortgagee" when used herein shall include the successor and assigns of the Mortgagee named herein, and the holder or holders, from time to time of the Note secured hereby.

35. TIME IS OF THE ESSENCE. Time is of the essence in this mortgage and no waiver of any obligation or option hereunder or of the note secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the instruments secured thereby.

36. APPLICABLE LAW. This Mortgage shall be governed by, and construed in accordance with the laws of the State of Illinois.

37. FORUM. The appropriate forum for the resolution of any dispute arising hereunder shall be the State Court in the County where the real estate mortgaged hereunder is situated.

38. GENDER. Any and all pronouns used herein shall be modified when required for the appropriate gender, and shall be either singular or plural, as the circumstances require.

39. HEADINGS. The headings used in this Mortgage are used for administrative purposes only, and do not constitute substantive matters to be considered in construing the terms of this Mortgage.

40. LEGAL CONSTRUCTION. In case any one or more of the provisions contained in this Mortgage shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

This document is made by Trustee and accepted upon the express understanding that Trustee enters into the same not personally, but only as Trustee of the land trust which holds title to the property encumbered by this mortgage, in the exercise of the power and authority conferred upon and vested in it as such Trustee and that no personal liability is assumed by nor shall be asserted or enforced against Trustee because of or on account of the making or executing of this document or of anything therein contained, all such liability, if any, being ex-

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## EXHIBIT A

### Street Address:

333 West Higgins Road, Schaumburg, Illinois 60195

### PIN:

07-09-301-012-0000 and 07-09-301-013-0000

DEPT-01 RECORDING

\$28.50

T#1111 TRAN 1954 12/23/86 16:07:00

#4576 # C \* -86-615381

COOK COUNTY RECORDER

### LEGAL DESCRIPTION

THAT PART OF THE EAST 1/2 OF THE SOUTH WEST 1/4 OF SECTION 9, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH EAST CORNER OF SAID SOUTH WEST 1/4 THENCE NORTHWARD ALONG THE EAST LINE OF SAID SOUTH WEST 1/4, NORTH 00 DEGREES 21 MINUTES 42 SECONDS EAST, A DISTANCE OF 53.10 FEET TO A POINT ON A LINE BEING 70 FEET NORTH OF AND PARALLEL WITH THE CENTER LINE OF GOLF ROAD; THENCE WESTWARD ALONG THE SAID PARALLEL LINE SOUTH 86 DEGREES 59 MINUTES 45 SECONDS WEST, A DISTANCE OF 215.07 FEET TO THE POINT OF BEGINNING, THENCE CONTINUING WESTWARD ALONG THE SAID PARALLEL LINE, SOUTH 86 DEGREES 59 MINUTES 45 SECONDS WEST, A DISTANCE OF 495.86 FEET, THENCE NORTHWARD ALONG A LINE BEING PERPENDICULAR TO THE SAID CENTER LINE OF GOLF ROAD, NORTH 03 DEGREES 00 MINUTES 15 SECONDS WEST, A DISTANCE OF 523.97 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF HIGGINS ROAD; THENCE EASTWARD ALONG THE SAID SOUTHERLY LINE SOUTH 71 DEGREES 59 MINUTES 46 SECONDS EAST, A DISTANCE OF 443.06 FEET; THENCE SOUTH 18 DEGREES 00 MINUTES 14 SECONDS WEST, A DISTANCE OF 147.48 FEET; THENCE SOUTH 71 DEGREES 59 MINUTES 46 SECONDS EAST, A DISTANCE OF 202.84 FEET, THENCE NORTH 86 DEGREES 59 MINUTES 45 SECONDS WEST, A DISTANCE OF 129.86 FEET TO A POINT ON THE WEST LINE OF SALEM DRIVE, THENCE SOUTHWARD ALONG THE SAID WEST LINE SOUTH 00 DEGREES 21 MINUTES 42 SECONDS WEST A DISTANCE OF 20.00 FEET; THENCE SOUTH 86 DEGREES 59 MINUTES 45 SECONDS WEST, A DISTANCE OF 150.00 FEET; THENCE SOUTH 53 DEGREES 51 MINUTES 38 SECONDS WEST, A DISTANCE OF 31.05 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 42 SECONDS EAST, A DISTANCE OF 118.00 FEET TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

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