

UNOFFICIAL COPY

86625381

MORTGAGE AND SECURITY AGREEMENT

\$ 20.00

THIS INDENTURE WITNESSETH, That LaSALLE NATIONAL BANK, a national banking association, not personally, but solely as Trustee under Trust Agreement of April 1, 1979 and known as Trust No. 100870 (the "Borrowing Trust") (herein together with its successors and assigns referred to as the "Mortgagor") hereby mortgages, grants and conveys to FTT COMMERCIAL FINANCE CORP., a Nevada corporation (hereinafter together with its successors and assigns referred to as the "Mortgagee") the improved real estate situated in the County of Cook, State of Illinois described on the attached Exhibit A.

TOGETHER WITH all buildings, improvements and structures thereon, as well as all and singular the easements, tenements, hereditaments, appurtenances and other rights and privileges thereunto belonging or in any wise now or hereafter appertaining, and the rents, issues and profits thereof, which are pledged primarily, and in addition Mortgagor hereby grants to Mortgagee a security interest in all the equipment necessary for the operation of the property mortgaged hereby as an office building including, but not limited to: (i) all construction materials; all gas, water and electrical equipment, plumbing, conduits, ducts, tanks, pumps and compressors, air-cooling, lifting, communications and power equipment, engines and motors, elevators and switchboards; all cleaning equipment, shades, awnings, floor coverings and carpeting, refrigerators, stoves, dishwashers, cabinets, screens, storm doors and windows; musical and entertainment equipment; and all replacements, repairs and substitutions of the same; (ii) any and all present or future leases or tenancies, written or oral, covering or affecting all or any part of the premises together with: (a) all guarantees of the aforesaid leases including guarantees of tenant performance thereof; (b) all insurance proceeds, including rental loss coverage and business interruption coverage as to said leases; (c) all awards or proceeds from any condemnation of the premises or any part thereof; (d) all judgments or settlements of claims in favor of Mortgagor and arising out of said leases in any court proceeding, including any bankruptcy, reorganization, insolvency or debtor proceeding or ease or otherwise; (e) all security deposits made thereunder; (iii) all rents and other income or payments of any kind due or payable or to become due or payable as the result of any use, possession or occupancy of all or any portion of the premises or as a result of the use or lease of any personal property constituting a part of the premises; (iv) all revenues from the premises in excess of all costs, charges, and expenses which are directly attributable to the operation, repair, and maintenance of the premises including all taxes, rates, charges, levies and assessments imposed by any competent authority upon or in respect of the premises; (v) all contracts with third parties related to or having to do with the managing, marketing, maintenance or operation in the normal course of business of the premises (collectively referred to herein as the "Mortgaged Property"). Mortgagor hereby covenants and agrees that upon the occurrence of an Event of Default hereunder, Mortgagee may, in addition to any other remedy provided for herein or which it may have at law or equity, exercise all rights granted to it under the Illinois Uniform Commercial Code. The filing of this Mortgage shall constitute the filing of a financing statement in the office wherein it is filed and a carbon, photograph or other reproduction of this document may also be filed as a financing statement.

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

THE MORTGAGOR HEREBY COVENANTS AND AGREES:

- 1. This Mortgage is given as security for the performance and observance of the terms, conditions, stipulations, provisions, covenants and agreements hereof and of any other agreement, document or instrument given by Mortgagor to Mortgagee to secure indebtedness secured hereby, and for the payment of all sums which may become due hereunder and to secure to the Mortgagee the principal balance of a certain Note of even date in the face amount of Three Million Nine Hundred Ninety Thousand Dollars (\$3,990,000.00) executed by the Borrowing Trust and FINE ARTS VENTURE, an Illinois limited partnership (the "Borrowing Partnership"), together with interest thereon (the "Note"), and any and all advances now or hereafter made or payment or performance owed by Mortgagee under the terms and conditions of the Note, the Loan and Security Agreement of even date among Mortgagor, Mortgagee and the Borrowing Partnership (the "Loan Agreement"), this Mortgage, the

This instrument prepared by:
Douglas M. Lawrence, Esq.
1400 North Central Life Tower
P.O. Box 64777
St. Paul, Minnesota 55164

P.I.N. 17-15-109-010 (13,14)
17-15-109-011 (15,16,17)
(eco) POX 333-HV

86625381

70-88-240-11


Assignment of Leases, Rents, Profits, and Contracts of even date among Mortgagor, the Borrowing Partnership and Mortgagee (the "Assignment of Rents"), the Assignment (Collateral) of Trust and Security Agreement between Borrowing Partnership as Assignor and Mortgagee as Creditor and any other document executed in conjunction therewith (the "Fine Arts Loan Documents" or by individual reference as a "Fine Arts Loan Document") and any renewals, modifications, amendments or extensions thereof. The final payment of the entire indebtedness being due and payable under the Note on the tenth (10th) day of November, 1991. In no event will the advancement under this Mortgage exceed three (3) times the face amount of the Note principal secured by this Mortgage.

2. This Mortgage is further given as security for the performance and observance of the terms, conditions, stipulations, provisions, covenants and agreements hereof and of any other agreement, document or instrument given by **LaSALLE NATIONAL BANK**, a national banking association, not personally, but solely as Trustee under Trust Agreement of July 1, 1983 and known as Trust No. 106648 (the "Musical Arts Borrowing Trust") and **MUSICAL ARTS VENTURE**, an Illinois joint venture (the "Musical Arts Borrowing Partnership") to Mortgagee to secure indebtedness and for the payment of all sums which may become due hereunder and to secure to the Mortgagee the payment of the principal balance of a certain Note of even date in the face amount of Four Hundred Seventy-Two Thousand Five Hundred Dollars (\$472,500.00) together with interest thereon, and any and all advances now or hereafter made or payment owed by Mortgagee under the terms and conditions of the Note, the Mortgage and Security Agreement between Musical Arts Borrowing Trust and Mortgagee, the Assignment of Leases, Rents, Profits, and Contracts among Musical Arts Borrowing Trust, Musical Arts Borrowing Partnership and Mortgagee, the Assignment (Collateral) of Trust and Security Agreement between Musical Arts Borrowing Partnership and Mortgagee and any other document executed in conjunction therewith (the "Musical Arts Loan Documents" or by individual reference as a "Musical Arts Loan Document" referred to herein together with the Fine Arts Loan Documents as the "Loan Documents").

The condition of this Mortgage is such that, on the occurrence of an Event of Default under either the Fine Arts Loan Documents or the Musical Arts Loan Documents, Mortgagee may seek any remedy, including foreclosure or attachment of rents, available under any or all of the Loan Documents, and the sums realized by Mortgagee from the exercise of such remedies, including the proceeds of any foreclosure sale, may be applied to the reduction of any amounts due and owing hereunder and under the Note which the Musical Arts Loan Documents secures in whatever fashion Mortgagee shall determine, notwithstanding the principal balance of the Note; the intent being that the aggregate indebtedness represented by the Loan Documents may be assessed as debt against either the premises encumbered by the Fine Arts Loan Documents or the Musical Arts Loan Documents and the proceeds realized therefrom applied to the aggregate indebtedness represented by the Loan Documents in whatever manner Mortgagee shall determine, until said aggregate indebtedness is repaid in full.

3. This Mortgage is also given as security for the Loan Agreement and Loan Documents and in connection therewith the Mortgagor agrees as follows:
- A. Each and all of the terms, provisions, restrictions, covenants, and agreements set forth in the Loan Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns, are incorporated herein by reference to the same extent as though each and all of said terms, provisions, restrictions, covenants and agreements were fully set out herein and as though any amendment or supplement to the Loan Agreement were fully set out in an amendment or supplement to this Mortgage, and Mortgagor does hereby covenant and agree well and truly to abide by, perform and be governed and restricted by each and all of the matters provided for by the Loan Agreement and so incorporated herein to the same extent and with the same force and effect as if each and all of said terms, provisions, restrictions, covenants and agreements so incorporated herein by reference were set out and repeated herein at length.
- B. The provisions of this Mortgage do not supercede, but are supplemental to the provisions of the Loan Agreement. An Event of Default by Mortgagor under the terms and conditions of the Loan Agreement shall constitute an Event of Default under this Mortgage. Mortgagor and Mortgagee intend that Mortgagee shall enjoy all the benefits and protections of the various provisions of both this Mortgage and the Loan Agreement, and that if there exists a direct conflict between the provisions of the Loan Agreement and this Mortgage, the provisions of the Loan Agreement shall control, unless Mortgagee shall elect otherwise in writing.
4. Mortgagor is well and lawfully seized of the Mortgaged Property as a good and indefeasible estate in fee simple and has good right and full power to sell and convey the same; the Mortgaged Property is free and clear of all encumbrances, except the Permitted Encum-

86625381

branches set forth on the attached Exhibit B; the Mortgagor will make any further assurances of title that the Mortgagee may require ~~and will warrant and defend the Mortgaged Property against all claims and demands whatsoever.~~ 

5. Mortgagor will pay the indebtedness hereby secured and interest thereon promptly on the days specified for the same to become due and payable, and also pay on demand any other indebtedness that may accrue and become due and payable to the Mortgagee under the terms and provisions of this Mortgage.
6. Mortgagor will keep protected and in good order, repair and condition at all times the buildings and improvements (including fixtures) now standing or hereafter erected or placed upon the Mortgaged Property, and any and all appurtenances, apparatus and articles of personal property, including but not limited to furniture, furnishings and equipment, now or hereafter in or attached to or used in connection with said buildings or improvements, promptly replacing any of the aforesaid which may become lost, destroyed or unsuitable for use.
7. During the entire term of this Mortgage, Mortgagor will maintain a policy or policies of insurance insuring the buildings and improvements now existing or hereafter erected on the Mortgaged Property in the amounts and for the categories of coverage required in the Loan Agreement.

In the event of any loss or damage, Mortgagor will give immediate notice thereof to Mortgagee, and Mortgagee may thereupon make proof of such loss or damage, if the same is not promptly made by Mortgagor. All proceeds of insurance in the event of such loss or damage shall be payable to Mortgagee, and any affected insurance company is authorized and directed to make payment directly to Mortgagee. Mortgagee is authorized and empowered to settle, adjust, or compromise any claims for loss, damage, or destruction under any policy or policies of insurance. Provided the Mortgaged Property can be restored to substantially its condition prior to loss, in compliance with all then existing laws, codes and regulations, with available insurance proceeds supplemented as necessary by Mortgagor's advance equity deposit and disbursed in the manner of a construction loan and without loss of material tenancies, all such insurance proceeds may be applied to restoration of the Mortgaged Property, otherwise to and in reduction of debt. In the event of any foreclosure action or other voluntary transfer of title of the Mortgaged Property, with Mortgagee's consent, all right, title, and interest of Mortgagor in and to any policy or policies of insurance then in force shall pass to the Purchaser or Grantee.

8. Mortgagor will not commit or suffer any strip or waste of the Mortgaged Property or any violation of any law, regulation or ordinance affecting the Mortgaged Property and will not commit or suffer any demolition, removal or material alteration of any of the buildings or improvements (including fixtures) on the Mortgaged Property without the written consent of the Mortgagee, and will not violate nor suffer the violation of the covenants and agreements, if any, of record against the Mortgaged Property.
9. Mortgagor will pay when due all charges for water, water delivery, gas, electric power and light, sewers, waste removal, any and all rents and amount payable under any ground lease or senior or junior trust deed, mortgage or other encumbrance on or of the Mortgaged Property, bills for repairs, any grazing lease or permit fees or rentals, and all other claims, encumbrances and expenses incident to the ownership and occupancy of the Mortgaged Property. Mortgagor will further pay and discharge, when due, and on request furnish Mortgagee with suitable evidence of payment of, all taxes, assessments and other governmental charges on the Mortgaged Property, as well as claims for labor and material and any claim capable of supporting a lien or charge on the Mortgaged Property; provided however, that any such taxes, assessments, charges, or claims need not be paid so long as Mortgagor is in good faith contesting such payment by appropriate proceedings which avoid foreclosure of any lien securing said claim, and that sufficient funds or an acceptable bond ensuring the prompt disposition of said claim are deposited with Mortgagee. Additionally and in the event Mortgagor fails to so satisfy any such claim, Mortgagee may, after notice, pay the same directly, and thereafter, at its option, demand of the Mortgagor immediate reimbursement for any expense so paid.
10. If Mortgagor shall neglect or refuse to keep in good repair the property referred to in paragraph (5), to replace the same as herein agreed, to maintain and pay the premiums for insurance which may be required under paragraph (6) or to pay and discharge all taxes, assessments and charges of every nature and to whomever assessed, as provided for in paragraph (8), the Mortgagee may, at its election, cause such repairs or replacements to be made, obtain such insurance or pay said taxes, assessments and charges and any amounts paid as a result thereof together with interest thereon at the interest rate as evidenced in the Note from the date of payment, shall be immediately due and payable by the Mortgagor to the Mortgagee, and until paid shall be added to and become a part of said principal debt secured hereby, and the same may be collected as a part of said principal debt in any suit

hereon or upon the Note; or the Mortgagee, by the payment of any tax, assessment or charge, may, if it sees fit, be thereby subrogated to the rights of the State, County, Village and all political or governmental subdivisions. No such advances shall be deemed to relieve the Mortgagor from any default hereunder or impair any rights or remedy consequent thereon, and the exercise of the rights to make advances granted in this paragraph shall be optional with the Mortgagee and not obligatory and the Mortgagee shall not in any case be liable to the Mortgagor for a failure to exercise any such right.

11. Mortgagor will pay all sums, the failure to pay which may result in the acquisition of a lien prior to the lien of this Mortgage, before such a prior lien may attach or which may result in conferring upon a tenant of any part of the Mortgaged Property a right to recover such sums as prepaid rent.
12. Mortgagee shall be subrogated for further security to the lien, although released of record, of any and all encumbrances paid out of the proceeds of the loan secured by this Mortgage, and any modifications or other security securing said Mortgage.
13. After default or breach, if any sale proceeding or lawsuit is commenced, or any attorney retained to collect any amounts secured hereby or to enforce any rights granted Mortgagee hereunder, Mortgagor will pay Mortgagee's reasonable attorneys' fees and costs incurred as a result of its enforcing its rights under the Note and the agreements which secure its repayment, and its costs and expenses in connection with any sale proceedings or lawsuit. In addition, Mortgagor will pay a reasonable fee for title searches made in preparation for and in the conduct of any such proceedings or suit. All of the foregoing fees and expenses shall be secured by this Mortgage.
14. If any action or proceeding be commenced (excepting an action to foreclose this Mortgage or to collect the debt hereby secured or to enforce any other agreement related to the debt hereby secured), to which action or proceeding the Mortgagee is made a party by reason of the execution of this Mortgage or the Note which it secures, or any other document or agreement related to the debt hereby secured, or in which the Mortgagee deems it necessary to defend in order to uphold the lien of this Mortgage or the priority thereof or possession of the Mortgaged Premises, or otherwise to protect its security hereunder, or any other document or agreement related to the debt hereby secured, all sums paid or incurred by the Mortgagee for counsel fees and other expenses in such action or proceeding shall be repaid by Mortgagor, together with interest thereon from date of payment by Mortgagee at the interest rate as evidenced in the Note, and all such sums and the interest thereon shall be immediately due and payable and be secured hereby, having the benefit of the lien hereby created and of its priority.
15. Annually and within one hundred twenty (120) days of the close of its fiscal year, Mortgagor will furnish Mortgagee with its financial statement, certified by its beneficiary as materially accurate and complete in all respects, as well as such other information concerning the financial condition of the Mortgagor or the Mortgaged Property as Mortgagee reasonably requests from time to time. During normal business hours, Mortgagor will allow representatives of Mortgagee free access to the Mortgaged Property and to inspect all books, records and contracts relating thereto.
16. Immediately upon obtaining knowledge of the institution of any proceedings for the condemnation or taking by eminent domain of the Mortgaged Property or any portion thereof, or any other proceedings arising out of injury or damage to the property, or any portion thereof, Mortgagor will notify Mortgagee of the pendency of such proceedings. Mortgagee may participate in any such proceedings and Mortgagor shall from time to time deliver to the Mortgagee all instruments requested by it to permit such participation. Mortgagor shall, at its expense, diligently prosecute any such proceedings, and shall consult with Mortgagee, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. If all or any part of the Mortgaged Property is damaged, condemned, taken, or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, or by the alteration of the grade of any street affecting said Mortgaged Property, the amount of any award or other payment for such taking or damages to the extent of the full amount of the then remaining unpaid indebtedness is hereby assigned to Mortgagee, and Mortgagee is empowered to collect and receive the same. Provided the Mortgaged Property can be restored to substantially its condition prior to taking, in compliance with all then existing laws, codes and regulations, with available condemnation awards supplemented as necessary by Mortgagor's advance equity deposit and disbursed in the manner of a construction loan and without loss of material tenancies, all such condemnation awards may be applied to restoration of the Mortgaged Property, otherwise to and in reduction of debt. In the event of any foreclosure action or other voluntary transfer of title of the Mortgaged Property, with Mortgagee's consent, all right, title, and interest of Mortgagor in and to any policy or policies of insurance then in force shall pass to the Purchaser or Grantee.

86625381

# UNOFFICIAL COPY

8 6 6 2 5 7 1

17. In order to more fully protect the security of Mortgagee's loan to Mortgagor and upon request by Mortgagee, but only at such time as Mortgagor has failed to comply with the provisions of this Mortgage or the Loan Agreement, Mortgagor shall pay to Mortgagee monthly, in addition to each monthly payment required by the Note, a sum equivalent to one-twelfth (1/12) of the amount estimated by Mortgagee as sufficient to allow Mortgagee to pay, thirty (30) days prior to the time they become due, all taxes, assessments and other similar charges levied against the Mortgaged Property, and all insurance premiums on any policy of insurance required by this Mortgage. Mortgagee is not required to pay interest on such sums. On demand by Mortgagee, Mortgagor shall deliver and pay to Mortgagee any additional sums which are required to satisfy any deficiency in the amount necessary to enable Mortgagee to pay said items, and shall further adjust the amount of sums withheld accordingly. All amounts paid and deposited hereunder are hereby assigned to Mortgagee as additional security for the indebtedness and obligations secured hereby.
18. Mortgagor shall assign to the Mortgagee, upon request, as further security for the indebtedness secured hereby, the lessor's interests in any or all leases, and the Mortgagor's interests in all agreements, contracts, licenses and permits affecting the property subject to this Mortgage, such assignments to be made by instruments in form satisfactory to the Mortgagee; but no such assignment shall be construed as a consent by the Mortgagee to any lease agreement, contract, license or permit so assigned, or to impose upon the Mortgagee any obligations with respect thereto. Mortgagor will faithfully keep and perform all of the obligations of the landlord under all of the leases now or hereafter assigned to Mortgagee hereunder or under any other assignment between the parties and not permit to accrue to any tenant under any such lease any right to prepaid rent pursuant to the terms of any lease other than the usual prepayment of rent as would result from the acceptance on the first day of each month of the rent for the ensuing month, according to the terms of the various leases.
19. All notices required under the terms of this Mortgage are sufficient either (i) three (3) days after their deposit in the United States mail postage prepaid, or (ii) two (2) days after their deposit in a nationally recognized overnight courier service, or (iii) on the day of their personal delivery, if addressed or delivered to Mortgagee or Mortgagor at their following respective addresses, or such other address as is specified in writing by any party to the others, provided that no change of address by Mortgagor shall be effective unless Mortgagor first serves notice of such change of address to Mortgagee in writing by certified mail with return receipt requested, retaining a copy of such return receipt in its files. In any event, Mortgagor shall exercise reasonable diligence to ensure that Mortgagee is at all times advised of the correct address of each, and any changes thereto, stipulated as the following as of the date of this Mortgage:
  - A. To Mortgagee: **ITT COMMERCIAL FINANCE CORP.**  
1400 North Central Life Tower  
P.O. Box 64777  
St. Paul, Minnesota 55164  
(612/227-0011)  
Attn: Manager of Loan Administration  
Real Estate Finance Division
  - B. To Mortgagor: **FINE ARTS VENTURE**  
410 South Michigan  
Chicago, Illinois 60605  
(312) 427-0672  
Attn: Thomas Graham
20. Mortgagor will operate such property at all times as a commercial office and retail building and will not acquire any fixtures, equipment, furnishings or apparatus covered by this Mortgage subject to any security interest or other charge or lien taking precedence over this Mortgage.
21. In the event the ownership of the Mortgaged Property, or any part thereof, becomes vested in a person other than the Mortgagor, the Mortgagee may deal with such successor or successors in interest with reference to this Mortgage and the debt hereby secured in the same manner as with the Mortgagor, without in any manner vitiating or discharging the Mortgagor's liability hereunder, or upon the debt hereby secured. This paragraph shall not be construed as permission for any such transfer.
22. Mortgagor agrees that Mortgagor will not sell, transfer, encumber, assign, convey, lease or in any manner dispose of the Mortgaged Property, or any part thereof, or turn over the management or operation of any business on the Mortgaged Property to any other person, firm or corporation without the prior written consent of Mortgagee. Mortgagor shall give Mortgagee prior written notice of any proposed transaction which requires Mortgagee's consent, and Mortgagor shall furnish to Mortgagee such information as Mortgagee may reasonably require.

96625381

23. In the event of the imposition after the date of this Mortgage of any law of the United States of America, the State of Illinois, or any municipality, or of any government, domestic or foreign, claiming to have jurisdiction hereof, deducting from the value of real property for the purposes of taxation any lien thereon or changing in any way the taxation of mortgages, deeds of trust or of debts secured by mortgages or deeds of trust or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly on this Mortgage or the Note, the sums evidenced or secured thereby or the interest payable thereon, Mortgagee shall have the right at any time thereafter, upon not less than twenty (20) days' written notice to Mortgagor to declare the principal sum and interest due in full. If such notice be given, the Note shall become due, payable and collectible at the expiration of such twenty (20) day period or any later date specified therein.
24. Any one of the following events constitutes an Event of Default under this Mortgage:
- A. Mortgagor fails to pay to Mortgagee, when due and in good funds, any payment of principal, interest, fees or expenses required by this Mortgage, the Note, the Loan Agreement or any other Loan Document and such payment is not tendered to Mortgagee by Mortgagor within five (5) days following its due date.
  - B. Mortgagor fails to perform or observe any agreement, covenant or condition required of the Mortgagor under this Mortgage, the Loan Agreement, or any Loan Document and such failure is not corrected to Mortgagee's satisfaction within twenty (20) days of written notice to Mortgagor.
  - C. The occurrence of an Event of Default under the Musical Arts Loan Documents.
  - D. Any representation or warranty made by the Mortgagor in this Mortgage, or in any certificate or document furnished under the terms of, or in conjunction with, this Mortgage proves untrue in any material respect.
  - E. In the event that: (i) the holder of the Beneficial Interest in Mortgagor applies for or permits the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets, or (ii) the holder of the Beneficial Interest in Mortgagor is adjudicated a bankrupt or insolvent, or the holder of the Beneficial Interest in Mortgagor files a voluntary petition in bankruptcy, reorganization or insolvency proceeding, or a petition to institute a debtor's proceeding or case, or (iii) the holder of the Beneficial Interest in Mortgagor admits in writing its inability to pay its debts as they become due, or generally does not pay its debts as they become due, or (iv) the holder of the Beneficial Interest in Mortgagor makes a general assignment for the benefit of creditors, or (v) the holder of the Beneficial Interest in Mortgagor files a petition or answer seeking reorganization or arrangement with creditors, or to take advantage of any insolvency law, or (vi) the holder of the Beneficial Interest in Mortgagor files an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceedings, or (vii) the holder of the Beneficial Interest in Mortgagor fails, for a period exceeding thirty (30) days to obtain the dismissal of any involuntary case filed against it in any bankruptcy, reorganization or insolvency proceedings, or (viii) action is taken by the holder of the Beneficial Interest in Mortgagor for the purpose of effecting any of the foregoing.
  - F. Without the prior written consent of Mortgagee having been first obtained, the Mortgaged Property, or the beneficial interest of the Fine Arts Borrowing Partnership in the Fine Arts Borrowing Trust, or any part thereof or interest therein is sold, exchanged, transferred, conveyed, alienated, subject to a contract of sale, or leased or demised in a manner not permitted by the Loan Agreement.
  - G. Mortgagor is or is about to become divested of its interest in the Mortgaged Property, or any part thereof or interest therein, whether voluntarily or involuntarily.
  - H. The Mortgaged Property is managed by any person or entity other than the the holder of the Beneficial Interest in Mortgagor or a person or entity acceptable to Mortgagee.
  - I. Mortgagor commits waste or allows the Mortgaged Property to deteriorate.
  - J. Any attempted assignment of the Mortgagor's rights under this Mortgage, notwithstanding the fact that such assignment is null and void and without effect under this Mortgage.
25. Upon the occurrence of an Event of Default, the following provisions shall apply:
- A. All sums secured hereby shall, at the option of Mortgagee, become immediately due and payable without notice, with interest thereon, from the date of the first of any such defaults, at the interest rate as evidenced in the Note;

86625381

- B. Mortgagee may immediately foreclose this Mortgage. The court in which any proceeding is pending for that purpose may, at once or at any time hereafter, either before or after sale, without notice and without requiring bond, and without regard to the solvency or insolvency of any person liable for payment of the indebtedness secured hereby, and without regard to the then value of the Mortgaged Property, or the occupancy thereof as a homestead, appoint a receiver or appoint Mortgagee as a Mortgagee in possession (the provisions for the appointment of a receiver, or Mortgagee as a mortgagee in possession, and assignment of rents being an express condition upon which the loan hereby secured is made) for the benefit of Mortgagee, with power to collect the rents, issues and profits of the premises, due and to become due, during such foreclosure suit and the full statutory period of redemption, if any, notwithstanding any redemption. The receiver or mortgagee in possession, out of such rents, issues and profits when collected, may pay costs incurred in the management and operation of the premises, prior and subordinate liens, if any, and taxes, assessments, water and other utility charges and insurance, then due or thereafter accruing, and make and pay for any necessary repairs to the premises, and may pay all or any part of the indebtedness secured hereby or any deficiency decree entered in such foreclosure proceedings. The provision herein for the appointment or continuation of the appointment of a receiver or mortgagee in possession during a period of redemption shall not be construed as affecting any waiver of the right of redemption contained in this Mortgage; and
- C. Mortgagee shall, at its option, have the right, acting through its agent or attorneys, with process of law, to enter upon and take possession of the Mortgaged Property, expel and remove any persons, goods or chattels, occupying or upon the same, and to collect or receive all the rents, issues and profits thereof, and to manage and control the same, and to lease the same or any part thereof from time to time, and after deducting all reasonable attorney's fees, and all expenses incurred in the protection, care, maintenance, management and operation of the premises, apply the remaining net income upon the indebtedness secured hereby or upon any deficiency decree entered in any foreclosure proceedings.
26. In any foreclosure of this Mortgage there shall be allowed and included in the decree for sale, to be paid out of the rents or the proceeds of such sale:
- A. All principal and interest remaining unpaid and secured hereby;
- B. All other items advanced or paid by Mortgagee pursuant to this Mortgage, with interest at the interest rate as evidenced in the Note from the date of advancement; and
- C. All court costs, fees of the master in chancery, attorney's fees, appraiser's fees, expenditures for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of decree) of procuring all abstracts of title, title searches and examinations, title guarantee policies, Torrens certificates and similar data with respect to title which Mortgagee may deem necessary. All such expenses shall become so much additional indebtedness secured hereby and immediately due and payable with interest at the interest rate as evidenced in the Note, when paid or incurred by Mortgagee in connection with any proceedings, including probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured or in connection with preparation for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose, whether or not actually commenced. The proceeds of any foreclosure sale shall be distributed and applied to the items described in (A), (B), and (C) of this section, inversely to the order of their listing, and any surplus of the proceeds of such sale shall be paid to Mortgagor.
27. A. To the extent permitted by statute, Mortgagor does hereby expressly waive any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of themselves and each and every person it may legally bind now having or acquiring any interest in or title to the premises after the date of the execution of this Mortgage; and Mortgagor, for itself, its successors and assigns, and for all that it may legally bind who acquire any interest in or title to the Mortgaged Property subsequent to the date hereof, agrees that when sale is had under any decree of foreclosure of this Mortgage, upon confirmation of such sale, the master in chancery, the sheriff, or other officer making such sale, or his successor in office, shall be and is authorized immediately to execute and deliver to the purchaser at such sale, a deed conveying the premises, showing the amount paid therefor, or if purchased by the person in whose favor the order or decree is entered, the amount of his bid therefor.
- B. The Mortgagor further hereby waives and releases all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois and all right to retain possession of the Mortgaged Property after any default in or breach of any of the covenants, agreements or provisions herein contained.

28. No remedy or right of Mortgagee shall be exclusive of but shall be in addition to every other remedy or right now or hereafter existing at law or in equity. No delay in the exercise or omission to exercise any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default, or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as any be deemed expedient by Mortgagee.
29. Mortgagor will, on request of the Mortgagee, (i) promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in any other instrument executed in connection herewith or in the execution or acknowledgment thereof; (ii) execute, acknowledge, deliver and record or file such further instruments (including without limitation further deeds of trust, security agreements, financing statements, continuation statements and assignments of rents or leases) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of this Mortgage and such other instruments and to subject to the liens and security interest hereof and thereof any property intended by the terms hereof and thereof to be covered hereby and thereby including specifically, but without limitation, any renewals, additions, substitutions, replacements or appurtenances to said property; and (iii) execute, acknowledge, deliver, procure, and file or record any document or instrument (including specifically any financing statement) deemed advisable by the Mortgagee to protect the lien of the security interest hereunder against the rights or interests of third persons, and Mortgagor will pay all costs connected with any of the foregoing.
30. The term "Mortgagee" shall mean the owner and holder at any time, including pledgees, of the Note, whether or not named as Mortgagee herein. The use of the term "Mortgagor" herein shall not be construed to limit or to otherwise preclude the application of the term "Mortgagor" to the person or persons named herein. The obligations of all persons named as Mortgagor herein shall be joint and several. The provisions hereof shall apply to the parties according to the context thereof, and without regard to the number or gender of words or expressions used.
31. Notwithstanding any provision herein or in said Note, the total liability for payments in the nature of interest shall not exceed the limits now imposed by the usury laws of the State of Illinois.
32. Except as provided in the Loan Agreement, on transfer or encumbrance of (a) all or any part of the property, or any interest therein, or (b) beneficial interests or ownership interest in Mortgagor (if Mortgagor is not a natural person or persons but is a corporation, partnership, trust or other legal entity), or transfer of control of the operation and management of the property to any person other than Mortgagor then, Mortgagee may, at Mortgagee's option, declare the existence of an Event of Default and all of the indebtedness secured by this Mortgage to be immediately due and payable and invoke any remedies permitted by this Mortgage or the Loan Agreement, all without prior notice to Mortgagor. This option shall not apply in case of (a) transfers by devise or descent or by operation of law upon the death of a joint tenant; (b) transfers by reason of the replacement of fixtures, equipment, machinery and appliances; and (c) transfers or encumbrances previously approved in writing by Mortgagee in its sole discretion.
33. That Mortgagor will comply with the requirements of all Federal, State and Local pollution laws and regulations applicable or pertaining to the operation of the Mortgaged Property.
34. Mortgagor represents and agrees that the proceeds of the Note will be used for the purposes specified in Section 4(1)(c) of Paragraph 6404 of Chapter 17 of the Illinois Revised Statutes, as amended, and that the debt secured hereby constitutes a business loan which comes within the purview of said paragraph.
35. Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof, and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety. The Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure, pursuant to rights herein granted, 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 this Mortgage, and on behalf of all other persons to the extent permitted by the provisions of the Illinois Revised Statutes.



UNOFFICIAL COPY 86625381

36. This Mortgage is executed by Mortgagor, not personally but as Trustee of the Land Trust as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and Mortgagor hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in the Loan Agreement or the Note contained shall be construed as creating any liability on Mortgagor personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder or thereunder, or to perform any covenant either express or implied or herein or therein contained, all such liability, if any, being expressly waived by the Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as the Mortgagee personally is concerned, the Mortgagor shall look solely to the Mortgaged Property for the payment of the Note, by the enforcement of the lien created hereby in the manner herein provided or to any other security given at any time to secure the Note or any indebtedness accruing under the Loan Agreement, including the personal liability of any Guarantor.

WITNESS the due execution hereof by the Mortgagor the 22nd day of December, 1986.

LaSALLE NATIONAL BANK, not personally, but solely as Trustee under Trust Agreement of April 1, 1979 and known as Trust No. 100870

Attest:

By:

Its:

By:

Its:

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, Kathy Pacana, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that JOSEPH W. LANU and James A. Clark of LaSalle National Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant Secretary, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, and as the free and voluntary act of the said LaSalle National Bank for the uses and purposes therein set forth, and caused its corporate seal of said bank to be thereto attached.

GIVEN under my hand and notarial seal, this 29<sup>th</sup> day of December, A.D. 1986.

Kathy Pacana  
Notary Public

My Commission Expires:

6-11-88

COOK COUNTY, ILLINOIS  
FILED FOR RECORD

1986 DEC 30 PM 1:53

86625381

86625381

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

Lots 13, 14, 15, 16 and 17 in Assessor's Division of Lots 1, 2, 3, 4, 5, and 8 in Block 9 in Fractional Section 15 Addition to Chicago, in Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 2:

An easement for the benefit of Lots 14, 15, 16 and 17 of Parcel 1 and the owners thereof for ingress and egress along and over a private alley or driveway over the north 15 feet of Lots 18 and 19 (except that part of Lot 19 lying west of the east 169 feet thereof) in the Assessor's Division of Lots 1, 2, 3, 4, 5, and 8 in Block 9 in Fractional Section 15 Addition to Chicago in Township 39 North, Range 14 hereinafter referred to as the Servient Estate including the right to use all entrances and exits of the building mainly on Parcel 2 for ingress and egress from said building to said alley together with the right to maintain on the Servient Estate such part, if any, to walls and foundations, of the building located mainly on Parcel 1 as may at the date hereof encroach the Servient Estate as provided in an instrument executed by the LaSalle National Bank, a National Banking Association, as Trustee under Trust Agreement dated May 1, 1945 and as known as Trust Number 10693 and the Roosevelt College of Chicago, an Illinois Corporation dated February 27, 1947 and recorded as Document No. 14005610 in the Recorder's Office of Cook County, Illinois, all in Cook County, Illinois.

410 S Michigan Ave. Chgo, IL.

Cook County Clerk's Office

86625381

## EXHIBIT B

### PERMITTED ENCUMBRANCES

1. Agreement between William Bross and Charles Walker dated March 20, 1856 and recorded May 22, 1856 in Book 114, Page 391, as modified by an agreement made between Studebaker Brothers Manufacturing Company and Art Institute of Chicago dated September 7, 1886 and recorded January 16, 1888 as Document 914120 for a party wall on the north line of Lot 13 of Parcel 2 aforesaid.
2. Party walls on the north line and on the south line of Parcel 1.
3. Existing unrecorded leases, as disclosed in Assignment of Rents and Leases recorded July 7, 1983 as Document 26676496.
4. Terms, provisions and conditions relating to the Easement described as Parcel 2 contained in the instrument creating such Easement recorded as Document 14005610.
5. Rights of the adjoining owners to the concurrent use of the Easement described as Parcel 2.
6. Rights of others for passageway over the west 10 feet of Lot 18 in Assessor's Division aforesaid to be used jointly by the parties to said instrument, their representatives, successors and assigns created by an agreement between Chicago Auditorium Association and Studebaker Brothers Manufacturing Company dated June 29, 1887 and recorded November 12, 1887 as Document 633752 (Affects Parcel 2).
7. Existing leases and party walls, and easements, if any, because building on Lots 18 and 19 in Assessor's Division aforesaid covers Lot 20 adjoining and other property (Affects Parcel 2).
8. Easements, party wall rights, encroachments, right to maintain said encroachments, right to maintain certain fire escapes, right to maintain certain walls and foundations, right to maintain use and occupy the five upper floors of the structure built above and overhanging part of the west 100 feet of Parcel 2, provisions relating to payment of water taxes, real estate taxes, special assessments, insurance, to the cost of keeping said easements in good repair, etc. and provisions relating to termination of said easements and other rights created by grant by LaSalle National Bank, as Trustee under No. 10693 and Roosevelt College of Chicago, a corporation of Illinois dated February 27, 1947 and recorded March 3, 1947 as Document 14005610 and the covenants, conditions, agreements and provisions therein contained.  
  
(Affects Parcel 2).
9. Easement Agreement dated October 2, 1969 and recorded September 29, 1970 as Document 21277705 between the Fine Arts Building (Selina Schwartz) and Roosevelt University relating to construction of a building adjacent to the Fine Arts Building.
10. Terms, powers, provisions and limitations of the Trust under which title to said land is held.
11. Terms, provisions, conditions and limitations of the ordinance designating the Fine Arts Building as a Chicago landmark recorded November 14, 1979 as Document 25241308.
12. Common walkway over the public alley lying between the building located on the land and the building located on the land west and adjoining the public alley immediately adjoining the land to the west as disclosed by our inspector's report.

86625381