MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT ("Mortgage"), made as of August 14, 1986, is made and executed by each of (i) American National Bank and Trust Company of Chicago, a national banking association, not in its individual capacity but as Trustee under Trust Agreement dated December 31, 1968, and known as Trust No. 27575, having its offices at 33 North LaSalle Street, Chicago, Illinois 60690 ("Land Trustee"), and (ii) Drexel Partnership, an Illinois general partnership having its principal offices at 180 North LaSalle Street, Chicago, Illinois 60601 ("Beneficiary") (Land Trustee and Beneficiary are sometimes collectively referred to herein as "Mortgagor"), in favor of Bank Leumi le-Israel B.M., Chicago Branch, having an office at 100 North LaSalle Street, Chicago, Illinois 60602 ("Mortgagee").

STIC 86-040623
E86-1265

RECITALS

I. Beneficiary owns 100% of the beneficial interest in Land Trustee. Mortgagee has agreed to make an installment loan to Mortgagor in an amount not to exceed $840,000.00 (the "Loan"), secured by certain real and personal property of Mortgagor.

II. The Loan is evidenced by that certain Note of even date herewith executed by the Mortgagor in favor of Mortgagee in the original principal amount of $840,000.00, a copy of which is attached hereto as Exhibit A (the "Note). The terms and provisions of the Note are hereby incorporated by reference in this Mortgage.

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GRANTING CLAUSES

To secure the payment of the indebtedness evidenced by the Note and the payment of all amounts due under and the performance and observance of all covenants and conditions contained in this Mortgage, the Note, any and all other mortgages, security agreements, assignments of leases and rents, guaranties and any other documents and instruments and any and all renewals, extensions, amendments and replacements hereof or thereof, now or hereafter executed by any of Mortgagor, Land Trustee or Beneficiary, or any party related thereto or affiliated therewith, to evidence, secure or guarantee the payment of all or any portion of the indebtedness under the Note (all of the foregoing being collectively referred to as the "Loan Instruments" and individually as a "Loan Instrument") (all indebtedness and liabilities secured hereby being hereinafter sometimes referred to as the "Liabilities," which indebtedness and liabilities being secured hereby shall, in no event, exceed five times the aggregate face amount of the Note), Mortgagor does hereby convey, mortgage, assign, transfer, pledge and deliver to Mortgagee all of the right, title and interest of Land Trustee and Beneficiary in and to the following described property subject to the terms and conditions herein:

(A) The land located in Cook County, Illinois, legally described in attached Exhibit B (the "Land");

(B) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land; and, to the extent not owned by tenants of the "Mortgaged Property" (as defined below), all machinery, appliances, equipment, furniture and all other personal property of every kind or nature located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Land, buildings, structures, improvements or fixtures now or hereafter located or to be located on the Land, or in connection with any

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construction being conducted or which may be conducted thereon, and all extensions, additions, improvements, substitutions and replacements to any of the foregoing (collectively referred to as the "Improvements");

(C) All building materials and goods which are procured or to be procured for use on or in connection with the Improvements or the construction of additional Improvements, whether or not such materials and goods have been delivered to the Land (collectively referred to as the "Materials");

(D) All plans, specifications, architectural renderings, drawings, licenses, permits, soil test reports, other reports of examinations or analyses of the Land or the Improvements, contracts for services to be rendered to Mortgagor, Beneficiary or otherwise in connection with the Improvements and all other property, contracts, reports, proposals and other materials now or hereafter existing in any way relating to the Land or the Improvements or the construction of additional Improvements;

(E) All easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired (collectively referred to as the "Appurtenances");

(F) (i) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto;

(ii) All compensation, awards, damages, claims, rights of action and proceeds of or on account of (a) any damage or taking, pursuant to the power of eminent domain, of the Land, Improvements, Appurtenances or Materials or any part thereof, (b) damage to all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances, Materials or of other property, or (c) the alteration of the grade of any street or highway on or about the Land, Improvements, Appurtenances, Materials or any part thereof; and, except as otherwise provided herein, Mortgagee is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and, except as otherwise provided herein, to apply the same toward the payment of the indebtedness and other sums secured hereby;

(iii) All contract rights, general intangibles, actions and rights in action, including without limitation all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Land, Improvements, Appurtenances or Materials; and

(iv) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements, Appurtenances or Materials;

(G) All rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Land, Improvements or Appurtenances (the "Rents"); it being intended that this Granting Clause shall constitute an absolute and present assignment of the Rents;

(H) Any all leases, licenses and other occupancy agreements now or hereafter affecting the Land, Improvements, Appurtenances or Materials, together with all security therefor and guaranties thereof and all monies payable thereunder, and all

books and records owned by Mortgagor which contain evidence of payments made under the leases and all security given therefor (collectively, the "Leases");

(I) Any and all after-acquired right, title or interest of Mortgagor in and to any of the property described in the preceding Granting Clauses; and

(J) The proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding Granting Clauses;

All of the mortgaged property described in the Granting Clauses, together with all real and personal, tangible and intangible property pledged in, or to which a security interest attaches pursuant to, any of the Loan Instruments is sometimes referred to collectively as the "Mortgaged Property".

ARTICLE ONE

REPRESENTATIONS, WARRANTIES AND COVENANTS OF MORTGAGOR

Mortgagor warrants and represents to, and covenants and agrees with, Mortgagee as follows:

1.01 **Performance under Note, Mortgage and Other Instruments.** Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof and of the Note, every other Loan Instrument and every instrument evidencing or securing the Liabilities and will promptly pay or cause to be paid to Mortgagee when due the principal with interest thereon and all other sums required to be paid by Mortgagor pursuant to the Note, this Mortgage, every other Loan Instrument and every other instrument evidencing or securing the Liabilities.

1.02 **General Covenants and Representations.** As of the date hereof and at all times thereafter during the term hereof: (a) The Land Trustee is seized of an indefeasible estate in fee simple in that portion of the Mortgaged Property which is real property, and Mortgagor has good and absolute title to it and the balance of the Mortgaged Property free and clear of all liens, security interests, charges and encumbrances whatsoever except those described in Exhibit C (the "Permitted Encumbrances"); (b) Upon the occurrence of an Event of Default hereunder, Mortgagee may at all times peaceably and quietly enter upon, hold, occupy and enjoy the Mortgaged Property in accordance with the terms hereof; and (c) Mortgagor will maintain and preserve the lien of this Mortgage as a first and paramount lien on the Mortgaged Property subject only to the Permitted Encumbrances until the Liabilities have been paid in full.

1.03 **Compliance, Etc.**

1.03.1 **Permits.** Mortgagor has, prior to the date hereof, delivered to Mortgagee copies of all existing certificates of occupancy, certificates of need, licenses, permits, authorizations and approvals issued with respect to the Mortgaged Property and the operation of a skilled-care nursing facility thereon (a "Nursing Home") by all federal, state and municipal authorities having jurisdiction thereover, including without limitation all licenses issued by the Department of Public Health of the State of Illinois, or any other department with jurisdiction over a Nursing Home (the "Department") (collectively referred to as the "Permits"), and all inspection reports made by the Department or any other federal, state or municipal governmental authority during the period from January 1, 1981 to the date hereof (collectively referred to as the "Inspection Reports"). Mortgagor agrees to promptly send Mortgagee copies of

all Permits and Inspection Reports issued after the date hereof with respect to the Mortgaged Property and the operation of a Nursing Home thereon.

1.03.2 **No Proceedings.** There is no pending or, to the best of Mortgagor's knowledge, threatened judicial, municipal, state, federal or administrative proceeding affecting the Mortgaged Property or any portion thereof, or the use thereof as a Nursing Home, including without limitation proceedings for or involving (i) revocation of any existing Permits issued in respect of the Mortgaged Property or which are otherwise required to operate a Nursing Home or to obtain reimbursement of expenses or costs (including certificates of need), (ii) condemnation, eminent domain, alleged building code or zoning or health code violations, or (iii) personal injury or property damage alleged to have occurred on the Mortgaged Property or by reason of the condition or use of the Mortgaged Property. Mortgagor will promptly notify Mortgagee if any such proceeding is instituted and provide Mortgagee with copies of all Inspection Reports and other formal and informal communications concerning the commencement of such proceedings.

1.03.3 **Compliance with Laws.** The Mortgaged Property and the use thereof presently comply with, and will, during the full term of this Mortgage, continue to comply with, all applicable restrictive covenants, zoning and subdivision ordinances and building codes, licenses, health and environmental laws and regulations and all other applicable laws, ordinances, rules and regulations of any federal, state, municipal or other governmental body or court and the operator thereof possesses and will in the future possess all Permits necessary to operate the Mortgaged Property as a Nursing Home in compliance with applicable law. If any federal, state, municipal or other governmental body or any court issues any notice or order to the effect that the Mortgaged Property or any part thereof is not in compliance with any such covenant, ordinance, code, law or regulation, Mortgagor will promptly provide Mortgagee with a copy of such notice or order and will immediately commence and diligently perform all such actions as are necessary to comply therewith or otherwise correct such non-compliance. Mortgagor shall not, without the prior written consent of Mortgagee, petition for or otherwise seek any change in the zoning ordinances or other public or private restrictions applicable to the Mortgaged Property on the date hereof.

1.03.4 **Certificate of Need.** The Nursing Home is presently operating under a certificate of need for 154 beds and all of the beds and related facilities now comply and will hereafter comply with all requirements that are conditions to (i) the issuance of a certificate of need therefor and (ii) reimbursement of costs of operation therefor pursuant to applicable governmental programs.

1.04 **Taxes and Other Charges.**

1.04.1 **Taxes and Assessments.** Mortgagor shall pay promptly when due all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations, liens and encumbrances of every kind and nature whatsoever now or hereafter imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon or against this Mortgage or the Liabilities or upon or against the interest of Mortgagee in the Mortgaged Property, as well as all taxes, assessments and other governmental charges levied and imposed by the United States of America or any state, county, municipality or other taxing authority upon or in respect of the Mortgaged Property or any part thereof; provided, however, that unless compliance with applicable laws requires that taxes, assessments or other charges must be paid as a condition to protesting or contesting the amount thereof, Mortgagor may in good faith, by

appropriate proceedings commenced within ninety (90) days of the due date of such amounts and thereafter diligently pursued, contest the validity, applicability or amount of any asserted tax, assessment or other charge, and pending such contest Mortgagor shall not be deemed in default hereunder if on or before the due date of the asserted tax or assessment, Mortgagor shall deposit with Mortgagee a bond or other security in form and amount satisfactory to Mortgagee. Mortgagor shall pay the disputed or contested tax, assessment or other charge and all interest and penalties due in respect thereof on or before the date any adjudication of the validity or amount thereof becomes final and in any event no less than thirty (30) days prior to any forfeiture or sale of the Mortgaged Property by reason of such non-payment. Upon Mortgagee's request, Mortgagor will promptly file, if it has not theretofore filed, such petition, application or other instrument as is necessary to cause the Land and Improvements to be taxed as a separate parcel or parcels which include no property not a part of the Mortgaged Property.

1.04.2 **Taxes Affecting Mortgagee's Interest.** If any state, federal, municipal or other governmental law, order, rule or regulation, which becomes effective subsequent to the date hereof, in any manner changes or modifies existing laws governing the taxation of mortgages or debts secured by mortgages, or the manner of collecting taxes, so as to impose on Mortgagee a tax by reason of its ownership of any or all of the Loan Instruments or measured by the principal amount of the Note, require or have the practical effect of requiring Mortgagee to pay any portion of the real estate taxes levied in respect of the Mortgaged Property to pay any tax levied in whole or in part in substitution for real estate taxes or otherwise affects materially and adversely the rights of Mortgagee in respect of the Note, this Mortgage or the other Loan Instruments, the Liabilities and all interest accrued thereon shall, upon thirty (30) days' notice, become due and payable forthwith at the option of Mortgagee, whether or not there shall have occurred an Event of Default, provided, however, that, if Mortgagor may, without violating or causing a violation of such law, order, rule or regulation, pay such taxes or other sums as are necessary to eliminate such adverse effect upon the rights of Mortgagee and does pay such taxes or other sums when due, Mortgagee may not elect to declare due the Liabilities by reason of the provisions of this Paragraph 1.04.2.

1.04.3 **Tax Escrow.** Mortgagor shall, upon such terms as Mortgagee shall require, deposit with Mortgagee an amount or amounts designated by Mortgagee for the purpose of permitting Mortgagee to assure itself that all taxes, assessments and charges described in Paragraph 1.04.1 are paid in full as they come due. Any deposits received pursuant to this Paragraph 1.04.3 shall not be, or be deemed to be, trust funds, but may be commingled with the general funds of Mortgagee and Mortgagee shall have no obligation to pay interest on amounts deposited with Mortgagee pursuant to this Pargraph 1.04.3.

1.04.4 **No Credit Against the Liabilities.** Mortgagor shall not claim, demand or be entitled to receive any credit against the principal or interest payable under the terms of the Note or on any of the Liabilities for any of the taxes, assessments or similar impositions assessed against the Mortgaged Property or any part thereof or that are applicable to the Liabilities or to Mortgagee's interest in the Mortgaged Property.

1.05 **Mechanic's and Other Liens.** Mortgagor shall not permit or suffer any mechanic's, laborer's, materialman's, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due) to be created upon or against the Mortgaged Property, provided, however, that Mortgagor may in good faith, by appropriate proceeding, contest the validity, applicability or amount of any asserted lien and, pending such contest, Mortgagor shall not be deemed to be in default hereunder

if Mortgagor shall first deposit with Mortgagee a bond or other security in form and amount satisfactory to Mortgagee. Mortgagor shall pay the disputed amount and all interest and penalties due in respect thereof on or before the date any adjudication of the validity or amount thereof becomes final and, in any event, no less than thirty (30) days prior to any foreclosure sale of the Mortgaged Property or the exercise of any other remedy by such claimant against the Mortgaged Property.

1.06 **Insurance and Condemnation.**

1.06.1 **Hazard Insurance.** Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Mortgagee, until the Liabilities are paid in full, policies of hazard insurance in an amount which shall be not less than 100% of the full insurable replacement cost of the Mortgaged Property (other than the Land) insuring on a replacement cost basis the Mortgaged Property and all personal property located on the Land and the Improvements other than the Mortgaged Property (collectively referred to as "Other Property") against loss or damage on an "All Risks" form, such insurable hazards, casualties and contingencies as Mortgagee may require, including without limitation fire, windstorm, rainstorm, vandalism, earthquake and, if all or any part of the Mortgaged Property shall at any time be located within an area identified by the government of the United States or any agency thereof as having special flood hazards and for which flood insurance is available, flood. Mortgagor shall pay promptly when due any premiums on such insurance policies and on any renewals thereof, subject to the provisions of Paragraph 1.06.8 below. The form of such policies and the companies issuing them shall be acceptable to Mortgagee. All such policies and renewals thereof shall be held by Mortgagee and shall contain a non-contributory standard mortgagee's endorsement making losses payable to Mortgagee. No additional parties shall appear in the mortgage clause without Mortgagee's prior written consent. In the event of loss, Mortgagor will give immediate written notice to Mortgagee and Mortgagee may make proof of loss if not made promptly by Mortgagor (for which purpose Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact). In the event of the foreclosure of this Mortgage or any other transfer of title to the Mortgaged Property in full or partial satisfaction of the Liabilities, all right, title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force shall pass to the purchaser or grantee. All such policies shall provide that they shall not be modified, cancelled or terminated without at least thirty (30) days' prior written notice to Mortgagee from the insurer.

1.06.2 **Other Insurance.** Mortgagor shall, at its sole expense, obtain for, deliver to, assign to, and maintain for the benefit of, Mortgagee, until the Liabilities are paid in full, in amounts reasonably acceptable to Mortgagee, (i) a general liability insurance policy, (ii) a loss of rentals and/or business interruption insurance policy and (iii) such other insurance policies relating to the Mortgaged Property and the Other Property, and the use and operation thereof, with such companies and in such form as may be acceptable to Mortgagee. Mortgagee, by written demand upon Mortgagor, may require such policies to contain an endorsement, in form satisfactory to Mortgagee, naming Mortgagee as an additional insured (or if applicable, a mortgagee or loss payee) thereunder.

1.06.3 **Adjustment of Loss.** Mortgagee is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies covering or relating to the Mortgaged Property and to collect and receive the proceeds from any such policy or policies (and deposit such proceeds as provided in Paragraph 1.06.5). Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact for the purposes set forth in the preceding sentence. Each insurance company is

hereby authorized and directed to make payment of 100% of all such losses to Mortgagee alone and in no case to Mortgagor and Mortgagee jointly. After deducting from such insurance proceeds any expenses incurred by Mortgagee in the collection and settlement thereof, including without limitation attorneys' and adjusters' fees and charges, Mortgagee shall apply the net proceeds as provided in Paragraph 1.06.5. Mortgagee shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

1.06.4 **Condemnation Awards.** Mortgagee shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Mortgaged Property or any part thereof, (ii) damage to the Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of other property or of a portion of the Mortgaged Property, or (iii) the alteration of the grade of any street or highway on or about the Mortgaged Property. Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any such compensation, awards, damages, claims, rights of action and proceeds and to settle or compromise any claim in connection therewith. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact for the purposes set forth in the preceding sentence. Mortgagee after deducting from such compensation, awards, damages, claims, rights of action and proceeds all its expenses, including attorneys' fees, may apply such net proceeds (except as otherwise provided in Paragraph 1.06.5 of this Mortgage) to payment of the Liabilities in the inverse order of maturity. Any net proceeds remaining after deduction of such expenses and payment of the full amount of the Liabilities shall be remitted to Mortgagor.

1.06.5 **Repair; Proceeds of Casualty Insurance and Eminent Domain.** If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Paragraph 1.06.4, Mortgagor shall promptly and with all due diligence restore and repair the Mortgaged Property whether or not the proceeds, award or other compensation are sufficient to pay the cost of such restoration or repair. In the event that the proceeds of insurance (other than business interruption or rental insurance), award or other compensation is equal to or less than $25,000.00, said proceeds, award or other compensation shall be made available by Mortgagee to Mortgagor on the terms and conditions set forth in this Paragraph 1.06.5 to finance the cost of restoration or repair with any excess to be applied to the Liabilities in the inverse order of maturity. In the event said proceeds, awards or other compensation is greater than $25,000.00, then at Mortgagee's election, to be exercised by written notice to Mortgagor within thirty (30) days following Mortgagee's unrestricted receipt in cash or the equivalent thereof of said proceeds, award or other compensation, the entire amount of said proceeds, award or compensation shall either (i) be applied to the Liabilities in the inverse order of maturity or (ii) made available to Mortgagor on the terms and conditions set forth in this Paragraph 1.06.5 to finance the cost of restoration or repair with any excess to be applied to the Liabilities; provided, however, that, notwithstanding anything to the contrary contained in this Paragraph 1.06.5, if Mortgagee chooses to apply such amount to the Liabilities as provided in clause (i), and such application of proceeds satisfies the Liabilities in full, Mortgagor shall not be required to restore and repair the Mortgaged Property. If the amount of proceeds to be made available to Mortgagor pursuant to this Paragraph 1.06.5 is less than the cost of the restoration or repair as estimated by Mortgagee at any time prior to completion thereof, Mortgagor shall cause to be deposited with Mortgagee the

amount of such deficiency within 30 days of Mortgagee's written request therefor (but in no event later than the commencement of the work) and Mortgagor's deposited funds shall be disbursed prior to any such insurance proceeds. If Mortgagor is required to deposit funds under this Paragraph 1.06.5, the deposit of such funds shall be a condition precedent to Mortgagee's obligation to disburse any insurance proceeds held by Mortgagee hereunder. The amount of proceeds, award or compensation which is to be made available to Mortgagor, together with any deposits made by Mortgagor hereunder, shall be held by Mortgagee to be disbursed from time to time to pay the cost of repair or restoration either, at Mortgagee's option, to Mortgagor or directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to such conditions to disbursement as Mortgagee may impose to assure that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof. Mortgagee may commingle any such funds held by it with its other general funds. Mortgagee shall not be obligated to pay interest in respect of any such funds held by it, nor shall Mortgagor be entitled to a credit against any of the Liabilities except and to the extent that funds are applied thereto pursuant to this Paragraph 1.06.5. Notwithstanding any other provision of this Paragraph 1.06.5, if there shall have occurred an Event of Default at the time of said casualty, taking or other event or if an Event of Default occurs thereafter, Mortgagee shall have the right to immediately apply all insurance proceeds, awards or compensation to the payment of the Liabilities in such order as Mortgagee may determine. Mortgagee shall have the right at all times to apply such net proceeds to the cure of any Event of Default hereunder or to the performance of any obligations of Mortgagor under the Loan Instruments. Any net proceeds remaining after payment of the full amount of the Liabilities shall be remitted to Mortgagor.

1.06.6 **Proceeds of Business Interruption and Rental Insurance.** The net proceeds of business interruption and rental insurance shall be paid to Mortgagee for application first to the Liabilities and then to the creation of reserves for future payments of the Liabilities in such amounts as Mortgagee deems necessary with the balance to be remitted to Mortgagor subject to such controls as Mortgagee may deem necessary to assure that said balance is used to discharge accrued and to be accrued expenses of operation and maintenance of the Mortgaged Property.

1.06.7 **Renewal of Policies.** At least thirty (30) days prior to the expiration date of any policy evidencing insurance required under this Paragraph 1.06.7, a renewal thereof satisfactory to Mortgagee shall be delivered to Mortgagee or substitution therefor, together with receipts or other evidence of the payment of any premiums then due on such renewal policy or substitute policy.

1.06.8 **Insurance Escrow.** Mortgagor shall, upon such terms as Mortgagee shall require, deposit with Mortgagee an amount or amounts designated by Mortgagee for the purpose of permitting Mortgagee to assure itself that all insurance premiums in respect of the insurance policies required under Paragraphs 1.06.1 and 1.06.2 are paid in full as they come due. Any deposits received pursuant to this Paragraph 1.06.8 shall not be, or be deemed to be, trust funds, but may be commingled with the general funds of Mortgagee and Mortgagee shall have no obligation to pay interest on amounts deposited with Mortgagee pursuant to this Paragraph 1.06.8.

1.07 **Options to Purchase Mortgaged Property.** Other than the option to purchase the Mortgaged Property granted to HPNC, Ltd., an Illinois corporation ("HPNC"), pursuant to an Option Agreement dated _____, 19__ and the "HPNC Lease" (as defined below) (the "HPNC Option"), there do not exist at

present, and Mortgagor will not in the future grant to any party or enter into, any options or agreements to purchase the Mortgaged Property or any part thereof.

1.08 **Operation and Care of the Mortgaged Property.** The Mortgaged Property is currently, and will at all times hereafter be, operated as a Nursing Home. Mortgagor shall preserve and maintain the Mortgaged Property in good and first class condition and repair. Mortgagor shall cause the Mortgaged Property to be managed at all times in accordance with sound business practices and shall not, without the prior written consent of Mortgagee, permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or of any part thereof, and will not take any action which will increase the risk of fire or other hazard to the Mortgaged Property or to any part thereof. Except as otherwise provided in this Mortgage, no part of the Mortgaged Property shall be removed, demolished or altered in any material manner without the prior written consent of Mortgagee.

1.09 **Transfer of the Mortgaged Property.** Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease (other than the lease to HPNC of even date herewith (the "HPNC Lease") or other leases made in accordance with this Mortgage), or encumbrance of, or any contract for any of the foregoing on an installment basis or otherwise (other than the granting of the HPNC Option), or otherwise pertaining to, the Mortgaged Property, any part thereof, any interest therein, any interest in the beneficial interest in Land Trustee or in any other trust holding title to the Mortgaged Property or any interest of 5% or more in a corporation, partnership or other entity which owns all or part of the Mortgaged Property or such beneficial interest, whether by operation of law or otherwise (including without limitation any sale, assignment, conveyance or transfer that occurs pursuant to the exercise of the HPNC Option), without the prior written consent of Mortgagee to such transfer and to the form and substance of any instrument evidencing or contracting for such transfer. Mortgagor shall not, without the prior written consent of Mortgagee, assign or permit to be assigned the rents from the Mortgaged Property to any party other than Mortgagee, and any such assignment without the prior express written consent of Mortgagee shall be null and void. Mortgagor shall not permit any interest in any lease of the Mortgaged Property to be subordinated to any encumbrance on the Mortgaged Property other than the Loan Instruments and any such subordination shall be null and void. Mortgagor agrees that in the event the ownership of the Mortgaged Property, any interest therein or any part thereof becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal in any way with such successor or successors in interest with reference to this Mortgage, the Note, the Loan Instruments and the Liabilities without in any way vitiating or discharging Mortgagor's liability hereunder or in respect of the Liabilities. No sale of the Mortgaged Property, no forbearance to any person with respect to this Mortgage, and no extension to any person of the time for payment of the Note or any other the Liabilities given by Mortgagee shall operate to release, discharge, modify, change or affect the original liability of Mortgagor, either in whole or in part, except to the extent specifically agreed in writing by Mortgagee.

1.10 **Further Assurances.** At any time and from time to time, upon Mortgagee's request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Mortgagee any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Mortgagee may consider necessary or desirable in order to effectuate or perfect, or to continue and preserve the obligations under, the Note, this Mortgage, any other Loan Instrument and the lien of this Mortgage as a lien upon all of the Mortgaged Property. Upon any failure by Mort-

gagor to do so, Mortgagee may make or execute any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor to do so.

1.11 **Security Agreement and Financing Statements.**

1.11.1 **Grant of Security Interest.** Mortgagor (as debtor) hereby grants to Mortgagee a security interest under the Uniform Commercial Code in all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever constituting part of the Mortgaged Property. Mortgagor shall execute any and all documents, including without limitation financing statements pursuant to the Uniform Commercial Code, as Mortgagee may request to preserve, maintain and perfect the priority of the first lien and security interest created hereby on property which may be deemed personal property or fixtures, and shall pay to Mortgagee on demand any expenses incurred by Mortgagee in connection with the preparation, execution and filing of any such documents. Mortgagor hereby authorizes and empowers Mortgagee and irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor to execute and file, on Mortgagor's behalf, all financing statements and refilings and continuations thereof as Mortgagee deems necessary or advisable to create, preserve and protect such lien. When and if Mortgagor and Mortgagee shall respectively become the debtor and secured party in any Uniform Commercial Code financing statement affecting the Mortgaged Property (or Mortgagee takes possession of personal property delivered by Mortgagor where possession is the means of perfection of the security interest), then, at Mortgagee's sole election, this Mortgage shall be deemed a security agreement as defined in the Uniform Commercial Code, and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed herein or by general law, or, as to such part of the security which is also reflected in such financing statement, by the specific statutory consequences now or hereafter enacted and specified in the Uniform Commercial Code. Without limitation of the foregoing, if an Event of Default occurs, Mortgagee shall be entitled immediately to exercise all remedies available to it under the Uniform Commercial Code and this Paragraph 1.11.1 Mortgagor shall, in such event and if Mortgagee so requests, assemble the tangible personal property at Mortgagor's expense, at a convenient place designated by Mortgagee. Mortgagor shall pay all expenses incurred by Mortgagee in the collection of such indebtedness, including reasonable attorneys' fees and legal expenses, and in the repair of any real estate or other property to which any of the tangible personal property may be affixed. If any notification of intended disposition of any of the personal property is required by law, such notification shall be deemed reasonable and proper if given at least ten (10) days before such disposition. Any proceeds of the disposition of any of the personal property may be applied by Mortgagee to the payment of the reasonable expenses of retaking, holding, preparing for sale and selling the personal property, including reasonable attorneys' fees and legal expenses, and any balance of such proceeds may be applied by Mortgagee toward the payment of such of the Liabilities, and in such order of application, as Mortgagee may from time to time elect. Mortgagee shall not by reason of this Mortgage or the exercise of any right granted hereby be obligated to perform any obligation of Mortgagor with respect to any portion of the personal property nor shall Mortgagee be responsible for any act committed by the Mortgagor, or any breach or failure to perform to perform by the Mortgagor with respect to any portion of the personal property.

1.11.2 **Intent of Parties.** Mortgagor and Mortgagee agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing the express

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declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from the Mortgaged Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings, legal or equitable, shall be regarded as part of the real estate encumbered by this Mortgage irrespective of whether (i) any such item is physically attached to the Land or Improvements, or (ii) any such item is referred to or reflected in any such financing statement so filed at any time.

1.12 **After-Acquired Property.** To the extent permitted by, and subject to, applicable law, the lien of this Mortgage, including without limitation the security interest created under Paragraph 1.11, shall automatically attach, without further act, to all property hereafter acquired by Mortgagor located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

1.13 **Leases Affecting Mortgaged Property.** Mortgagor shall comply with and perform in a complete and timely manner all of its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. Mortgagor shall give notice to Mortgagee of any default by the lessor under any lease affecting the Mortgaged Property promptly upon the occurrence of such default, but, in any event, in such time to afford Mortgagee an opportunity to cure any such default prior to the lessee having any right to terminate the lease. Each of the leases shall contain a provision requiring the lessee to notify Mortgagee of any default by lessor and granting an opportunity for a reasonable time after such notice to cure such default prior to any right accruing to the lessee to terminate such lease. Mortgagor, if requested by Mortgagee, shall furnish promptly to Mortgagee (i) original or certified copies of all such leases now existing or hereafter created, as amended, and (ii) a current rent roll in form reasonably satisfactory to Mortgagee. Mortgagee shall have the right to notify at any time and from time to time any tenant of the Mortgaged Property of any provision of this Mortgage. The assignment contained in Paragraph (H) of the Granting Clauses shall not be deemed to impose upon Mortgagee any of the obligations or duties of Mortgagor provided in any lease, including, without limitation, any liability under the covenant of quiet enjoyment contained in any lease in the event that any tenant shall have been joined as a party defendant in any action to foreclose this Mortgage and shall have been barred and foreclosed thereby of all right, title and interest and equity of redemption in the Mortgaged Property or any part thereof. Mortgagor hereby acknowledges and agrees that Mortgagor is and will remain liable under such leases to the same extent as though the assignment contained in Paragraph (H) of the Granting Clauses had not been made. Mortgagee disclaims any assumption of the obligations imposed upon Mortgagor under the leases, except as to such obligations which arise after such time as Mortgagee shall have exercised the rights and privileges conferred upon it by the assignment contained in Pargraph (H) of the Granting Clauses and assumed full and indefeasible ownership of the collateral thereby assigned. With respect to the assignment contained in Paragraph (H) of the Granting Clauses, Mortgagor shall, from time to time upon request of Mortgagee, specifically assign to Mortgagee as additional security hereunder, by an instrument in writing in such form as may be approved by Mortgagee, all right, title and interest of Mortgagor in and to any and all leases now or hereafter of or affecting the Mortgaged Property or any part thereof together with all security therefor and all monies payable thereunder. Mortgagor shall also execute and deliver to Mortgagee any notification, financing statement or other document reasonably required by Mortgagee to perfect the foregoing assignment as to any such lease.

1.14 **Execution of Leases.** Mortgagor shall not permit any leases to be made of the Mortgaged Property or existing leases to be renewed without the prior written consent of Mortgagee as to the form and substance of each lease and the identity of each lessee. Following the execution or renewal by Mortgagor of a lease in compliance with this Paragraph 1.14, Mortgagor shall not permit such lease to be modified, terminated, renewed or extended except pursuant to the terms thereof or with the prior written consent of Mortgagee.

1.15 **Expenses.** Mortgagor shall pay when due and payable, and otherwise on demand made by Mortgagee, all appraisal fees, survey fees, recording fees, taxes, brokerage fees and commissions, abstract fees, title insurance fees, escrow fees, attorneys' fees, court costs, documentary and expert evidence, fees of inspecting architects and engineers, and all other costs and expenses of every character which have been incurred or which may hereafter be incurred by Mortgagee in connection with any of the following:

(a) The preparation, execution, delivery and performance of the Loan Instruments;

(b) The funding of the Loan and the supervising and servicing thereof;

(c) Any court or administrative proceeding involving the Mortgaged Property or the Loan Instruments to which Mortgagee is made a party;

(d) Any court or administrative proceeding or other action undertaken by Mortgagee to enforce any remedy or to collect any indebtedness due under this Mortgage or any of the other Loan Instruments following a default thereunder, including without limitation a foreclosure of this mortgage or a public or private sale under the Uniform Commercial Code;

(e) Any remedy exercised by Mortgagee following an Event of Default including foreclosure of this Mortgage and actions in connection with taking possession of the Mortgaged Property or collecting rents assigned hereby and by the Assignment of Leases and Rents;

(f) Any activity in connection with any request by Mortgagor or anyone acting on behalf of Mortgagor that the Mortgagee consent to a proposed action which, pursuant to this Mortgage or any of the other Loan Instruments may be undertaken or consummated only with the prior consent of Mortgagee, whether or not such consent is granted; or

(g) Any negotiation undertaken between Mortgagee and Mortgagor or anyone acting on behalf of Mortgagor pertaining to the existence or cure of any default under or the modification or extension of any of the Loan Instruments.

If Mortgagor fails to pay said costs and expenses as above provided, Mortgagee may elect, but shall not be obligated, to pay the costs and expenses described in this Paragraph 1.15, and if Mortgagee does so elect, then Mortgagor will, upon demand by Mortgagee, reimburse Mortgagee for all such expenses which have been or shall be paid or incurred by it. The amounts paid by Mortgagee in respect of such expenses, together with interest thereon at the "Default Rate" (as defined in the Note), from the date paid by Mortgagee until paid by Mortgagor, shall be added to the Liabilities, shall be immediately due and payable and shall be secured by the lien of this Mortgage and the other Loan

Instruments. In the event of foreclosure hereof, Mortgagee shall be entitled to add to the indebtedness found to be due by the court a reasonable estimate of such expenses to be incurred after entry of the decree of foreclosure. To the extent permitted by law, Mortgagor agrees to hold harmless Mortgagee against and from, and reimburse it for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses, including without limitation attorneys' fees, which may be imposed upon, asserted against, or incurred or paid by it by reason of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Mortgaged Property through any cause whatsoever, or asserted against it on account of any act performed or omitted to be performed hereunder, or on account of any transaction arising out of or in any way connected with the Mortgaged Property, this Mortgage, the other Loan Instruments, any of the indebtedness evidenced by the Note or any of the Liabilities.

1.16 **Mortgagee's Performance of Mortgagor's Obligations.** If Mortgagor fails to pay any tax, assessment, encumbrance or other imposition, or to furnish insurance hereunder, or to perform any other covenant, condition or term in this Mortgage, the Note or any other Loan Instrument, Mortgagee may, but shall not be obligated to, pay, obtain or perform the same. All payments made, whether such payments are regular or accelerated payments, and costs and expenses incurred or paid by Mortgagee in connection therewith shall be due and payable immediately. The amounts so incurred or paid by Mortgagee, together with interest thereon at the Default Rate, from the date paid by Mortgagee until reimbursed by Mortgagor, shall be added to the Liabilities and secured by the lien of this Mortgage and the Loan Instruments. Mortgagee is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any covenant, condition or term that Mortgagor has failed to perform or observe, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor. Performance or payment by Mortgagee of any obligation of Mortgagor shall not relieve Mortgagor of said obligation or of the consequences of having failed to perform or pay the same and shall not effect the cure of any Event of Default.

1.17 **Payment of Superior Liens.** To the extent that Mortgagee, after the date hereof, pays any sum due under any provision of law or instrument or document creating any lien superior or equal in priority in whole or in part to the lien of this Mortgage, Mortgagee shall have and be entitled to a lien on the premises equal in parity with that discharged, and Mortgagee shall be subrogated to and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Mortgagee to secure the Note and all obligations and liabilities secured hereby. Mortgagee shall be subrogated, notwithstanding their release of record, to mortgages, trust deeds, superior titles, vendors' liens, mechanics' and materialmen's liens, charges, encumbrances, rights and equities on the Mortgaged Property to the extent that any obligation under any thereof is paid or discharged with proceeds of disbursements or advances under the Note or other indebtedness secured hereby.

1.18 **Books and Records.** Mortgagor shall cause Beneficiary to keep and maintain at all times complete, true and accurate books of account and records reflecting its ownership of the Mortgaged Property. Mortgagor shall furnish to Mortgagee, in form satisfactory to Mortgagee, (i) within sixty (60) days after the last day of each fiscal quarter of Beneficiary, unaudited financial statements of Beneficiary and (ii) within one hundred twenty (120) days after the end of each fiscal year of Beneficiary, unaudited financial statements of Borrower. All of the foregoing financial statements shall be prepared in accordance

with generally accepted accounting principles consistently applied. Mortgagor shall promptly furnish such other information pertaining to its ownership of the Mortgaged Property, as Mortgagee may, from time to time, require. In the event that Mortgagor fails to comply with the requirements set forth above, Mortgagee shall have the right to have Mortgagor's books and records audited by an independent certified public accountant, and the cost of such audit shall be the obligation of Mortgagor. Mortgagee and its designated agents shall have the right to inspect Mortgagor's books and records with respect to its ownership of the Mortgaged Property at all reasonable times. In the event of a foreclosure of this Mortgage, all of Mortgagor's books and records maintained in connection with its ownership of the Mortgaged Property shall be made available to the successful bidder at the foreclosure sale for inspection and copying for a period of not less than three years following said sale. Mortgagor agrees to promptly send Mortgagee copies of (i) any Inspection Reports, licensing reports or other information that Mortgagor receives in connection with the Mortgaged Property and the operation of a Nursing Home thereon, and (ii) any reports, notices or financial or other information that Mortgagor receives from HPNC in respect of the Mortgaged Property or the operation of a Nursing Home thereon, whether pursuant to the HPNC Lease or otherwise.

1.19 **Estoppel Affidavits.** Mortgagor, within ten (10) days after written request from Mortgagee, shall furnish a written statement executed by Mortgagor setting forth the unpaid principal of, and interest on, the Note, and any other unpaid sums secured hereby, and whether or not any offsets or defenses are claimed to exist against such principal and interest or other sums and, if such offsets or defenses are claimed, the specific basis and amount of each such offset or defense.

1.20 **Use of the Mortgaged Property.** Mortgagor shall not suffer or permit the Mortgaged Property, or any portion thereof, to be used by the public, as such, without restriction or in such manner as might reasonably tend to impair Mortgagor's title to the Mortgaged Property or any portion thereof, or in such manner as might reasonably make possible a claim or claims of easement by prescription or adverse possession by the public, as such, or of implied dedication of the Mortgaged Property or any portion thereof. Mortgagor shall not use or permit the use of the Mortgaged Property or any portion thereof for any unlawful purpose.

1.21 **Litigation Involving Mortgaged Property.** Mortgagor shall promptly notify Mortgagee of any litigation, administrative procedure or proposed legislative action initiated against Mortgagor, the Land Trustee, the Beneficiary or the Mortgaged Property or in which the Mortgaged Property is directly or indirectly involved. Mortgagor shall initiate or appear in any legal action or other appropriate proceedings when necessary to protect the Mortgaged Property from damage. Mortgagor shall, upon written request of Mortgagee, represent and defend the interests of Mortgagee in any proceedings described in this Paragraph 1.21 or, at Mortgagee's election, pay the fees and expenses of any counsel retained by Mortgagee to represent the interest of Mortgagee in any such proceedings.

1.22 **Organization.** Each of the Land Trustee and the Beneficiary is duly and properly organized and existing under all appropriate laws and regulations governing its existence and nature of business and is in good standing in every state in which it is doing business.

1.23 **Due Execution.** The execution, delivery and performance by each of the Land Trustee and the Beneficiary of this Mortgage, the Note and the other Loan Instruments to which it is a party is within such Mortgagor's power and has been duly

authorized and is not in contravention of law or of the terms of such Mortgagor's charter, by-laws or other papers or of any indenture, agreement or undertaking to which such Mortgagor is a party or by which it is bound.

1.24 **Personal Property.** There is presently located and there will at all times hereafter be located on the Mortgaged Property, personal property, equipment, cooking and eating utensils, furniture, supplies and linen sufficient to (i) operate a Nursing Home and (ii) satisfy all licensing, certificate and reimbursement requirements established by all relevant state and federal agencies in connection with the operation of a Nursing Home.

ARTICLE TWO

DEFAULTS

2.01 **Event of Default.** The term "Event of Default", wherever used in this Mortgage, shall mean any one or more of the following events:

(a) If Mortgagor shall (i) fail to pay when due (A) any payment of principal within five (5) days after the date on which such payment shall become due and payable under the Note whether at maturity or otherwise; (B) any payment of interest within five (5) days after the date on which such payment shall become due and payable under the Note; or (C) any other sums to be paid by Mortgagor hereunder within five (5) days after such payment is due hereunder; or (ii) fail to keep, perform or observe any other covenant, condition or agreement on the part of Mortgagor in this Mortgage and such failure shall continue for five (5) days.

(b) If a default or "Event of Default" shall occur under any of the Loan Instruments and the same is not cured within the cure, grace or other period, if any, provided in such Loan Instrument.

(c) The untruth of any warranty or representation made herein or in any affidavit or certificate executed by Beneficiary or Land Trustee in connection with the Loan or the disbursement thereof.

(d) An uninsured loss, damage, destruction or taking by eminent domain or other condemnation proceedings of any material portion of the Mortgaged Property or any part of the Mortgaged Property which materially impairs any of the intended uses of the Mortgaged Property.

(e) The appointment of a receiver, trustee or conservator of Land Trustee or Beneficiary, all or any part of the Mortgaged Property or Land Trustee's or Beneficiary's business pertaining to the operation of the Mortgaged Property.

(f) The occurrence of any of the following events:

(i) An admission in writing by Land Trustee or Beneficiary of its inability to pay debts as they become due;

(ii) The institution by Land Trustee or Beneficiary of bankruptcy, reorganization, insolvency or arrangement proceedings of any kind under

federal bankruptcy statutes or any similar law (state or federal) now or hereafter existing;

(iii) The institution against Land Trustee or Beneficiary of bankruptcy, reorganization, insolvency or arrangement proceedings of any kind under federal bankruptcy statutes or any similar law (state or federal) now or hereafter existing which proceedings are not dismissed within 30 days of filing;

(iv) The making of a general assignment for the benefit of creditors by Land Trustee or Beneficiary;

(v) The declaration by any court, government or governmental agency of the bankruptcy or insolvency of Land Trustee or Beneficiary;

(vi) The entry of a final judgment against Land Trustee or Beneficiary for $25,000 or more which is not satisfied within 30 days of the date on which such judgment shall have become final and all stays of execution pending appeal or otherwise shall have expired;

(vii) The issuance of a writ or warrant of attachment, levy, seizure or distraint or any similar process against Land Trustee or Beneficiary or all or a material part of the Mortgaged Property which is not stayed within 30 days of issuance or the lapse of any such stay; or

(viii) The dissolution of Beneficiary.

(g) The filing of any lien or claim for lien against any portion of the Mortgaged Property and the failure of Mortgagor, within 30 days following the date of recording, to (i) discharge such lien or claim, (ii) induce the title insurance company to commit to insure Mortgagee over such lien or claim or (iii) commence appropriate proceedings to contest the validity, applicability, or amount of such lien or claim, provided that Mortgagor first deposits with Mortgagee a bond or other security in form and amount satisfactory to Mortgagee, and provided further, that Mortgagor continues to diligently pursue such proceedings.

(h) The occurrence of a sale, assignment, conveyance, transfer, mortgage, lien or encumbrance of, or execution of a contract for any of the foregoing, in violation of Paragraph 1.09 hereof.

(i) The failure of any guarantor of the Liabilities to timely make any payment due to Mortgagee on the date thereof or upon demand therefor by Mortgagee, as applicable, the insolvency of any such guarantor or the deaths of Harvey J. Angell and Gerald S. Elliott.

(j) If a default by Mortgagor shall occur under any lease of all or any part of the Mortgaged Property (including without limitation the HPNC Lease), and the same is not cured within the cure, grace or other period, if any, provided in such lease.

(k) The occurrence of any event which, under the terms of any evidence of indebtedness, indenture, loan agreement or similar instrument permits the acceleration of the maturity of any indebtedness of Beneficiary to others than Mortgagee.

ARTICLE THREE

REMEDIES

3.01 **Acceleration of Maturity.** If an Event of Default shall have occurred or if the HPNC Option shall have been exercised, Mortgagee may, at its option, declare the outstanding principal amount of the Note and the interest accrued thereon and any other of the Liabilities to be immediately due and payable, and upon such declaration such principal and interest and other Liabilities declared due shall immediately become due and payable without demand or notice of any kind, and notwithstanding the maturity date or dates expressed in the Note or any evidence of the other Liabilities.

3.02 **Mortgagee's Power of Enforcement.** If an Event of Default shall have occurred, Mortgagee may, either with or without entry or taking possession as hereinabove provided or otherwise, and without regard to whether or not the Liabilities shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure or any other action for any default existing at the time such earlier action was commenced, proceed by any appropriate action or proceeding: (a) to enforce payment of the Note and/or any other of the Liabilities or the performance of any term hereof or any of the other Loan Instruments; (b) to foreclose this Mortgage and to have sold, as an entirety or in separate lots or parcels, the Mortgaged Property; and (c) to pursue any other remedy available to it. Mortgagee may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Mortgagee may determine.

3.03 **Mortgagee's Right to Enter and Take Possession, Operate and Apply Income.**

3.03.1 **Surrender of Property.** If an Event of Default shall have occurred, (i) Mortgagor, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Mortgaged Property, and if and to the extent permitted by law, Mortgagee itself, or by such officers or agents as it may appoint, is hereby expressly authorized to enter and take possession of all or any portion of the Mortgaged Property and may exclude Mortgagor and its agents and employees wholly therefrom and shall have joint access with Mortgagor to the books, papers and accounts of Mortgagor; and (ii) notwithstanding the provisions of any lease or other agreement to the contrary, Mortgagor shall pay monthly in advance to Mortgagee, on Mortgagee's entry into possession, or to any receiver appointed to collect the rents, income and other benefits of the Mortgaged Property, the fair and reasonable rental value for the use and occupation of such part of the Mortgaged Property as may be in possession of Mortgagor, or any entity affiliated with or controlled by Mortgagor, and upon default in any such payment Mortgagor shall vacate and surrender possession of such part of the Mortgaged Property to Mortgagee or to such receiver, and in default thereof Mortgagor may be evicted by summary proceedings or otherwise.

3.03.2 **Failure to Surrender.** If Mortgagor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after Mortgagee's demand, Mortgagee may obtain a judgment or decree conferring on Mortgagee the right to immediate possession or requiring Mortgagor to deliver immediate possession of all or part of the Mortgaged Property to Mortgagee, to the entry of which judgment or decree Mortgagor hereby specifically consents. Mortgagor shall pay to Mortgagee, upon demand, all costs and expenses of obtaining such judgment or decree and reasonable compensation to Mortgagee, its attorneys and agents,

and all such costs, expenses and compensation shall, until paid, be secured by the lien of this Mortgage. Upon every such entering upon or taking of possession, Mortgagee, to the extent permitted by law, may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time:

(i) perform such construction, make all necessary and proper maintenance, repairs, renewals, replacements, additions and improvements thereto and thereon, and purchase or otherwise acquire additional fixtures and personal property;

(ii) insure or keep the Mortgaged Property insured;

(iii) manage and operate the Mortgaged Property and exercise all the rights and powers of the Mortgagor, on its behalf or otherwise, with respect to the same;

(iv) enter into agreements with others to exercise the powers herein granted Mortgagee, all as Mortgagee from time to time may determine; and Mortgagee may collect and receive all the rents, income and other benefits of the Mortgaged Property, including those past due as well as those accruing thereafter; and shall apply the monies so received by Mortgagee, in such priority as Mortgagee may determine, to (1) the payment of interest, principal and other payments due and payable on the Note or pursuant to this Mortgage or to any other of the Liabilities, (2) deposits for taxes and assessments, (3) the payment or creation of reserves for payment of insurance, taxes, assessments and other proper charges or liens or encumbrances upon the Mortgaged Property or any part thereof, and (4) the compensation, expenses and disbursements of the agents, attorneys and other representatives of Mortgagee; and

(v) exercise such remedies as are available to Mortgagee under the Loan Instruments or at law or in equity.

Mortgagee shall surrender possession of the Mortgaged Property to Mortgagor only when all amounts then due under any of the terms of this Mortgage shall have been paid and all other defaults have been cured. However, the same right to take possession shall exist if any subsequent Event of Default shall occur.

3.04 **Leases.** Mortgagee is authorized, at Mortgagee's option, to foreclose this Mortgage subject to the rights, if any, of any or all tenants of the Mortgaged Property, even if the rights of any such tenants are or would be subordinate to the lien of this Mortgage. Mortgagee may elect to foreclose the rights of some subordinate tenants while foreclosing subject to the rights of other subordinate tenants. The failure to make any subordinate tenant a party defendant to any foreclosure proceedings and to foreclose its rights will not be, nor be asserted by Mortgagor, any junior lien holder, any tenant or any other party claiming by, through or under Mortgagor to be, a defense to any such foreclosure proceeding or any other proceedings instituted by Mortgagee to collect the sums secured hereby or to collect any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

3.05 **Purchase by Mortgagee.** Upon any foreclosure sale, Mortgagee may bid for and purchase all or any portion of the Mortgaged Property and, upon compliance with the terms of the sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

3.06 **Application of Foreclosure Sale Proceeds.** The proceeds of any foreclosure sale of the Mortgaged Property or any part thereof received by Mortgagee shall be applied by Mortgagee to the indebtedness secured hereby in such order and manner as Mortgagee may elect in a written notice to Mortgagor given on or before sixty (60) days following confirmation of the sale and in the absence of such election, then first to expenses of sale, then to expenses including attorneys' fees of the foreclosure proceeding, then to interest and then to principal. Upon a purchaser at a foreclosure sale coming into possession of the Mortgaged Property, no tenant shall be given credit for any rent paid more than thirty (30) days in advance of the due date thereof.

3.07 **Application of Indebtedness Toward Purchase Price.** Upon any foreclosure sale, Mortgagee may apply any or all of the indebtedness and other sums due to Mortgagee under the Note, this Mortgage or any other Loan Instrument or any other the Liabilities, or any decree in lieu thereof, toward the purchase price.

3.08 **Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws.** Mortgagor agrees, to the full extent permitted by law, that in case of an Event of Default, neither Mortgagor nor anyone claiming through or under it will set up, claim or seek to take advantage of any appraisement, valuation, stay or extension laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat. Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof and agrees that Mortgagee or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety. To the full extent permitted by law, Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf, on behalf of the trust estate and all persons beneficially interested therein, and on behalf of each and every person, except judgment creditors of Mortgagor in its representative capacity and of the trust estate, acquiring any interest in or title to the Mortgaged Property subsequent to the date hereof.

3.09 **Receiver - Mortgagee in Possession.** If an Event of Default shall have occurred, Mortgagee, to the extent permitted by law and without regard to the value of the Mortgaged Property or the adequacy of the security for the indebtedness and other sums secured hereby, shall be entitled as a matter of right and without any additional showing or proof, at Mortgagee's election, to either the appointment by the court of a receiver (without the necessity of Mortgagee posting a bond) to enter upon and take possession of the Mortgaged Property and to collect all rents, income and other benefits thereof and apply the same as the court may direct or to be placed by the court into possession of the Mortgaged Property as mortgagee in possession with the same power herein granted to a receiver and with all other rights and privileges of a mortgagee in possession under law. The right to enter and take possession of and to manage and operate the Mortgaged Property, and to collect all rents, income and other benefits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law and may be exercised concurrently therewith or independently thereof. Mortgagee shall be liable to account only for such rents, income and other benefits actually received by Mortgagee, whether received pursuant to this Paragraph 3.09 or Paragraph 3.03. Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled as pledgee to the posses-

sion and control of any cash, deposits or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Mortgagee.

3.10 **Suits to Protect the Mortgaged Property.** Mortgagee shall have the power and authority (but not the duty) to institute and maintain any suits and proceedings as Mortgagee may deem advisable (a) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or which violate the terms of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property, or (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Mortgagee's interest.

3.11 **Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting Land Trustee, Beneficiary or Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such proceedings for the entire amounts due and payable under the Note, this Mortgage and any other Loan Instrument, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable after such date.

3.12 **Mortgagor to Pay the Liabilities in Event of Default; Application of Monies by Mortgagee.**

(a) Upon occurrence of an Event of Default, Mortgagee shall be entitled to sue for and to recover judgment against Mortgagor for the Liabilities due and unpaid together with costs and expenses, including without limitation the compensation, expenses and disbursements of Mortgagee's agents, attorneys and other representatives, either before, after or during the pendency of any proceedings for the enforcement of this Mortgage; and the right of Mortgagee to recover such judgment shall not be affected by any taking possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

(b) In case of a foreclosure sale of all or any part of the Mortgaged Property and of the application of the proceeds of sale to the payment of the Liabilities, Mortgagee shall be entitled to enforce all other rights and remedies under the Loan Instruments.

(c) Mortgagor hereby agrees, to the extent permitted by law, that no recovery of any judgment by Mortgagee under any of the Loan Instruments, and no attachment or levy of execution upon any of the Mortgaged Property or any other property of Mortgagor, shall (except as otherwise provided by law) in any way affect the lien of this Mortgage upon the Mortgaged Property or any part thereof or any lien, rights, powers or remedies of Mortgagee hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before until the Liabilities are paid in full.

(d) Any monies collected or received by Mortgagee under this Paragraph 3.12 shall be applied to the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of Mortgagee, and the balance remaining shall be applied to the payment of the Liabilities in the inverse order of maturity and any surplus, after payment of all the Liabilities, shall be paid to Mortgagor.

3.13 **Delay or Omission.** No delay or omission of Mortgagee in the exercise of any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee.

3.14 **Waiver of Default.** No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies in respect thereof. If Mortgagee (a) grants forbearance or an extension of time for the payment of any sums secured hereby, (b) takes other or additional security for the payment thereof, (c) waives or does not exercise any right granted in the Note, this Mortgage or any other Loan Instrument, (d) releases any part of the Mortgaged Property from the lien of this Mortgage or any other Loan Instrument, (e) consents to the filing of any map, plat or replat of the Land, (f) consents to the granting of any easement on the Land, or (g) makes or consents to any agreement changing the terms of this Mortgage or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the lien of this Mortgage or any other Loan Instrument or the liability under the Note or other Loan Instruments of Mortgagor, any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, except as otherwise expressly provided in an instrument or instruments executed by Mortgagee. Except as otherwise expressly provided in an instrument or instruments executed by Mortgagee, no such act or omission shall preclude Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default, nor shall the lien of this Mortgage be altered thereby, except to the extent of any releases as described in clause (d), above, of this Paragraph 3.14.

3.15 **Discontinuance of Proceedings; Position of Parties Restored.** If Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or such proceedings shall have resulted in a final determination adverse to Mortgagee, then and in every such case Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceedings had occurred or had been taken.

3.16 **Remedies Cumulative.** No right, power or remedy conferred upon or reserved to the Mortgagee by the Note, this Mortgage or any other Loan Instrument or any instrument evidencing or securing the Liabilities is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note or any other Loan Instrument or any instrument evidencing or securing the Liabilities, or now or hereafter existing at law, in equity or by statute.

ARTICLE FOUR

MISCELLANEOUS PROVISIONS

4.01 **Heirs, Successors and Assigns Included in Parties.** Whenever Mortgagee, Mortgagor, Land Trustee or Beneficiary is named or referred to herein, heirs and successors and assigns of such person or entity shall be included, and all covenants and agreements contained in this Mortgage shall (i) bind the successors and assigns of Mortgagor, Land Trustee and Beneficiary, in-

cluding any subsequent owner of all or any part of the Mortgaged Property and (ii) inure to the benefit of the successors and assigns of Mortgagee. This Section 4.01 shall not be construed to permit an assignment, transfer, conveyance, encumbrance or other disposition otherwise prohibited by this Mortgage.

4.02 **Notices.** All notices, requests, reports demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Mortgagee shall be directed to Mortgagor or Mortgagee as the case may be at the following addresses:

If to Mortgagee: Bank Leumi le-Israel B.M., Chicago Branch
100 North LaSalle Street
Chicago, Illinois 60602
Attn: Mr. Dan Maeir

with a copy to: Goldberg, Kohn, Bell, Black, Rosenbloom & Moritz, Ltd.
55 East Monroe Street
Chicago, Illinois 60603
Attn: David L. Dranoff, Esq.

If to Mortgagor or Land Trustee: American National Bank and Trust Company of Chicago, as Trustee under Trust No. 27575
33 North LaSalle Street
Chicago, Illinois 60690
Attn: Land Trust Department

with copies to: Drexel Partnership
c/o Mr. Harvey J. Angell
180 North LaSalle Street
Chicago, Illinois 60601
Attention: Mr. Harvey J. Angell

and

Gerald S. Elliott, Esq.
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

If to Beneficiary: Drexel Partnership
c/o Mr. Harvey J. Angell
180 North LaSalle Street
Chicago, Illinois 60601
Attention: Mr. Harvey J. Angell

with copies to: Gerald S. Elliott, Esq.
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

and

American National Bank and Trust Company of Chicago, as Trustee under Trust No. 27575
33 North LaSalle Street
Chicago, Illinois 60690
Attn: Land Trust Department

Any such notices, requests, reports, demands or other instruments shall be (i) personally delivered to the offices set forth above, in which case they shall be deemed delivered on the date of delivery to said offices, (ii) sent by Western Union telegram, in which case they shall be deemed delivered on the date Western

Union delivers its telephonic communication, (iii) sent by certified mail, return receipt requested, in which case they shall be deemed delivered three business days after deposit in the U.S. mail, postage prepaid, or (iv) sent by air courier (Federal Express or like service), in which case they shall be deemed received on the date of actual delivery. Either party may change the address to which any such notice, report, demand or other instrument is to be delivered by furnishing written notice of such change to the other party in compliance with the foregoing provisions.

4.03 **Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

4.04 **Invalid Provisions.** In the event that any of the covenants, agreements, terms or provisions contained in the Note, this Mortgage or in any other Loan Instrument shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein or in the Note or in any other Loan Instrument (or the application of the covenant, agreement, term held to be invalid, illegal or unenforceable, to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.

4.05 **Changes.** Neither this Mortgage nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought. To the extent permitted by law, any agreement hereafter made by Mortgagor and Mortgagee relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.

4.06 **Governing Law.** This Mortgage shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Illinois.

4.07 **Required Notices.** Mortgagor shall notify Mortgagee promptly of the occurrence of any of the following: (i) receipt of notice from any governmental authority relating to the violation of any rule, regulation, law or ordinance, the enforcement of which would materially and adversely affect the Mortgaged Property; (ii) default of any tenant leasing all or any portion of the Mortgaged Property or receipt of any notice from any such lessee claiming that a default by landlord has occurred under the lease; or (iii) commencement of any judicial or administrative proceedings by or against or otherwise adversely affecting Mortgagor or the Mortgaged Property.

4.08 **Future Advances.** This Mortgage is given to secure not only existing indebtedness, but also future advances (whether such advances are obligatory or are to be made at the option of Mortgagee, or otherwise) made by Mortgagee under the Note, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but all indebtedness secured hereby shall, in no event, exceed five times the aggregate face amount of the Note.

4.09 **Release.** Upon full payment of the Liabilities, Mortgagee shall issue to Mortgagor an appropriate release deed in recordable form.

4.10 **Attorneys' Fees.** Whenever reference is made herein to the payment or reimbursement of attorneys' fees, such fees shall be deemed to include allocable compensation to staff counsel, if any, of Mortgagee in addition to the fees of any other attorneys engaged by Mortgagee.

4.11 **Obligations Joint and Several.** The obligations and liabilities of Land Trustee and Beneficiary hereunder shall be joint and several.

4.12 **Setoff by Mortgagee.** Any indebtedness owing from Mortgagee to Beneficiary at any time may be set off and applied by Mortgagee to the Liabilities at any time and from time to time, either before or after maturity, and without demand upon or notice to anyone.

4.13 **Beneficiary's Liability Hereunder.** Beneficiary acknowledges that this Mortgage will be recourse to Beneficiary and to its general partners. Notwithstanding the foregoing or anything to the contrary contained elsewhere in this Mortgage, Beneficiary agrees that (i) the personal liability of each general partner of Beneficiary other than Harvey J. Angell and Gerald S. Elliott will be limited to the interest of such general partner in Beneficiary and in the assts of Beneficiary, and (ii) Harvey J. Angell and Gerald S. Elliott will be personally liable for 100% of the Liabilities.

4.14 **Exculpatory Provision.** This Mortgage is executed by American National Bank and Trust Company of Chicago, not in its individual capacity, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that nothing contained herein or in the Loan Instruments shall be construed as creating any liability on American National Bank and Trust Company of Chicago, in its individual capacity to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability in its individual capacity, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder. So far as said American National Bank and Trust Company of Chicago personally is concerned, the legal holder of the Note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby conveyed and any rent or proceeds therefrom for the payment thereof, by the enforcement of the lien hereby created, in the manner herein and in said Note provided or by action to enforce the personal liability of any guarantors of said indebtedness, by action against the Beneficiary arising out of a breach or one or more of the other Loan Instruments to which the Beneficiary is a party or by the exercise of any remedy available under any of the other Loan Instruments.

IN WITNESS WHEREOF, Mortgagor has caused this instrument to be executed by its duly authorized officers as of the day and year first above written.

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not in its individual capacity but as Trustee under Trust Agreement dated December 31, 1968 and known as Trust No. 27575

By _____
Its _____

ATTEST:

Its _____

86371664

6 3 7 1 6 6 4

WITNESS:

WITNESS:

DREXEL PARTNERSHIP, an Illinois general partnership

General Partner

General Partner

As Attorneys-in-Fact for and Agents of Drexel Partnership and all of the General Partners of Drexel Partnership

THIS INSTRUMENT PREPARED BY,
~~AND AFTER RECORDING RETURN TO:~~

David L. Dranoff, Esq.
Goldberg, Kohn, Bell, Black,
Rosenbloom & Moritz, Ltd.
55 East Monroe Street
Chicago, Illinois 60603

86371664

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

I, LORETTA M. SOVIENSKI, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT J. MICHAEL WHELAN and SUZANNE G. BAKER, and _____ of American National Bank and Trust Company of Chicago, as Trustee, 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 and delivered said instrument as their own free and voluntary acts and as the free and voluntary act of said bank.

GIVEN under my hand and notarial seal this ____ day of _____ 1986.

AUG 00 1986

Loretta M Sovienski
Notary Public

My Commission Expires:

_____

"OFFICIAL SEAL"
Loretta M. Sovienski
Notary Public, State of Illinois
My Commission Expires 6/27/88

86371664

6 3 7 1 6 6 4

ACKNOWLEDGEMENT

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, Cherlyn Kelly, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT Harvey Anbell and Gerald Elliott of Drexel Partnership, an Illinois general partnership, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said general partnership for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 14th day of August, 1986.

Cherlyn Kelly
Notary Public

My Commission Expires:
5/25/87

86371664

6 3 7 1 6 6 4

EXHIBIT A

Note

Attached

NOTE

THIS NOTE dated as of _____, 1986, is made and executed in Chicago, Illinois by each of (i) American National Bank and Trust Company of Chicago, not in its individual capacity but as Trustee under Trust Agreement dated December 31, 1968 and known as Trust No. 27575 (the "Land Trustee") and (ii) Drexel Partnership, an Illinois general partnership and the owner of 100% of the beneficial interest in Land Trustee (the "Beneficiary") (Beneficiary and Land Trustee being sometimes hereinafter collectively referred to as "Mortgagor"), is in the original principal amount of $840,000.00, with interest as provided herein, and is payable to the order of Bank Leumi le-Israel, B.M., Chicago Branch (the "Lender").

RECITALS

I. Lender has agreed to make a loan to Mortgagor in an amount not to exceed the principal amount hereof (the "Loan"). This Note evidences Mortgagor's unconditional obligation to repay the Loan.

II. The payment of this Note is secured by (a) a Mortgage and Security Agreement (the "Mortgage") executed by Mortgagor covering certain real estate and personal property located in Cook County, Illinois (the "Mortgaged Property"); (b) an Assignment of Leases and Rents pertaining to the Mortgaged Property; (c) a Collateral Assignment of Beneficial Interest in Land Trust executed by Beneficiary; (d) an Unlimited Guaranty executed by Harvey J. Angell; and (e) an Unlimited Guaranty executed by Gerald S. Elliott. This Note, together with the foregoing Mortgage, Assignment of Leases and Rents, Collateral Assignment of Beneficial Interest and guaranties, and any and all other documents and instruments now or hereafter executed and delivered in connection with the Loan, and any and all amendments, renewals, extensions and replacements hereof and thereof, are hereafter collectively referred to herein as the "Loan Instruments". The terms of the other Loan Instruments are hereby incorporated, by reference, in this Note. This Note may be declared due prior to its maturity date in the manner provided herein and in the Mortgage.

I

PAYMENT TERMS

1.1 **The Promise to Pay.** Mortgagor hereby unconditionally promises to pay to the order of Lender out of the Mortgaged Property and the income therefrom, the sum of EIGHT

HUNDRED FORTY THOUSAND and NO/100 DOLLARS ($840,000.00), together with interest thereon at the initial rate of _____% per annum and at the variable rate thereafter of 1.50% per annum plus the rate of interest designated by Lender, and in effect from time to time, as its Designated Rate (the "Designated Rate"), to be adjusted when said Designated Rate changes. Mortgagor acknowledges that the Designated Rate may not necessarily represent the lowest rate charged by Lender to its customers. After maturity hereof, acceleration hereunder or the occurrence of a default hereunder, the total unpaid indebtedness hereunder shall bear interest at a rate equal to 3% per annum plus the rate of interest otherwise chargeable hereunder (the "Default Rate"). All interest shall be paid monthly in arrears, computed on the basis of a 360-day year and charged for the actual number of days elapsed. As of the date hereof, the Designated Rate is _____%.

The indebtedness hereunder shall be payable in 24 installments, as follows:

> 23 installments of $13,200.00, on the fifteenth day of September, 1986 and on the fifteenth day of each calendar month thereafter, ending on July 15, 1988; and
>
> 1 installment equal to the remaining indebtedness and accrued interest hereunder, due on August 15, 1988.

All payments shall be applied first to accrued interest and then to principal, in such order and manner as Lender may elect; provided, however, that if on August 15, 1987, the aggregate amount of principal payments received by Lender up to and including such date, as allocated by Lender (the "First Year's Principal Repayment") is not greater than or equal to $57,000.00, Mortgagor shall immediately pay to Lender an amount equal to the amount by which $57,000.00 exceeds the First Year's Principal Repayment.

1.2 **Place and Manner of Payment.** The payment of all amounts due under this Note and under the Mortgage shall be made in "Federal Funds" or other immediately available funds and shall be deemed received only when actually received by Lender at its offices in Chicago, Illinois. Payments received after 1:00 o'clock p.m. in said location shall be deemed received on the next day that Lender is open for business. At Lender's option, Lender may accept payments by check or in form other than immediately available funds, but such payments shall be accepted subject to collection and, at Lender's option, shall be deemed received only when collected. Acceptance by Lender of payments in other than immediately available funds shall not constitute a waiver by Lender of its rights to insist that any subsequent payment be made in immediately available funds.

1.3 **Late Payment Fee.** In the event any payment due hereunder or any payment or deposit due under the Mortgage is not made when due, Lender, at its option and in addition to any other remedy available to Lender, may impose a late payment fee, which Mortgagor covenants to pay upon demand calculated at the rate of five percent of the amount of such delinquent payment or deposit for the first month or first partial month and three percent of the amount of such delinquent payment or deposit for each month or partial month thereafter until said delinquency is cured. Any payment or deposit received by Lender may, at the option of Lender, be applied first to any outstanding late payment fee and then as otherwise provided in this Note or in any of the Loan Instruments.

II

ADDITIONAL COVENANTS

2.1 **Acceleration.** If any payment due under this Note is not made within five (5) days after the date upon which such payment is due if an Event of Default or default shall occur under and as defined in any of the Loan Instruments, or if the right to foreclose the Mortgage or accelerate the "Liabilities" (as defined therein) shall accrue to the holder thereof, whether or not foreclosure proceedings have been commenced, then, at the election of the holder of this Note and without notice or demand, and notwithstanding the maturity date hereof, the unpaid principal sum, together with accrued interest thereon, shall at once become due and payable and shall bear interest at the Default Rate.

2.2 **Waivers.** Mortgagor and any other parties hereafter liable for the debt (including, without restricting the foregoing, any endorsers, sureties and guarantors) represented by this Note, hereby (a) waive presentment for payment, notice of dishonor, protest and notice of protest, and (b) agree that the time of payment of that debt or any part thereof may be extended from time to time without modifying or releasing the lien of the Loan Instruments or the liability of Mortgagor or any such other parties, the right of recourse against and such parties being hereby reserved by the holder hereof.

2.3 **Collection.** In the event of a default in the payment of any amount due hereunder, the holder hereof may exercise any remedy or remedies, in any combination whatsoever, available by operation of law or under any instrument given as security for this Note and such holder shall be entitled to collect its reasonable costs of collection, including attorneys' fees, which shall be additional indebtedness hereunder. For

purposes of the preceding sentence, Lender attorneys' fees shall be deemed to include compensation to staff counsel, if any, of Lender in addition to the fees of any other attorneys engaged by Lender.

2.4 **Governing Law.** This Note is executed and delivered in Chicago, Illinois and shall be governed by and construed in accordance with the law of the State of Illinois.

2.5 **Severability.** If any term, restriction or covenant of this instrument is deemed illegal or unenforceable, all other terms, restrictions and covenants and the application thereof to all persons and circumstances subject hereto shall remain unaffected to the extent permitted by law; and if any application of any term, restriction or covenant to any person or circumstance is deemed illegal, the application of such term, restriction or covenant to other persons and circumstances shall remain unaffected to the extent permitted by law.

2.6 **Joint and Several Obligations.** The liabilities and obligations of Land Trustee and Beneficiary hereunder shall be joint and several.

2.7 **Beneficiary's Indebtedness Hereunder.** Beneficiary acknowledges that this Note will be recourse to Beneficiary and to its general partners. Notwithstanding the foregoing or anything to the contrary contained elsewhere in this Note, Beneficiary agrees that (i) the personal liability of each general partner of Beneficiary other than Harvey J. Angell and Gerald S. Elliott will be limited to the interest of such general partner in Beneficiary and the assets of Beneficiary, and (ii) Harvey J. Angell and Gerald S. Elliott will be personally liable for 100% of the indebtedness under this Note.

2.8 **Exculpatory Clause.** American National Bank and Trust Company of Chicago is a party to this instrument, not in its individual capacity but as trustee under a Trust Agreement dated December 31, 1968, and known as Trust No. 27575. Insofar as the liability of Mortgagor is concerned, this instrument is enforceable only against, and any claims hereon are payable only out of, any trust property which may be held thereunder and any rents and proceeds therefrom, but this clause shall not affect Lender's remedies under any of the other Loan Instruments. Any and all liability of American National Bank and Trust Company of Chicago in its individual capacity is hereby expressly waived by Lender and its successors and assigns.

8 3 7 1 6 6 4

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not in its individual capacity but as Trustee under a Trust Agreement dated December 31, 1968 and known as Trust No. 27575

By_____
Its_____

DREXEL PARTNERSHIP, an Illinois general partnership

By_____
General Partner

By_____
General Partner

As Attorneys-in-Fact for and Agents of Drexel Partnership and all of the General Partners of Drexel Partnership

EXHIBIT B

Legal Description of Land

The North 119.37 feet (except the South 3.12 feet of the West 98.42 feet thereof) of Lot 1 in the Resubdivision of Lots 4, 5 and 6, together with private alleys adjoining saids Lots, all in Clarke and Sharpe's Subdivision of Lots 1, 2, 3 and 4 in Block 5 of Walker and Stinson's Subdivision of the West half of the South West quarter of Section 2, Township 38 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 20-02-312-001

4501 S. Drexel Blvd
Chicago, Il. 60634

86371664

6 3 7 1 6 6 4

EXHIBIT C

Permitted Encumbrances

Exceptions to title shown on Commitment for Title Insurance (ALTA Loan Policy 1970) issued by Safeco Title Insurance Company, showing Mortgagee as proposed insured and with an effective date of July 24, 1986, Order Number 8604063 C.

86371664

-86-371664

4400