

UNOFFICIAL COPY

86393426

85 290 202



NOTICE: THIS MORTGAGE MAY SECURE BORROWINGS MADE SUBSEQUENT TO A TRANSFER OF THE PROPERTY

THIS MORTGAGE TO SECURE A REVOLVING CREDIT LOAN (herein "Mortgage") is made by and between Jeffrey W. Braun, a single person, never married, (herein "Borrower"), and WELLS FARGO CREDIT CORPORATION, whose address is 1931 N. Meacham Road, Suite 360, Schaumburg, Illinois 60195 (herein "Lender").

Borrower, in consideration of the indebtedness herein recited, grants, bargains, sells and conveys, warrants, and mortgages unto Lender and Lender's successors and assigns, the following described properties located in the Village of Oak Park, County of Cook, State of Illinois:

LOT 47 (EXCEPT THE EAST 1 1/2 INCHES THEREOF) IN HOUSTON'S SUBDIVISION OF THAT PART LYING SOUTH OF THE WISCONSIN CENTRAL RAILROAD RIGHT-OF-WAY OF THE WEST 1/2 OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Parcel No.: ~~16-08-322-005~~ 16-08-322-012 ILLINOIS. which has the address of 51 W. Washington Blvd., Oak Park, ILLINOIS (herein "Property Address"); PTN: 16-08-322-005

TO HAVE AND TO HOLD such property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, after-acquired title or reversion in and to the beds of ways, streets, avenues, and alleys adjoining the Property, and rents (subject however to the rights and authorities given in this Mortgage to Lender to collect and apply such rents), royalties, mineral, oil, and gas rights and profits, water, water rights, and water stock, insurance and condemnation proceeds, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions hereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property"; as to any property which does not constitute a fixture (as such term is defined in the Uniform Commercial Code), this Mortgage is hereby deemed to be, as well, a Security Agreement under the UCC for the purpose of creating a security interest in such Property, which Borrower hereby grants to Lender as Secured Party (as such term is defined in the UCC);

To Secure to Lender on condition of the repayment of the REVOLVING LINE OF CREDIT indebtedness evidenced by an Illinois Revolving Loan Agreement and Disclosure Statement ("Agreement") of even date herewith in the maximum principal sum of U.S. \$ 36,000.00, or so much thereof as may be advanced and outstanding, with interest thereon, providing for monthly installments of interest, with the principal balance of the indebtedness, if not sooner paid or required to be paid, due and payable 15 years from the date thereof; the payment of all other sums, with interest thereon, advanced in accordance with this Mortgage to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower contained in this Mortgage and in the Agreement. This Mortgage permits and secures future advances which have the priority of the original advance. All advances will be made within 20 years of the date of this Mortgage.

Notwithstanding anything to the contrary in this Mortgage, the Property shall include all of Borrower's right, title, and interest in and to the real property described above, whether such right, title, and interest is acquired before or after execution of this Mortgage. Specifically, and without limitation of the foregoing, if this Mortgage is given with respect to a leasehold estate held by Borrower, and Borrower subsequently acquires a fee interest in the real property, the fee of this Mortgage shall attach to and include the fee interest acquired by Borrower.

Borrower covenants that Borrower is the lawful owner of the estate in land hereby conveyed and has the right to grant, convey, and mortgage the Property, and that the Property is unencumbered except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record. Borrower covenants that Borrower will neither take nor permit any action to partition or subdivide the Property or otherwise change the legal description of the Property or any part thereof, or change in any way the condition of title of the Property or any part thereof.

Borrower acknowledges that the Agreement calls for a "variable interest rate," and that the Lender may, prior to the expiration of the term of the Agreement cancel future advances thereunder and/or require repayment of the outstanding balance under the Agreement. In this regard, the Agreement provisions set forth verbatim below relate to the variable interest rate and the Lender's option to require repayment prior to expiration of the term of the Agreement or to cancel future advances for reasons other than default by the Borrower.

The paragraph of the Illinois Revolving Loan Agreement and Disclosure Statement, entitled "FINANCE CHARGE," provides as follows:

FINANCE CHARGE: Borrowers agree to pay a Periodic Finance Charge on the Average Daily Balance of their account beginning on the date any advance or other charge is added to the account. The Average Daily Balance for a billing period is computed by adding the unpaid balances on the account at the end of each day during the billing period and dividing the total by the number of days in the billing period. The unpaid balance at the end of each day shall be determined by adding to the previous day's unpaid balance all advances and other charges, except Periodic Finance Charge, occurring that day, and subtracting from such amount all payments made by Borrowers and other credits. The Periodic Finance Charge is calculated at the end of each billing period by multiplying the Daily Periodic Rate in effect at the time by the number of days in the period, and then multiplying the Average Daily Balance during the billing period by the resulting rate. The Periodic Finance Charge rates under this Agreement as of the date of this Agreement are:

Introductory Annual Percentage Rate n/a % Corresponding Introductory Daily Periodic Rate n/a %
ANNUAL PERCENTAGE RATE 11.91 % Corresponding Daily Periodic Rate 0.0326 %

The Daily Periodic Rate is the Annual Percentage Rate divided by 365. The Annual Percentage Rate and Corresponding Daily Periodic Rate described in this Agreement are applicable to all balances under this Agreement. In addition to periodic Finance Charge at the Annual Percentage Rate shown above, Borrowers agree to pay a Prepaid Finance Charge of \$ n/a immediately upon the establishment of the Line of Credit provided under this Agreement. Borrowers agree that if they do not pay the Prepaid Finance Charge in cash, it will be added to the unpaid balance on the account under this Agreement, and will bear interest at the Annual Percentage Rate.

If this box is checked, the following disclosure set forth in brackets is applicable:
[The Introductory Annual Percentage Rate will remain in effect through n/a 0, 19 .
The Annual Percentage Rate shown is the current Annual Percentage Rate that would have been applied to this Line of

151 121 6320639

86393426
86 079 365
85 290 202

Credit if the Introductory Annual Percentage Rate has not been in effect. The Corresponding Daily Periodic Rate is the Daily Periodic Rate that would have been applied to this Line of Credit if the Introductory Daily Periodic Rate had not been in effect.

INTRODUCTORY TERMS: The Introductory Daily Periodic Rate is the Introductory Annual Percentage Rate divided by 365. The Introductory Annual Percentage Rate and Corresponding Introductory Daily Periodic Rate described in this Agreement are applicable to all balances under this Agreement through n/a 9, 19 _____. In addition to the Introductory Periodic Finance Charge at the Introductory Annual Percentage Rate shown above, Borrowers agree to pay a Prepaid Finance Charge of \$ n/a immediately upon the establishment of the Line of Credit provided under this Agreement. Borrowers agree that if they do not pay the Prepaid Finance Charge in cash, it will be added to the unpaid balance on the account under this Agreement and will bear interest at the Introductory Annual Percentage Rate, as long as that Rate applies, and at the Annual Percentage Rate thereafter.]

The paragraph of the Illinois Revolving Loan Agreement and Disclosure Statement, entitled "USE OF DRAFTS," provides in its entirety the following conditions:

USE OF DRAFTS: Borrowers agree that if Lender provides them with money drafts to be used for the purpose of taking advances on Borrowers' Line of Credit, their use of such money drafts shall be subject to the following limitations: (a) No money draft may be negotiated with a face amount of less than \$500.00; (b) Money drafts may not be used for the purpose of making payments under this Agreement; (c) No money draft may be negotiated if Borrowers are in default under any of the terms of this Agreement; (d) No money draft may be negotiated if the unpaid balance under this Agreement is in excess of the Line of Credit or if such money draft would itself cause the unpaid balance of this Agreement to be in excess of the Line of Credit; (e) No money draft may be negotiated after the Date on Which Line of Credit Terminates; (f) All money drafts are and remain the property of Lender, and all money drafts must be returned to Lender upon Lender's request or after the Date on Which Line of Credit Terminates; (g) Lender is not liable for any refusal to honor Borrowers' money drafts or for any retention of a money draft by Lender, any other creditor, or any seller of goods or services, or for any notice Lender may give that Lender refuses to honor a money draft; and (h) Borrowers are liable for the unauthorized use of Borrowers' money drafts. Borrowers should immediately notify Lender, orally and in writing, of the loss, theft, or possible unauthorized use of Borrowers' money drafts.

The paragraph of the Illinois Revolving Loan Agreement and Disclosure, entitled "OVER-LIMIT REQUESTS," provides in its entirety the following conditions:

OVER-LIMIT REQUESTS: If Borrowers request a cash advance which, if granted, would result in Borrowers' unpaid balance being more than Borrowers' Line of Credit (whether or not the balance before the request was more than the Line of Credit), Lender may (a) Honor the request without permanently raising Borrowers' Line of Credit; (b) Honor the request and treat the amount which is more than Borrowers' Line of Credit as immediately due; or (c) Refuse to honor the request. Lender may advise the person who made the request that it has been refused. If Lender refuses to honor a money draft, Lender may do so by advising the person presenting the draft that the cash advance has been refused or in any other manner. If Lender has previously honored requests for cash advances over the Line of Credit, it does not mean that Lender will honor further over-limit requests.

The paragraph of the Illinois Revolving Loan Agreement and Disclosure Statement, entitled "FAILURE TO COMPLY WITH TERMS OF AGREEMENT," provides as follows:

FAILURE TO COMPLY WITH TERMS OF AGREEMENT: Borrowers agree that if they fail to comply with any of the terms of this Agreement or any other document signed by them in connection with this Agreement or, if one or more Borrowers die or have made any misrepresentations in connection with this Agreement, Lender may without notice require Borrowers to immediately pay the entire unpaid balance of this Agreement, including accrued Periodic Finance Charge. Lender also has this right if there is a material adverse change in Borrowers' financial condition or credit standing, if Borrowers become subject to bankruptcy proceedings or if Borrowers do anything that indicates they are unable or unwilling to repay this loan. Once Lender has declared the entire unpaid balance due, the Line of Credit under this Agreement is terminated. In addition, Borrowers agree that Lender may without notice and at any time require Borrowers to pay all or any part of the unpaid balance of this loan, including accrued Finance Charge, if the property given by Borrowers to secure this loan declines in value to the extent that Lender, at its sole discretion, deems itself insecure.

PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due, in accordance with the terms of the Agreement, the principal and interest on the indebtedness evidenced by the Agreement, together with any late charges or other charges imposed under the Agreement.

APPLICATION OF PAYMENTS. Unless applicable law requires otherwise, all payments received by Lender under the Agreement and this Mortgage shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraphs 6 and 26 of this Mortgage, then to interest payable on the Agreement, then to other charges payable under the Agreement, and then to the principal of the Agreement.

3. PRIOR MORTGAGES AND DEEDS OF TRUST; CHARGES; LIENS. Borrower shall fully and timely perform all of Borrower's obligations under any mortgage, deed of trust, or other security agreement with a lien which has or appears to have any priority over this Mortgage, including Borrower's covenants to make any payments when due. Borrower shall pay or cause to be paid, at least 10 days before delinquency, all taxes, assessments, and other charges, fines and impositions attributable to the Property, and all encumbrances, charges, loans, and liens (other than any prior first mortgage or deed of trust) on the Property which may attain any priority over this Mortgage, and leasehold payments or ground rents, if any. Borrower shall deliver to Lender, upon its request, receipts evidencing such payment.

4. HAZARD INSURANCE. Borrower shall, at its cost, keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards (collectively referred to as "Hazards") as Lender may require. Borrower shall maintain Hazard insurance for the entire term of the Note or such other periods as Lender may require and in an amount equal to the lesser of: (a) the maximum insurable value of the Property; or (b) the amount of the line of credit secured by this Mortgage plus the outstanding amount of any obligation secured in priority over this Mortgage, but in no event shall such amounts be less than the amount necessary to satisfy the coinsurance requirement contained in the insurance policy.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust, or other security agreement with a lien which has or appears to have any priority over this Mortgage. If Borrower makes the premium payment directly, Borrower shall promptly furnish to Lender all renewal notices and, if requested by Lender, all receipts of paid premiums. If policies and renewals are held by any other person, Borrower shall supply copies of such to Lender within 10 calendar days after issuance.

86 079 365

85 290 202

86393426

10. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CO-SIGNERS. The covenants and agreements contained in this Mortgage shall bind, and the rights under this Mortgage shall inure to, the respective successors, heirs, legatees, devisees, and assigns of Lender and Borrower, subject to the provisions of paragraph 16 of this Mortgage. All covenants and agreements of Borrower (or Borrower's successors, heirs, legatees, devisees, and assigns) shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Agreement, (a) is co-signing this Mortgage only to encumber that Borrower's interest in the Property under the lien and terms of this Mortgage and to release homestead rights, if any, (b) is not personally liable on the Agreement or under this Mortgage, and (c) Great Lakes Lender and Borrower under this Mortgage may agree to extend, modify, forbear,

9. BORROWER NOT RELEASED; FORBEARANCE BY LENDER NOT A WAIVER. Extension of the time for payment, acceptance by Lender of payments other than according to the terms of the Agreement, modification in payment terms of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower, or the waiver or failure to exercise any right granted in this Mortgage or under the Agreement shall not operate to release, in any manner, the liability of the original Borrower, Borrower's successors in interest, or any guarantor or surety thereof. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify payment terms of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successor in interest. Lender shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies under this Mortgage unless such waiver is in writing and signed by Lender. Any such waiver shall apply only to the extent specifically set forth in the writing. A waiver as to one event shall not be construed as continuing or as a waiver as to any other event. The procurement of insurance or the payment of taxes, other liens, or charges by Lender shall not be a waiver of Lender's right as otherwise provided in this Mortgage to accelerate the maturity of the indebtedness secured by this Mortgage in the event of Borrower's default under the Agreement.

8. CONDEMNATION. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the property, or part thereof, or for conveyance in lieu of condemnation, shall be paid to Lender, subject to the terms of any mortgage, deed of trust, or other security agreement with a lien which has priority over this Mortgage. Borrower agrees to execute such further documents as may be required by the condemnation authority to effectuate this paragraph. Lender is hereby irrevocably authorized to apply or release such moneys received or make settlement for such moneys in the same manner and with the same effect as provided in this Mortgage for disposition or settlement of proceeds of Hazard Insurance. No settlement for condemnation damages shall be made without Lender's prior written approval.

7. INSPECTION. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that, except in an emergency, Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

6. PROTECTION OF LENDER'S SECURITY. If Borrower fails to perform the covenants and agreements contained in this Mortgage or in the Agreement or if any action or proceeding is commenced which affects Lender's interest in the Property or the rights or powers of Lender, then Lender without demand upon Borrower but upon notice to Borrower pursuant to paragraph 11 of this Mortgage, may, without releasing Borrower from any obligation in this Mortgage, make such appearances, defend the action or proceeding, disburse such sums, including reasonable attorneys' fees, and take such action as Lender deems necessary to protect the security of this Mortgage. If Lender has required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement, or applicable law.

5. PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS. Borrower shall use, improve, and maintain the Property in compliance with applicable laws, statutes, ordinances, orders, requirements, decrees, or regulations, shall keep the Property in good condition and repair, including the repair or restoration of any improvements on the Property which may be damaged or destroyed, shall not commit or permit waste or permit impairment or deterioration of the Property, and shall promptly comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall promptly perform all of Borrower's obligations under the declaration or governing instrument of the condominium or a planned unit development, the by-laws and regulations of the condominium or a planned unit development, and constituent documents, all as may be amended from time to time. If a condominium or a planned unit development is executed by Borrower and recorded together with this Mortgage, the covenants and agreements of such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider were a part of this Mortgage.

4. If the Property is acquired by Lender, all right, title, and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to such sale or acquisition shall become the property of Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

3. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender in writing within 30 calendar days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is irrevocably authorized to settle the claim and to collect and apply the insurance proceeds at Lender's sole option either to restoration or repair of the property or to the sums secured by this Mortgage.

2. In the event of loss, Borrower shall give prompt notice to the insurance carrier with a copy of this Mortgage and make proof of loss if not made promptly by Borrower.

86 079 365 85 290 202 66083426

86 079 365 85 290 202

or make any other accommodations with regard to the terms of this Mortgage or the Agreement without that Borrower's consent, and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

11. NOTICES. Except for any notice required under applicable law to be given in another manner: (a) any notice to Borrower (or Borrower's successors, heirs, legatees, devisees, and assigns) provided for in this Mortgage shall be given by hand-delivering it to, or by mailing such notice by registered or certified mail addressed to Borrower (or Borrower's successors, heirs, legatees, devisees, and assigns) at the Property Address or at such other address as Borrower (or Borrower's successors, heirs, legatees, devisees, and assigns) may designate by written notice to Lender as provided in this Mortgage; and (b) any notice to Lender shall be given by registered or certified mail to Lender at Park Place, 5690 DTC Blvd., Suite 400, Englewood, Colorado 80111, or to such other address as Lender may designate by written notice to Borrower (or to Borrower's successors, heirs, legatees, devisees, and assigns) which have provided Lender with written notice of their existence and address as provided in this Mortgage. Any notice provided for in this Mortgage shall be deemed to have been given on the date hand delivery is actually made or the date notice is deposited into the U.S. mail system as registered or certified mail addressed as provided in this paragraph 11.

12. GOVERNING LAW; SEVERABILITY. The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Mortgage, if any provision of this Mortgage shall be adjudged invalid, illegal, or unenforceable by any court, such provision shall be deemed stricken from this Mortgage and the balance of the Mortgage shall be construed as if such provision has never been included. As used in this Mortgage, "costs," "expenses," and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited in this Mortgage.

13. BORROWERS' COPY. Borrower shall be furnished a conformed copy of the Agreement and of this Mortgage at the time of execution or after recording of this Mortgage.

14. REMEDIES CUMULATIVE. Lender may exercise all of the rights and remedies provided in this Mortgage and in the Agreement or which may be available to Lender by law, and all such rights and remedies shall be cumulative and concurrent, and may be pursued singly, successively, or together, at Lender's sole discretion, and may be exercised as often as occasion therefor shall occur.

15. EVENTS OF DEFAULT

a. Notice and Grace Period. An Event of Default will occur under this Mortgage upon the expiration of the applicable grace period, if any, after Lender gives written notice of Borrower's breach or violation of Borrower's covenants under the Agreement and upon Borrower's failure to cure such breach or violation, and to provide Lender, during that grace period, if any, with evidence reasonably satisfactory to it of such cure. In each case, the grace period begins to run on the day after the notice is given, and expires at 11:59 p.m. Central time, on the last day of the period. If there is no grace period applicable to a particular breach or violation, the Event of Default will occur under this Mortgage upon the giving of the above notice. Such notice shall be given to Borrower in accordance with paragraph 11 of this Mortgage and shall contain the following information: (1) the nature of the Borrower's breach or violation; (2) the action, if any, required or permitted to cure such breach or violation; (3) the applicable grace period, if any, during which such breach or violation must be cured; and (4) whether failure to cure such breach or violation within the specified grace period, if any, will result in acceleration of the sums secured by this Mortgage and the potential foreclosure of this Mortgage. The notice shall further inform Borrower of the right, if any, under applicable law, to reinstate his revolving line of credit under this Mortgage after acceleration.

b. Events of Default. Set forth below is a list of events which, upon the lapse of the applicable grace period, if any, will constitute Events of Default. (Applicable grace periods are set forth parenthetically after each event.) The events are: (1) Borrower fails to pay when due any amounts due under the Agreement or this Mortgage (30-day grace period); (2) Borrower fails to keep the covenants and other promises made in the Agreement (no grace period); (3) Lender receives actual knowledge that Borrower omitted material information in Borrower's credit application (no grace period) or made any false or misleading statements on Borrower's credit application (no grace period); (4) Borrower dies or changes his or her marital status and transfers Borrower's interest in the Property to someone who either (i) is not also a signatory of the Agreement (no grace period), or (ii) is a signatory of the Agreement if such transfer, in Lender's reasonable judgment, materially impairs the security for the line of credit described in the Agreement (no grace period); (5) Borrower files for bankruptcy, or bankruptcy proceedings are instituted against Borrower and not dismissed within 90 calendar days, under any provision of any state or federal bankruptcy law in effect at the time of filing (no grace period); (6) Borrower makes an assignment for the benefit of his or her creditors, becomes insolvent or becomes unable to meet his or her obligations generally as they become due (no grace period); (7) Borrower further encumbers the Property, or suffers a lien, claim of lien, or encumbrance against the Property (30-day grace period in which to remove the lien, claim of lien, or encumbrance); (8) Borrower defaults or an action is filed alleging a default under any credit instrument or mortgage evidencing or securing an obligation of Borrower with priority in right of payment over the line of credit described in the Agreement or whose lien, claim of lien, or priority over the lien hereof (no grace period), or any other creditor of Borrower attempts to (or actually does) seize or obtain a writ of attachment against the Property (no grace period); (9) Borrower fails to keep any other covenant contained in the Agreement or this Mortgage not otherwise specified in this paragraph 15 (10-day grace period, unless the failure is by its nature not curable, in which case no grace period or, if another grace period is specified in the Agreement or this Mortgage that grace period shall prevail).

16. TRANSFER OF THE PROPERTY. If the Borrower, or beneficiary of a Trust, if any, sells, conveys, assigns, or transfers, or promises or contracts to sell, convey, assign, or transfer, all or any part of the Property or any interest therein, including all or any part of the beneficial interest in the Trust, if any, or amends or terminates any ground leases affecting the Property, or if title to the Property, or any direct or indirect interest therein, is otherwise sold or transferred, voluntarily or involuntarily, including without limitation sale or transfer in any proceeding for foreclosure or judicial sale of the Property or beneficial interest in the Trust, if any, in each case without Lender's prior written consent, Lender shall be entitled to immediately accelerate the amounts due under the Agreement and declare all indebtedness secured by this Mortgage to be immediately due and payable as set forth in paragraph 17 of the Agreement. Failure to pay such indebtedness within 30 days after notice to Borrower of such acceleration shall constitute an Event of Default. Any use or attempted use by Borrower of the revolving line of credit evidenced by the Agreement after Borrower's sale, transfer, or promise to sell or transfer the Property or any direct or indirect interest therein, or amendment or termination of any ground leases affecting the Property, shall constitute a separate Event of Default.

As an alternative to declaring all sums secured by this Mortgage to be immediately due and payable, Lender may waive its option to accelerate and agree in writing, prior to close of the sale or transfer or the promise to sell or transfer, to the transferee's assumption of the outstanding obligation under the Agreement on terms satisfactory to Lender, subject to Lender's right, described in the Agreement, to cancel further advances or accelerate the outstanding balance of the line of credit. Lender's acceptance of the transferee's assumption of the obligation under the Agreement shall not release Borrower from any of its obligations under the Agreement and Mortgage, and Borrower shall assume the status of the guarantor of the Agreement until the Agreement is terminated. Borrower understands that

Lender will not permit the assumption of the outstanding balance under the Agreement in any event and will declare the entire outstanding principal balance plus accrued interest and other charges due to the Lender as provided in paragraph 17 of this Agreement, unless (i) Borrower has submitted to Lender a written acknowledgment that the transferor has received a copy of the Agreement and Mortgage, and (b) notice of the amount of Borrower's outstanding principal balance on the line of credit, (iii) Borrower has submitted to Lender a written acknowledgment from transferor that transferor has received such material and understands that Lender's security interest reflected by this Mortgage will remain on the Property until the entire outstanding principal balance of Borrower's line of credit as of the date of such sale or transfer or promise, plus any subsequent borrowings made under Borrower's line of credit before Lender has actual knowledge of the sale or transfer, together with accrued interest and other charges, is paid in full; (iii) Borrower causes to be submitted to Lender from the transferor a loan application as required by Lender so that Lender may evaluate the creditworthiness of the transferor as if a new loan were being made to the transferor; and (iv) Lender does not, in its sole opinion, believe that (A) its security interest will be impaired or (B) a breach of any promise or agreement in this Mortgage will occur or (C) such transfer will permit the acceleration of any loan which has priority in right of payment over the indebtedness evidenced by the Agreement. Further advances on the line of credit will cease as of the date of the written assumption agreement signed by transferor and Lender. The transferor and Borrower shall retain the right to repay the Agreement before the Due Date, in whole or in part, at any time without premium or penalty.

17. ACCELERATION; REMEDIES. Upon the existence of an Event of Default, Lender may, at its sole option, terminate the line, declare all of the sums secured by this Mortgage to be immediately due and payable without further demand, and invoke any remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 17, including, but not limited to, reasonable attorneys' fees.

18. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. As additional security under this Mortgage, Borrower hereby assigns to Lender the rents of the Property, provided that prior to acceleration under paragraph 17 of this Mortgage or the occurrence of an Event of Default under this Mortgage or abandonment of the Property, Borrower shall have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 17 of this Mortgage, or abandonment, Lender, at any time without notice, in person, by agent, or by judicially appointed receiver, and without regard to adequacy of any security for the indebtedness secured by this Mortgage, shall be entitled to enter upon the possession of, and manage the Property, and in its own name sue for or collect the rents of the Property, including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of operation and management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received. The entering upon and taking possession of the Property and the collection and application of the rents shall not cure or waive any Event of Default or notice of default under this Mortgage or invalidate any act done pursuant to such notice.

19. RELEASE. Upon payment and discharge of all sums secured by this Mortgage and termination of the Account, this Mortgage shall become null and void and Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all cost of recordation, if any. Lender shall release this Mortgage if Borrower reports payments of the total outstanding balance due and requests in writing to reduce the line of credit below \$5,000.00.

20. REQUEST FOR NOTICE. Borrower requests that copies of notices of default, sale and foreclosure from the holder of any lien which has priority over this Mortgage be sent to Lender's address, as set forth on page one of this Mortgage.

21. INCORPORATION OF TERMS. All of the terms, conditions, and provisions of the Agreement are by this reference incorporated herein as if set forth in full. Any Event of Default under the Agreement shall constitute an Event of Default hereunder without further notice to Borrower.

22. TIME OF ESSENCE. Time is of the essence in this Mortgage and the Agreement.

23. ACTUAL KNOWLEDGE. For purposes of this Mortgage and the Agreement, Lender will not be deemed to have received actual knowledge of the information required to be conveyed to Lender in writing by Borrower until the date of actual receipt of such information at Park Place, 6680 DTC Blvd., Suite 400, Englewood, Colorado 80111 (or such other address specified by Lender to Borrower). Such date shall be conclusively determined by reference to the return receipt in possession of Borrower. If such return receipt is not available, such date shall be conclusively determined by reference to the "Received" date stamped on such written notice by Lender or Lender's agent. With regard to other events or information not provided by Borrower under the Agreement, Lender will be deemed to have actual knowledge of such event or information from a source Lender reasonably believes to be reliable, including but not limited to a court or other governmental agency, institutional lender, or title company. The actual date of receipt shall be determined by reference to the "Received" date stamped on such written notice by Lender or Lender's agent.

24. TAXES. In the event of the passage after the date of the Mortgage of any law changing in any way the laws now in force for the taxation of mortgages or debts secured thereby, or the manner of operation of such taxes, so as to affect the interest of Lender, then and in such event Borrower shall pay the full amount of such taxes.

25. WAIVER OF STATUTORY RIGHTS. Borrower shall not and will not apply for or avail itself of any homestead, appraisal, valuation, redemption, stay, extension, or exemption laws, or any so-called "moratorium laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Borrower, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Property marshalled upon any foreclosure or lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Borrower hereby waives any and all rights of redemption from sale under any order or decree of foreclosure pursuant to rights granted in this Mortgage, on behalf of the Mortgagee, and each and every person acquiring any interest in or title to the Property described in this Mortgage subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by Illinois law.

26. EXPENSE OF LITIGATION. In any suit to foreclose the line of this Mortgage or enforce any other remedy of the Lender under this Mortgage or the Agreement, there shall be allowed and included, as additional indebtedness in the judgment or decree, all expenditures and expenses which may be and are incurred by the Lender or Borrower for attorney's fees, appraisers' fees, outlays for documentary

86 079 365 85 290 202 86393426

UNOFFICIAL COPY

85 290 202

86393426

COOK COUNTY, ILLINOIS
FILED FOR RECORD
1986 SEP - 4 PM 1:33

86079365

COOK COUNTY, ILLINOIS
FILED FOR RECORD
1986 FEB 27 PM 12:20

85290202

NOV 20 PM 1:20

COOK COUNTY, ILLINOIS
FILED FOR RECORD
Wells Fargo Credit Corp.
P. O. Box 3086
Englewood, CO 80155

When recorded, return to:
86079365

86 079 365

Wells Fargo Credit Corp.
P. O. Box 3086
Englewood, CO 80155

This instrument prepared by:

My Commission Expires: 7/31/89

Notary Public

Jeffrey W. Braun

The foregoing instrument was acknowledged before me this

11th day of November, 1985

STATE OF ILLINOIS
COUNTY OF DuPage

DATE: 11-11-85
Jeffrey W. Braun

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

28. CONFORMITY WITH LAW. Lender and Borrower intend their relationship to conform to the definition of "revolving credit" set forth in Illinois Revised Statutes, Chapter 17, paragraph 6405.

27. CAPTIONS. The captions of this Mortgage are for convenience and reference only. They in no way define, limit, or describe the scope or intent of this Mortgage. In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

and expert evidence, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title insurance policies, title certificates, and similar data and assurances with respect to title as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or value of the Property. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of said Property and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Lender in any litigation or proceeding affecting this Mortgage, the Agreement or the Property or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Borrower, with interest thereon at the default interest rate.

Property of Cook County Clerk's Office