

(3) all right, title and interest of Mortgagor in and to any streets, ways, alleys, strips

(2) all rights, privileges, rents, royalties, profits, mineral, oil and gas rights and profits, tenements, hereditaments, rights-of-way, easements, appurtenances, riparian or littoral rights now or hereafter belonging or in any way appertaining to the real property or the improvements thereon;

(1) all improvements of any nature whatsoever now or hereafter situated on the real property;

(e) Mortgaged Property: The real property located at 915 W. Webster, Chicago, Illinois and legally described in Exhibit "A" attached hereto and, by this reference, incorporated herein, together with:

(d) Leases: Any and all leases, licenses, concessions or grants of other possessory interests granted by Mortgagor as lessor now or hereafter in force, oral or written, covering or affecting all or any part of the Mortgaged Property.

(c) Indebtedness: The principal of, interest on and/or all other amounts, payments and premiums due under the Note and the Revolving Loan Agreement, including but not limited to, all presently existing indebtedness under the Revolving Loan Agreement and all future advances thereunder, whether such advances are obligatory or are made at the option of the Mortgagee, or otherwise, to the same extent as if such future advances were made on the date of execution of this Mortgage.

(b) Impositions: All real estate and personal property taxes and other taxes and assessments, public or private, water and sewer rates and charges; all other governmental or non-governmental charges applicable to the Mortgaged Property; any interest or costs or penalties with respect to any of the foregoing; and charges for any easement or agreement maintained for the benefit of the Mortgaged Property, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which at any time prior to or after the execution of this Mortgage may be assessed, levied, or imposed upon the Mortgaged Property or the rent or income received therefrom, or any use or occupancy thereof.

(a) Commitment: Commitment letter from Mortgagee to Mr. Robert E. Derham dated February 12, 1987.

1. Definitions. As used herein, the following terms shall have the following meanings herein specified, such definition to be applicable equally to the singular and plural forms of such terms:

ARTICLE I  
DEFINITIONS

THIS MORTGAGE (the "Mortgage") is made this 3rd day of June, 1987, between ROBERT E. DERHAM AND THOMAS H. BAUR, (together referred to as "Mortgagor") and THE NORTHERN TRUST COMPANY, an Illinois corporation ("Mortgagee"), 50 South LaSalle Street, Chicago, Illinois 60675.

THIS MORTGAGE IS A SECOND MORTGAGE  
NOT SIGNED REMARIED

MORTGAGE

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or gores of land now or hereafter adjoining the real property;

(4) all Leases;

(5) all of Mortgagor's right, title and interest in and to any award or awards heretofore made or hereafter to be made by any municipal, county, state or federal authority or board to the present and all subsequent owners of the real property;

which term includes any part of the foregoing property described as Mortgaged Property.

(f) Note: That certain Term Loan Promissory Note co-made by Mortgagor to the order of Mortgagee, dated as of even date herewith, in the principal amount of FIVE HUNDRED EIGHTY THOUSAND DOLLARS (\$580,000), secured, inter alia, by this Mortgage.

(g) Obligations: Any and/or all of the covenants, promises and other obligations (other than for the payment of the Indebtedness) including without limitation the payment of impositions as provided herein made or owing by Mortgagor or others to or due to Mortgagee under and/or set forth in the Security Documents.

(h) Revolving Loan Agreement. That certain Revolving Loan Agreement co-executed by Mortgagor, dated as of even date herewith, providing for a maximum credit amount of Two Hundred Thousand Dollars (\$200,000), secured, inter alia, by this Mortgage.

(i) Security Documents: The Note, the Revolving Loan Agreement and all documents and instruments now or hereafter furnished to Mortgagee to evidence or secure payment of the Indebtedness, including, but not limited to, this Mortgage and the three certain Mortgages, dated as of even date herewith, referenced in the Notes as collateral security for the Indebtedness.

ARTICLE II  
GRANT

2. Grant of Security Interest.

2.1 Grant. To secure the payment of the Indebtedness and the performance and discharge of the Obligations, Mortgagor does by these presents give, transfer, grant, bargain, sell, alien, remise, release, assign, mortgage, hypothecate, deposit, pledge, set over, confirm, convey, warrant and grant a security interest unto Mortgagee in and to all estate, right, title and interest of Mortgagor in and to the Mortgaged Property, whether now owned or held or hereafter acquired by Mortgagor to have and to hold the Mortgaged Property unto Mortgagee, its successors and assigns, forever.

2.2 Condition of Grant. The condition of these presents is such that if Mortgagor shall pay or cause to be paid the Indebtedness as and when the same shall become due and payable and shall observe, perform and discharge the Obligations, then the Security Documents and the estates and rights granted by them shall be null and void, otherwise to remain in full force and effect.

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## ARTICLE III REPRESENTATIONS

### 3. Representations.

Mortgagor hereby represents to Mortgagee that:

#### 3.1 Validity of Security Documents:

(a) The execution, delivery and performance by Mortgagor of the Security Documents, and the borrowing evidenced by the Note, will not, to the best of Mortgagor's knowledge, violate any provision of law, any order of any court or other agency of government, or the certificate of partnership of Mortgagor or any indenture, agreement or other instrument to which Mortgagor is a party in any material respect or by which it or any of its property is bound or be in conflict with, or will result in a material breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its property or assets, except as contemplated by the provisions of the Security Documents; and

(b) the Security Documents, when executed and delivered by Mortgagor, will constitute the legal, valid and binding obligations of Mortgagor in accordance with their respective terms subject to applicable bankruptcy and insolvency laws.

3.2 Other Information. All other information, reports, papers and data given to Mortgagee, or Mortgagee's legal counsel, with respect to Mortgagor or the loan evidenced by the Security Documents are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Mortgagee a true and accurate knowledge of the subject matter.

3.3 Mortgaged Property and Other Property. Mortgagor has good and marketable title in fee simple to the Mortgaged Property free and clear of any liens, charges, encumbrances (except as provided in paragraph 3.6), security interests and adverse claims unacceptable to the Mortgagee. Mortgagor will preserve its title to the Mortgaged Property and will forever covenant and defend the same to the Mortgagee and will forever covenant and defend the validity and priority of the lien of this Mortgage against the claims of all persons and parties whomsoever.

3.4 Taxes. To the best of its knowledge, Mortgagor has filed all federal, state, county and municipal income tax returns required to have been filed by it and has paid all taxes which have become due pursuant to such returns, pursuant to any assessments received by it or pursuant to law, and the Mortgagor does not know of any basis for additional assessment in respect of such taxes or additional taxes.

3.5 Litigation. There is not now pending against or affecting Mortgagor, nor, to the knowledge of Mortgagor, is there threatened or contemplated, any action, suit or proceeding at law or in equity or by or before any administrative agency which, if adversely determined, would materially impair or affect Mortgagor's financial condition or operation.

3.6 First Mortgage. The Mortgaged Property is currently encumbered by a first mortgage (the "First Mortgage") dated August 1, 1968 and recorded in the Office of the Cook County Recorder of Deeds as Document No. 86353806 made by Mortgagor to Olympic Federal to secure a Note in the amount of \$228,000.00. Neither the execution nor the recordation of this

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Mortgage will constitute a default under, or will cause an acceleration of the indebtedness secured by, the First Mortgage.

ARTICLE IV  
AFFIRMATIVE CONVENANTS

4. Affirmative Covenants. Until the entire Indebtedness shall have been paid in full, Mortgagor hereby covenants and agrees as follows:

4.1 Compliance With Laws. Mortgagor will promptly and faithfully comply with, conform to and obey or contest by appropriate proceedings in good faith all present, and use its best efforts as to future, laws, ordinances, rules, regulations and requirements of every duly constituted governmental authority or agency and of every board of fire underwriters having jurisdiction, or similar body exercising similar functions, which may be applicable to it or to the Mortgaged Property or to the use and manner of use, occupancy, possession, operation, maintenance or reconstruction of the Mortgaged Property, whether or not such law, ordinance, rule, order, regulation or requirement shall necessitate structural changes or improvements or interfere with the use or enjoyment of the Mortgaged Property.

4.2 Payment of Impositions. Except as otherwise provided in Paragraph 4.1, Mortgagor will duly pay and discharge, or cause to be paid and discharged, the Impositions, such Impositions, or installments thereof, to be paid not later than the due date thereof, or the day any fine, penalty, interest or cost may be added thereto or imposed by law for the non-payment thereof (if such day is used to determine the due date of the respective item); provided, however, that if, by law, any Imposition may, at the option of the taxpayer or other person obligated to pay it, be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Mortgagor may exercise the option to pay the same such installments.

4.3 Repair. Mortgagor will keep the Mortgaged Property in good order and condition and make all necessary or appropriate repairs, replacements and renewals thereof and additions, betterments and improvements thereto, ordinary and extraordinary, foreseen and unforeseen, and use its best efforts to prevent any act or thing which might impair the value or usefulness of the Mortgaged Property.

4.4 Insurance.

(a) At all times during the term of this Mortgage, Mortgagor shall carry or cause to be carried policies insuring the Mortgaged Property against loss of rents and against loss or damage by fire, theft, vandalism, malicious mischief, hazards, and such other risks as Mortgagee may from time to time require, including, but not limited to, those risks included in the term "extended coverage." The aggregate amount of the coverage afforded by such policies shall be in amounts reasonably satisfactory to the Mortgagee and shall be sufficient to prevent any insured from becoming a co-insurer of a partial loss thereunder, but in any case such aggregate amount shall not be less than full replacement cost of all Improvements.

(b) All such insurance policies shall at all times be in form, substance and with companies acceptable to Mortgagee; bear a non-contributory first mortgage endorsement and such other endorsements in form and content acceptable to Mortgagee in favor of Mortgagee or as Mortgagee may request; and remain in force, with renewals and replacements thereof, which renewals and replacements shall be deposited with Mortgagee with evidence of payment of all premiums no later than fifteen (15) days prior to

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the expiration of any then existing policy, until the Indebtedness hereby is paid in full. Each of the original policies, including replacements and renewals, shall be deposited with Mortgagee. Every such policy shall contain an agreement that no party thereto may terminate or modify such policy without at least 15 days prior written notice to Mortgagee. In the event of a sale of the Mortgaged Property pursuant to a foreclosure of the Mortgage or other transfer of title to the Mortgaged Property in satisfaction in whole or in part of the Indebtedness, complete title to all such insurance policies and all unearned premiums thereon shall automatically pass to and vest in the purchaser or transferee.

(c) Premiums on all insurance policies shall be paid by the Mortgagor and payment shall be made promptly and when due directly to the insurance carrier.

4.5 Application of Insurance Proceeds.

(a) In case of any loss, damage or casualty to the Mortgaged Property ("Casualty"), the proceeds of claims under casualty policies pertaining to the Mortgaged Property shall be paid to Mortgagee for application, at the option of the Mortgagor either (i) to the indebtedness (in the inverse order of maturity) with the balance of such proceeds, if any, paid to Mortgagor, or (ii) to the restoration of the Mortgaged Property on such conditions and subject to such controls as Mortgagee may impose in its absolute discretion, with the balance of such proceeds, if any, applied (in the inverse order of maturity) against such indebtedness. In case of loss or damage, the proceeds of claims under rental interruption insurance policies pertaining to the Mortgaged Property shall be paid to Mortgagee for application to amounts due under the Security Documents, as such amounts become due and payable, with the balance, if any, paid to Mortgagor subject to such controls as Mortgagee may reasonably impose to assure that such a balance is first used, to the extent necessary, for payment of expenses of operation and maintenance of the Mortgaged Property. Mortgagee is hereby authorized (but not obligated) to act as attorney-in-fact for Mortgagor in obtaining, adjusting, settling and canceling all insurance on the Mortgaged Property, in endorsing any checks or drafts drawn directly. Notwithstanding any other provision contained in any of the Security Documents, no application of insurance proceeds to the Indebtedness shall have the effect of curing any Event of Default or extending the time for making any payment hereunder or under any of the Security Documents. Mortgagee shall not be held responsible for failure to collect any insurance proceeds due under the terms of any policy provided for herein, regardless of the cause of such failure.

(b) Notwithstanding the provisions of Paragraph 4.5(a) above, so long as Mortgagor remains the owner of the Mortgaged Property, Mortgagee will disburse to Escrow Agent (as hereinafter defined), for repair and restoration of the Mortgaged Property, insurance proceeds received by Mortgagee as a result of any Casualty; provided, however, that Mortgagee's obligation to disburse shall be subject to and conditioned upon satisfaction of each of the following conditions:

(i) Application by Mortgagee of any insurance proceeds first to payment of all expenses (including, without limitation, attorneys' fees) incurred by Mortgagee in connection with any loss or damage (the insurance proceeds remaining after such application being hereinafter called the "Net Proceeds");

(ii) Delivery to Mortgagee of evidence satisfactory to Mortgagee that the Mortgaged Property is capable of restoration and reconstruction to substantially

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its value, condition and character immediately prior to the Casualty;

(iii) Delivery to Mortgagee of an agreement, in form and with terms agreeable to Mortgagee, in its sole unfettered discretion, executed by Mortgagor, to restore and reconstruct the Mortgaged Property in accordance with clause (ii) above;

(iv) Delivery to Mortgagee of an agreement, executed by Mortgagor, to complete said restoration and reconstruction (as evidenced by issuance of a permanent certificate of occupancy for the Mortgaged Property) within 180 days plus periods of time (not to exceed 180 days in the aggregate) as Mortgagor is disabled from performance by force majeure events (other than financial liability) after occurrence of the Casualty;

(v) No existence under any of the Security Documents of an Event of Default (as hereinafter defined), nor any condition nor state of fact which with the giving of notice of the passage of time or both would constitute an Event of Default);

(vi) Selection by Mortgagor and Mortgagee of an independent escrow agent (the "Escrow Agent") located in Illinois and acceptable to both;

(vii) Approval by Mortgagee of the plans and specifications (the "Plans and Specifications") for restoration and reconstruction of the Mortgaged Property to substantially its value, condition and character immediately prior to the Casualty;

(viii) Provision by Mortgagor to Mortgagee of firm bids establishing the costs (the "Restoration Costs") of restoration and construction of the Mortgaged Property and of funds ("Mortgagor's Funds") which, together with the Net Proceeds, are sufficient to restore and reconstruct the Mortgaged Property in accordance with the plans and Specifications within the time period described in clause (iv) above;

(ix) Deposit of Mortgagor's Funds with the Escrow Agent;

(x) The insurers of such loss or damage do not deny liability for same under their policies;

(xi) Execution by Mortgagee, Mortgagor and Escrow Agent of an escrow pursuant to escrow instructions in form and substance satisfactory to Mortgagee.

All costs of the Disbursement Escrow, reasonable costs and expenses of inspectors employed by Mortgagee and Mortgagee's costs and expenses (including reasonable attorneys' fees) in the creation and enforcement of the Disbursement Escrow and of the provisions hereof shall be borne by Mortgagor and shall be considered additional indebtedness secured by the Security Documents.

If Mortgagor fails, within a reasonable time, subject to delays beyond their control (Other than lack of funds), to restore the Mortgaged Property, Mortgagee, at its option, may restore the Mortgaged Property for and on behalf of Mortgagor, and may draw upon the Escrow Funds and may do any act or thing as Mortgagee deems necessary or appropriate to that end.

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The provisions of Paragraph 4.5(a) above relating to disposition of insurance proceeds shall again become applicable as to Net Proceeds if any of the foregoing conditions are not or cannot be satisfied.

Notwithstanding anything in this Paragraph 4.5(b) to the contrary, the obligations and agreements of Mortgagee hereunder are subject always to the right and option of Mortgagee to apply any portion or all of the Insurance proceeds to cure any default existing or arising at any time or from time to time in the terms, covenants and conditions of the Security Documents, and to the extent such proceeds are so applied, Mortgagee shall be relieved pro tanto of its obligations hereunder.

4.6 Restoration Following Uninsured Casualty. In the event of the happening of any Casualty, of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, not covered by insurance under Paragraph 4.4 resulting in damage to or destruction of the Mortgaged Property, Mortgagor will give notice thereof to Mortgagee and Mortgagor will promptly, at Mortgagor's sole cost and expense, commence and diligently continue to restore, repair, replace, rebuild or alter the damaged or destroyed Mortgaged Property as nearly as possible to its value, condition and character immediately prior to such Casualty.

4.7 Value. Mortgagor will use its best efforts to prevent any act or thing which might materially and adversely impair the value or usefulness of the Mortgaged Property.

4.8 Performance of Other Agreements. Mortgagor will duly and punctually perform all covenants and agreements expressed as binding upon it under any agreement of any nature whatsoever binding upon it which involves the Mortgaged Property.

4.9 Inspection. Mortgagor will permit Mortgagee, and parties designated by Mortgagee, at all reasonable times, to inspect the Mortgaged Property upon seven (7) days' prior written notice.

4.10 Hold Harmless. The Mortgagor will, at its own cost and expense, save, indemnify and hold the Mortgagee, its officers, officials, employees and agents, harmless from any injury, claim, demand, suit, judgment, execution, liability, debt, damage or penalty (hereinafter collectively referred to as "Claims") affecting the Mortgaged Property, or the value of any of the Security Documents, arising out of, resulting from, or alleged to arise out of or result from, any action or inaction by Mortgagor, except as may be the direct result of Mortgagee's negligence. Mortgagor will pay all expenses incurred by the Mortgagee in defending itself with regard to any and all Claims. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employee of the Mortgagee.

4.11 Contest of Tax Assessments. After prior written notice to Mortgagee, Mortgagor, at its own expense, may contest, by appropriate legal proceedings, promptly initiated and conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of (a) any of the legal requirements referred to in Paragraph 4.1, or (b) any Imposition; provided that (i) in the case of any unpaid Imposition, such proceedings shall suspend the collection thereof from Mortgagor and from the Mortgaged Property, (ii) the Mortgaged Property will not be in danger of being sold, forfeited, terminated, cancelled or lost, (iii) the use of the Mortgaged Property for its present intended purpose or purposes will not be lost or terminated, and (iv) Mortgagor shall have set aside adequate reserves with respect thereto.

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4.12 Expenses. The Mortgagor will pay or reimburse the Mortgagee for all reasonable attorneys' fees, reasonable costs and expenses paid or incurred by the Mortgagee in any action, proceeding or dispute of any kind in which the Mortgagee is made a party or appears as party plaintiff or defendant, involving the Security Documents, Mortgagor, or the Mortgaged Property, including but not limited to the foreclosure or other enforcement of this Mortgage, any condemnation action involving the Mortgaged Property, any action to protect the security thereof, or any proceeding in probate or bankruptcy, and any such amounts paid or incurred by the Mortgagee shall be treated as "Advances" in accordance with Paragraph 4.15.

4.13 Performance of the Commitment. The terms of the Commitment shall survive the execution and delivery of this Mortgage and Mortgagor shall comply with, abide by and perform all of the terms, obligations and conditions of the Commitment on its part to be complied with, abided by and performed.

4.14 Payment of Indebtedness. Mortgagor will timely pay and discharge the Indebtedness or any part thereof in accordance with the terms and conditions of the Note, the Revolving Loan Agreement and this Mortgage.

4.15 Advances. In the event Mortgagor fails to perform any act required of Mortgagor by any of the Security Documents or to pay when due any amount required to be paid by any of the Security Documents, Mortgagee may, but shall not be obligated to, make such payment or perform such act. Such payment or performance by Mortgagee shall not have the effect of curing any Default. All moneys so advanced by Mortgagee together with all expenses incurred in connection therewith shall be deemed advances ("Advances") under this Mortgage, shall be immediately due and payable and shall, at Mortgagee's sole discretion, either (a) be added to the principal amount of the Note or (b) be treated as an advance under the Revolving Loan Agreement. Advances shall bear interest from the date expended at the rate specified in the respective instrument and shall be secured by this Mortgage as though originally a part of the principal amount of the Indebtedness.

#### ARTICLE V NEGATIVE COVENANTS

##### 5. Negative Covenants.

Until the entire Indebtedness shall have been paid in full, Mortgagor covenants and agrees as follows:

5.1 Use Violation, Etc. Mortgagor will not use the Mortgaged Property or allow the same to be used or occupied for any unlawful purpose or in violation of any permit or certificate, or any law, ordinance, regulation or restrictive covenant, covering or affecting the use or occupancy thereof, or suffer any act to be done or any condition to exist on the Mortgaged Property or any article to be brought thereon, which may be dangerous, unless safeguarded as required by law, or which may, in law, constitute a nuisance, public or private.

5.2 Alterations. Mortgagor will not commit or knowingly permit any waste of the Mortgaged Property or make or permit to be made any material alterations or additions to the Mortgaged Property which would have the effect of materially diminishing the value thereof or which will in any way materially increase any ordinary fire or other hazard arising out of construction or operation thereof.

5.3 Replacement of Fixtures, Improvements and Personal Property. Mortgagor will not permit any of the Fixtures or

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Improvements to be removed at any time from the Land, without the prior written consent of Mortgagee, unless actually replaced by an article of equal or greater suitability and value, owned by Mortgagor, and unless such replacement article is encumbered by this Mortgage as a first lien, free and clear of any lien or security interest except as may be approved in writing by Mortgagee.

5.4 Other Liens. Mortgagor will not, without the prior written consent of Mortgagee, create or permit to be created or to remain, any mortgage, pledge, lien, encumbrance or charge on, security interest in, or conditional sale of or other title retention agreement on (whether prior or subordinate to the liens of the Security Documents) the Mortgaged Property or income therefrom other than the Security Documents, with the sole exception of the First Mortgage.

5.5 Transfer of Title. As a material inducement to Mortgagee to make the loan evidenced by the Note and the Revolving Loan Agreement and secured by this Mortgage, the Mortgagor has made representations to Mortgagee concerning the abilities of the undersigned in constructing, managing and operating the Mortgaged Property, which representations have been and will be relied upon by Mortgagee in funding this loan. Therefore, the Mortgagor covenants and agrees that it will not convey, transfer or permit to be conveyed or transferred, the Mortgaged Property, without the prior written consent of the Mortgagee, which consent may be granted or withheld in the Mortgagee's sole discretion, and if granted may be conditioned upon any successor of Mortgagor agreeing to an increase in the interest rate in the Note or in the Revolving Loan Agreement.

ARTICLE VI  
EVENTS OF DEFAULT

6. Events of Default. The term "Event of Default", as used in the Security Documents shall mean the occurrence or happening, from time to time, of any one or more of the following:

6.1 Non-Payment of Indebtedness. If Mortgagor shall default in the due and punctual payment of any principal or interest under the Note and/or under the Revolving Loan Agreement when the same shall become due either by the terms thereof or otherwise and such default continues for fifteen (15) days after written notice;

6.2 Performance of Obligations. If Mortgagor shall default in the due observance or performance of any of the Obligations, other than as stated in Paragraph 6.1, and such default continues for a period of thirty (30) days after written notice thereof from the Mortgagee to Mortgagor, or is curable within thirty (30) days and Mortgagor fails to diligently and continuously process the cure of the default to completion after notice of such default by Mortgagee to Mortgagor, or if it is not possible to cure such default within thirty (30) days after such notice and Mortgagor fails to promptly, diligently and continuously prosecute the cure of such default is not cured within ninety (90) days of the Mortgagee's notice;

6.3 Other Liens. If the Mortgagor places another lien on the Mortgaged Property, without Mortgagee's prior written consent, or if a Court shall determine that Mortgagee does not have a first priority security interest in the Mortgaged Property;

6.4 Cross-default. If there shall occur any default or event of default, or any event which may become such with notice or the passage of time, under any of the Security Documents.

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ARTICLE VII  
FORECLOSURE

7.1 Remedies. If an Event of Default shall occur and be continuing, Mortgagee may, at its option, exercise any, some or all of the following remedies:

7.1.1 Acceleration. Declare the unpaid portion of the Note, the Revolving Loan Agreement, or both, or all of the Indebtedness to be immediately due and payable, without further notice or demand (each of which hereby is expressly waived by Mortgagor), whereupon the Indebtedness shall become immediately due and payable; anything in the Security Documents to the contrary notwithstanding.

7.1.2 Enforcement of Mortgage. Mortgagee, with or without entry, personally or by its agents or attorneys, insofar as applicable, may:

(a) sell the Mortgaged Property and all estate, right, title and interest, claim and demand therein, and right of redemption thereof, to the extent permitted by and pursuant to the procedures provided by law, at one or more sales, and at such time and place upon such terms and after such notice thereof as may be required or permitted by law; or

(b) institute proceedings for the complete foreclosure of this Mortgage; or

(c) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Security Documents or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Mortgagee shall elect; or

(d) enforce any of the Security Documents in any other manner permitted under the laws of the State of Illinois.

7.1.3 Receiver. Apply to the court in which a proceeding is pending for the enforcement of this Mortgage to have a receiver appointed to enter upon and take possession of the Mortgaged Property, collect the rents and profits therefrom and apply the same as the court may direct; such receiver to have all of the rights and powers permitted under the laws of the state in which the Mortgaged Property is situated. The right to the appointment of such receiver shall be a matter of strict right without regard to the value or the occupancy of the Mortgaged Property or the solvency or insolvency of Mortgagor. The reasonable expenses, including receiver's fee, counsel's fees, costs and agent's commission, incurred pursuant to the powers herein contained shall be secured hereby.

7.1.4 Other. Exercise any other remedy now or hereafter existing in equity, at law, by virtue of statute or otherwise of the State of Illinois.

7.2 Remedies Cumulative and Concurrent. The rights and remedies of Mortgagee as provided in the Security Documents shall be cumulative and concurrent and may be pursued separately, successively or together against Mortgagor, any Guarantor or the Mortgaged Property, or any one or more of them, at the sole discretion of Mortgagee, and may be exercised as often as occasion therefor shall arise, all to the maximum extent permitted by the laws of the State of Illinois. If Mortgagee elects to proceed

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under one right or remedy under any of the Security Documents, Mortgagee may at any time cease proceeding under such right or remedy and proceed under any other right or remedy under any of the Security Documents. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof. Nothing in any of the Security Documents shall affect Mortgagor's obligations to pay the Indebtedness and perform the Obligations in accordance with the terms thereof.

7.3 Credit of Mortgagee. Upon any sale made under or by virtue of this Article VII, whether made under the power of sale herein granted or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Mortgaged Property and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Indebtedness the amount of Mortgagee's bid.

7.4 No Conditions Precedent to Exercise of Remedies. Neither Mortgagor nor any other person now or hereafter obligated for payment of all or any part of the Indebtedness shall be relieved of such obligation by reason of the failure of Mortgagee to comply with any request of Mortgagor or of any other person so obligated to take action to foreclose on this Mortgage or otherwise enforce any provisions of any of the Security Documents, or by reason of the release, regardless of consideration, of all or any part of the security held for the Indebtedness, or by reason of any agreement or stipulation between any subsequent owner of the Mortgaged Property and Mortgagee extending the time of payment or modifying the terms of any of the Security Documents without first having obtained the consent of Mortgagor or such other person; and in the latter event Mortgagor and all such other persons shall continue to be liable to make payment according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Mortgagee.

7.5 Waiver of Redemption, Notice and Marshalling. Mortgagor hereby waives and releases, to the maximum extent permitted by the laws of the State of Illinois:

(a) all benefit that might accrue to Mortgagor by virtue of any present or future law exempting the Mortgaged Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment;

(b) unless specifically required herein or in any of the other Security Documents, all notices of Mortgagor's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise, or any option or remedy under the Note or the Security Documents; and

(c) any right to have the Mortgaged Property marshalled;

provided that if any of the rights waived by Mortgagor in this paragraph affect or extend the time for sale or the Mortgaged Property, affect Mortgagee's rights to enforce this Mortgage or affect Mortgagor's right to redeem, Mortgagee shall have the right to elect to accept or reject the waiver of such right by Mortgagor, and such election may be made by Mortgagee at the time of or at any time prior to the entry of a decree or judgment of foreclosure in the court in which this Mortgage is being foreclosed.

7.6 Discontinuance of Proceedings. In case Mortgagee shall have proceeded to enforce any right under any of the

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under one right or remedy under any of the Security Documents, Mortgagee may at any time cease proceeding under such right or remedy and proceed under any other right or remedy under any of the Security Documents. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof. Nothing in any of the Security Documents shall affect Mortgagor's obligations to pay the Indebtedness and perform the Obligations in accordance with the terms thereof.

7.3 Credit of Mortgagee. Upon any sale made under or by virtue of this Article VII, whether made under the power of sale herein granted or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Mortgaged Property and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Indebtedness the amount of Mortgagee's bid.

7.4 No Conditions Precedent to Exercise of Remedies. Neither Mortgagor nor any other person now or hereafter obligated for payment of all or any part of the Indebtedness shall be relieved of such obligation by reason of the failure of Mortgagee to comply with any request of Mortgagor or of any other person so obligated to take action to foreclose on this Mortgage or otherwise enforce any provisions of any of the Security Documents, or by reason of the release, regardless of consideration, of all or any part of the security held for the Indebtedness, or by reason of any agreement or stipulation between any subsequent owner of the Mortgaged Property and Mortgagee extending the time of payment or modifying the terms of any of the Security Documents without first having obtained the consent of Mortgagor or such other person; and in the latter event Mortgagor and all such other persons shall continue to be liable to make payment according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Mortgagee.

7.5 Waiver of Redemption, Notice and Marshalling. Mortgagor hereby waives and releases to the maximum extent permitted by the laws of the State of Illinois:

(a) all benefit that might accrue to Mortgagor by virtue of any present or future law exempting the Mortgaged Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment;

(b) unless specifically required herein or in any of the other Security Documents, all notices of Mortgagor's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise, or any option or remedy under the Note or the Security Documents; and

(c) any right to have the Mortgaged Property marshalled;

provided that if any of the rights waived by Mortgagor in this paragraph affect or extend the time for sale or the Mortgaged Property, affect Mortgagee's rights to enforce this Mortgage or affect Mortgagor's right to redeem, Mortgagee shall have the right to elect to accept or reject the waiver of such right by Mortgagor, and such election may be made by Mortgagee at the time of or at any time prior to the entry of a decree or judgment of foreclosure in the court in which this Mortgage is being foreclosed.

7.6 Discontinuance of Proceedings. In case Mortgagee shall have proceeded to enforce any right under any of the

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Security Documents and such proceedings shall have been discontinued or abandoned for any reason, then in every such case, Mortgagor and Mortgagee shall be restored to their former positions and the rights, remedies and powers of Mortgagee shall continue as if no such proceedings had been taken.

7.7 Application of Proceeds. Unless the Mortgagee shall elect some alternative method of application of proceeds by giving written notice thereof to Mortgagor within sixty (60) days after the foreclosure sale, the proceeds of any sale of all or any portion of the Mortgaged Property shall be applied by Mortgagee in the following order:

(a) first, to the payment of receiver's fees and expenses, to the payment of Mortgagee's reasonable attorney's fees and other reasonable legal expenses and to the payment of reasonable costs and expenses of Mortgagee in connection with proceedings under this Article VII;

(b) second, to the payment of the Indebtedness (other than the Note and the Revolving Loan Agreement) and accrued interest;

(c) third, to the payment of accrued and unpaid interest on the Note and the Revolving Loan Agreement;

(d) fourth, to the payment of the unpaid principal balance of the Note and the outstanding principal balance of the Revolving Loan Agreement;

(e) the balance, if any, to discharge junior liens, if the court so directs, and otherwise to Mortgagor.

## ARTICLE VIII CONDEMNATION

8.1 Condemnation. In the event of the taking by eminent domain proceedings or the like of any part or all of the Mortgaged Property by any federal, state, municipal or other governmental authority or agency thereof, all awards or other compensation for such taking shall be paid to Mortgagee for application (in the inverse order of maturity) on the Indebtedness, provided that no such application shall result in additional interest or have the effect of curing any Event of Default or extending the time for making any payment due hereunder or under the Security Documents.

## ARTICLE IX MISCELLANEOUS

9.1 Survival of Warranties and Covenants. The warranties, representations, covenants and agreements set forth in the Security Documents shall survive the making of the loan and the execution and delivery of the Note and the Revolving Loan Agreement, and shall continue in full force and effect until the Indebtedness shall have been paid in full.

9.2 Further Assurances. Mortgagor, upon the reasonable request of Mortgagee, will execute, acknowledge and deliver such further instruments (including, without limitation, a declaration of no set-off) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of the Security Documents and to subject to the liens thereof any property intended by the terms thereof, to be covered thereby and any renewals, additions, substitutions, replacements or betterments thereto.

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9.3 Recording and Filing. Mortgagor, at its expense, will cause the Security Documents and all supplements thereto for which constructive notice must be given to protect Mortgagee, at all times to be recorded and filed, and re-recorded and re-filed, in such manner and in such places as Mortgagee shall reasonably request, and will pay all such recording, filing, re-recording, re-filing taxes, fees and other charges to the maximum extent permitted by the laws of the State of Illinois.

9.4 Loan Expenses. To the extent permitted by the laws of the State of Illinois, Mortgagor shall pay all costs and expenses in connection with the preparation, execution, delivery, recording and performance of the Security Documents, including, but not limited to, reasonable fees and disbursements of counsel appointed by Mortgagee to prepare the Security Documents, recording costs and expenses, stamps and other taxes (including without limitation documentary stamps and intangible taxes), surveys, appraisals and policies of title insurance.

9.5 No Representation by Mortgagee. By accepting or approving anything required to be observed, performed or fulfilled, or to be given to Mortgagee, pursuant to this Mortgage or the Commitment, including (but not limited to) any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey or appraisal, Mortgagee shall not be deemed to have warranted or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or representation with respect thereto by Mortgagee.

9.6 Notice. Except for any notice required under applicable law to be given in another manner, any notice to Mortgagor provided for in this Mortgage shall be in writing and shall be deemed to have been given when delivered personally or on the third day after the same is deposited in the United States Mail, certified mail, postage prepaid, addressed as follows or at such other address as may be designated by notice as provided herein:

If to the Mortgagor:

c/o Thomas H. Baur or Robert E. Bernam  
110 W. Hubbard  
Chicago, IL 60610

If to the Mortgagee:

The Northern Trust Company  
50 South LaSalle Street  
Chicago, IL 60675  
Attention: Thomas E. Bernhardt

Copy to: Steven M. Elrod, Esq.  
Burke, Bosselman & Weaver  
55 W. Monroe Street  
Suite 800  
Chicago, IL 60603

9.7 Covenants Running With the Land. All covenants contained in this Mortgage shall run with the Mortgaged Property.

9.8 Incorporation of Note and Revolving Loan Agreement. Each and every term, covenant and provision contained in the Note and each and every term, covenant and provision contained in the Revolving Loan Agreement are, by this reference, incorporated into this Mortgage.

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9.9 Waiver of Homestead. Mortgagee covenants that the Mortgaged property is not occupied as a homestead and waives all rights and benefit which Mortgagor has or may have under the homestead exemption law of the State of Illinois.

9.10 Successors and Assigns. All of the terms of this Mortgage shall apply to and be binding upon, and inure to the benefit of, the successors and assigns of Mortgagor and Mortgagee, respectively, and all persons claiming under or through them; provided that nothing in this Paragraph shall be construed to permit a transfer, conveyance or assignment other than as allowed by this Mortgage.

9.11 Severability. In case any one or more of the Obligations shall be invalid, illegal or unenforceable in respect, the validity of the remaining Obligations shall be in no way affected, prejudiced or disturbed thereby.

9.12 Modification. This Mortgage may not be changed, waived, discharged or terminated orally, but only by an instrument or instruments in writing, signed by the party against which enforcement of the change, waiver, discharge or termination is asserted.

9.13 Applicable Law. This Mortgage shall be governed by and construed according to the laws of the State of Illinois.

9.14 Strict Performance. Any failure by Mortgagee to insist upon strict performance by Mortgagor of any of the terms and provisions of this Mortgage shall not be deemed to be a waiver of any of the terms or provisions of this Mortgage, and Mortgagee shall have the right thereafter to insist upon strict performance by Mortgagor of any and all of them.

9.15 Headings. The article headings and the section and subsection entitlements hereof are inserted for convenience of reference only, and shall in no way alter or modify the text of such articles, sections and subsections.

9.16 Word Usage. The use of any gender shall include all other genders. The singular shall include the plural.

9.17 THIS MORTGAGE IS A SECOND MORTGAGE.

IN WITNESS WHEREOF, the Mortgagor has executed this instrument the day and year first above written.

Robert E. Derham  
ROBERT E. DERHAM

Thomas H. Baur  
THOMAS H. BAUR

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

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8 7 5 0 4 3 4 4

This instrument was prepared by, and upon recording mail to:

Steven M. Elrod, Esq.  
Burke, Bosselman & Weaver  
55 West Monroe Street  
Suite 800  
Chicago, Illinois 60603

BOX 333-CC

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STATE OF ILLINOIS, COOK COUNTY

I, HAL A. Lipshutz, a Notary Public in and for said county and state, do hereby certify that Thomas H. Baur personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered this instrument as his free and voluntary act, for the uses and purposes herein set forth.

Given under my hand and official seal this 3rd day of June, 1987.


  
Notary Public

My Commission Expires: 5/18/89

STATE OF ILLINOIS, COOK COUNTY

I, HAL A. Lipshutz, a Notary Public in and for said county and state, do hereby certify that Robert E. Derham personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered this instrument as his free and voluntary act, for the uses and purposes herein set forth.

Given under my hand and official seal this 3rd day of June, 1987.

  
Notary Public

My Commission Expires: 5/18/89

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EXHIBIT "A"

LOT 2 IN BONNETT'S SUBDIVISION OF LOTS 6, 7, 8, 9 AND 10 IN BLOCK 3 IN CUSHMANS RESUBDIVISION OF THE NORTH 1/2 OF BLOCK 4 IN SHEFFIELD'S ADDITION TO CHICAGO IN SECTION 32, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

*BLO*

Permanent Real Estate Index No. 14-32-218-005-0000 *T*

*915 W. WEBSTER  
CHICAGO, IL*

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