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Dean A. Stiffle, Esq.
Battle Fowler
280 Park Avenue
New York, New York 10017

This Mortgage was prepared by:

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Property of Cook County Clerk's Office

Attention: Dean A. Stiffle, Esq.

Battle Fowler
280 Park Avenue
New York, New York 10017

RECORD AND RETURN TO:

Location: Cook County, Illinois
Lincolnwood, Illinois

Dated: As of September 21, 1988

MORTGAGE
(Fee)

CHEMICAL BANK

to

LINCOLNWOOD ASSOCIATES

1203 RE: 23674.691.05.5K

Box 15

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(d) all easements, rights-of-way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the mortgaged property and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the premises to the center line thereof;

(c) all buildings and improvements now or hereafter located on the premises (hereinafter referred to as the improvements);

(b) all the estate, right, title, claim or demand of any nature whatsoever of mortgagor, either in law or in equity, in possession or expectancy, in and to the mortgaged property or any part thereof;

(a) the premises;

Mortgaged Property):
51 hereafter acquired, in and to the following property, rights and interests (such as the property, rights and interests being hereinafter collectively referred to as the
49 into mortgage forever all right, title and interest of mortgagor now owned, or
48 gage, give, grant, bargain, sell, alien, enclose, convey, confirm and assign
47 entreated, conveyed, confirmed and assigned, and by these presents does mort-
46 (Note), mortgagor has mortgaged, given, granted, bargained, sold, aliened,
45 date hereof given by mortgagor to mortgagee (hereinafter referred to as the
44 referred to as the debt) according to a certain mortgage note dated as of the
43 sums which may or shall become due hereunder being hereinafter collectively
42 defined), to be paid with interest (said indebtedness, interest and all other
41 thereof as may be advanced pursuant to the building loan agreement (hereinafter
40 (\$71,750,000), lawful money of the United States of America, or so much
39 sum of seventy-one million seven hundred fifty thousand and 00/100 dollars
38 NOW, THEREFORE, to secure payment of an indebtedness in the principal

36 inatter referred to as the premises);
35 premises, as more particularly described in exhibit A attached hereto (here-
34 WHEREAS mortgagor is the owner and holder of a fee estate in certain

W I T N E S S E T H :

York, New York (hereinafter referred to as mortgagee),
York banking corporation having an office at 277 Park Avenue, New
(hereinafter referred to as mortgagor), and CHEMICAL BANK, a New
chants plaza - 15 South, P.O. Box 7033, Indianapolis, Indiana
ship having an office c/o Melvin Simon & Associates, Inc., Mer-
and between LINCOLNWOOD ASSOCIATES, an Illinois general partner-
THIS MORTGAGE made as of the 21st day of September, 1988, by

MORTGAGE (Fee)

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71 (e) all machinery, apparatus, equipment, fittings, fixtures and other property of every kind and nature whatsoever owned by mortgagor, or in which mortgagor has or shall have an interest, now or hereafter located upon the mortgaged property, or appurtenances thereto, and usable in connection with the present or future operation and occupancy of the mortgaged property and all building equipment, materials and supplies of any nature whatsoever owned by mortgagor, or in which mortgagor has or shall have an interest, now or hereafter located upon the mortgaged property (hereinafter collectively referred to as the equipment), and the right, title and interest of mortgagor in and to any of the equipment which may be subject to any security agreements (as defined in the Uniform Commercial Code of the State of Illinois), superior in lien to the lien of this mortgage;

72 (f) all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the mortgaged property, whether from the exercise of the right of eminent domain (including any transfer made in lieu of the exercise of said right), or for any other injury to or decrease in the value of the mortgaged property;

73 (g) all space leases, ground leases, subleases, and other agreements affecting the use or occupancy of the mortgaged property now or hereafter entered into and including, without limitation, the GPS lease and the Madigan's lease, both as described and defined in Exhibit B attached hereto (hereinafter collectively referred to as the leases) and the right to receive and apply the rents, issues and profits of the mortgaged property (hereinafter referred to as the rents) to the payment of the debt;

74 (h) all proceeds of and any unearned premiums on any insurance policies covering the mortgaged property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the mortgaged property;

75 (i) the right, in the name and on behalf of mortgagor, to appear in and defend any action or proceeding brought with respect to the mortgaged property and to commence any action or proceeding to protect the interest of mortgagor in the mortgaged property.

76 TO HAVE AND TO HOLD the above granted and described mortgaged property unto and to the proper use and benefit of mortgagor, and the successors and assigns of mortgagor, forever,

77 IN TRUST, to secure the payment to mortgagor of the debt at the time and in the manner provided for its payment in the Note and in this mortgage.

78 AND mortgagor covenants with and represents and warrants to mortgagee as follows:

79 1. Payment of Debt. Mortgagor will pay the debt at the time and in the manner provided for its payment in the Note and this mortgage.

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122 2. Warranty of Title. Mortgagee warrants the title to the premises, 123 the improvements and the equipment, subject only to those exceptions to title 124 specifically set forth in the title policy issued by TICO Real Estate Insurance Com- 125 pany of California to Mortgagee and insuring the lien of this mortgage. 126

127 3. Insurance. Mortgagee (1) will keep the improvements and the 128 equipment insured against loss or damage by fire, standard extended coverage 129 perils and such other hazards as Mortgagee shall from time to time require in 130 amounts approved by Mortgagee, which amounts shall in no event be less than 100% 131 of the full insurable value of the improvements and the equipment and shall at 132 all times be sufficient to meet all applicable co-insurance requirements, and 133 (11) will maintain rental and business interruption insurance and such other 134 forms of insurance coverage with respect to the mortgaged property as Mortgagee 135 shall from time to time require in amounts approved by Mortgagee. All policies 136 of insurance (hereinafter referred to as the policies) shall be issued by an 137 insurer lawfully doing business in New York and in the State of Illinois and 138 acceptable to Mortgagee, shall contain the standard New York mortgage non- 139 contribution clause endorsement or an equivalent endorsement satisfactory to 140 Mortgagee naming Mortgagee as the person to which all payments made by such 141 insurance company shall be paid. Mortgagee shall pay the premiums for the 142 policies as the same become due and payable. At the request of Mortgagee, Mort- 143 gagee will assign and deliver the policies to Mortgagee. Not later than thirty 144 (30) days prior to the expiration date of each of the policies, Mortgagee will 145 deliver to Mortgagee a renewal policy or policies marked "premium paid" or 146 accompanied by other evidence of payment of premium satisfactory to Mortgagee. 147 It at any time Mortgagee is not in receipt of written evidence that all insur- 148 ance required hereunder is in force and effect, Mortgagee shall have the right 149 without notice to Mortgagee to take such action as Mortgagee deems necessary to 150 protect its interest in the mortgaged property, including, without limitation, 151 the obtaining of such insurance coverage as Mortgagee in its sole discretion 152 deems appropriate, and all expenses incurred by Mortgagee in connection with 153 such action or in obtaining such insurance and keeping it in effect shall be 154 paid by Mortgagee to Mortgagee upon demand. If the mortgaged property shall be 155 damaged or destroyed, in whole or in part, by fire or other casualty, Mortgagee 156 shall give prompt notice thereof to Mortgagee. Subject to the provisions of 157 paragraph 29(c) of the building loan agreement, sums paid to Mortgagee by any 158 insurer may be retained and applied by Mortgagee toward payment of the debt 159 whether or not then due and payable in such priority and proportions as Mort- 160 gagee, in its sole and absolute discretion, shall deem proper or, at the discre- 161 tion of Mortgagee, the same may be paid, either in whole or in part, to Mortga- 162 geor for such purposes as Mortgagee shall designate. If Mortgagee shall receive 163 and retain such insurance proceeds, the lien of this mortgage shall be reduced 164 only by the amount thereof received and retained by Mortgagee and actually 165 applied by Mortgagee in reduction of the debt.

166 4. Payment of Taxes, etc. Mortgagee shall pay all taxes, assess- 167 ments, water rates, sewer rates and other charges, including vault charges and 168 license fees for the use of vaults, chutes and similar areas adjoining the prem- 169 ises, now or hereafter levied or assessed against the mortgaged property. 170 171

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171 (hereinafter referred to as the Taxes) prior to the date upon which any fine,
 172 penalty, interest or cost may be added thereto or imposed by law for the nonpay-
 173 ment thereof. Mortgagor shall deliver to Mortgagor, upon request, receipts
 174 bills, cancelled checks and other evidence satisfactory to Mortgagor evidencing
 175 the payment of the Taxes prior to the date upon which any fine, penalty, inter-
 176 est or cost may be added thereto or imposed by law for the nonpayment thereof.
 177 After prior notice to Mortgagor, in the case of any material item, Mortgagor, at
 178 its own expense, may contest by appropriate legal proceeding, promptly initiated
 179 and conducted in good faith and with due diligence, the amount or validity or
 180 application in whole or in part of any of the Taxes, provided that (i) no
 181 default exists under the Note, this Mortgage or the Building Loan Agreement,
 182 (ii) Mortgagor is permitted to do so under the provisions of any mortgage supe-
 183 rior in lien to this Mortgage, (iii) such proceeding shall suspend the collec-
 184 tion of the contested Taxes from Mortgagor and from the Mortgaged Property, (iv)
 185 such proceeding shall be permitted under and be conducted in accordance with the
 186 provisions of any other instrument to which Mortgagor or the Mortgaged Property
 187 is subject and shall not constitute a default thereunder, (v) neither the Mort-
 188 gaged Property nor any part thereof or interest therein will in the opinion of
 189 Mortgagor be in danger of being sold, forfeited, terminated, cancelled or lost,
 190 (vi) Mortgagor shall have set aside adequate reserves for the payment of the
 191 contested Taxes, together with all interest and penalties thereon, and (vii)
 192 Mortgagor shall have furnished such security as may be required in the proceed-
 193 ing, or as may be requested by Mortgagor to insure the payment of the contested
 194 Taxes, together with all interest and penalties thereon.

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 197 5. Escrow Fund. Mortgagor will, at the option of Mortgagor, pay to
 198 Mortgagor on the first day of each calendar month one-twelfth of an amount
 199 (hereinafter referred to as the Escrow Fund) which would be sufficient to pay
 200 the Taxes payable, or estimated by Mortgagor to be payable, during the ensuing
 201 twelve (12) months. Mortgagor will apply the Escrow Fund to the payment of
 202 Taxes which are required to be paid by Mortgagor pursuant to this Mortgage. If
 203 the amount of the Escrow Fund shall exceed the amount of the Taxes payable by
 204 Mortgagor pursuant to the provisions of this Mortgage, Mortgagor shall, in its
 205 discretion, (a) return any excess to Mortgagor, or (b) credit such excess
 206 against future payments to be made to the Escrow Fund. In allocating such
 207 excess, Mortgagor may deal with the person shown on the records of Mortgagor to
 208 be the owner of the Mortgaged Property. If the Escrow Fund is not sufficient to
 209 pay the Taxes, as the same become payable, Mortgagor shall pay to Mortgagor,
 210 upon request, an amount which Mortgagor shall estimate as sufficient to make up
 211 the deficiency. Until expended or applied as above provided, any amounts in the
 212 Escrow Fund may be commingled with the general funds of Mortgagor and shall con-
 213 stitute additional security for the debt and shall not bear interest. Notwith-
 214 standing the foregoing, Mortgagor agrees that it shall not exercise its right to
 215 require the establishment of an Escrow Fund pursuant to this paragraph unless a
 216 default shall have occurred and be continuing beyond any applicable grace and
 217 cure period under the Note, this Mortgage or the Building Loan Agreement.

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 220 6. Condemnation. Notwithstanding any taking by any public or quasi-
 221 public authority through eminent domain or otherwise, Mortgagor shall continue

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222 to pay the debt at the time and in the manner provided for its payment in the
 223 Note, this Mortgage and the Building Loan Agreement, and the debt shall not be
 224 reduced until any award or payment therefor shall have been actually received
 225 and applied by Mortgagee to the discharge of the debt. Mortgagee may apply any
 226 such award or payment to the discharge of the debt whether or not then due and
 227 payable in such priority and proportions as Mortgagee, in its sole and absolute
 228 discretion, shall deem proper. If the mortgaged property is sold, through fore-
 229 closure or otherwise, prior to the receipt by Mortgagee of such award or pay-
 230 ment, Mortgagee shall have the right, whether or not a deficiency judgment on
 231 the Note shall have been sought, recovered or denied, to receive such award or
 232 payment, or a portion thereof sufficient to pay the debt, whichever is less.
 233 Mortgagee shall file and prosecute its claim or claims for any such award or
 234 payment in good faith and with due diligence and cause the same to be collected
 235 and paid over to Mortgagee, and hereby irrevocably authorizes and empowers Mort-
 236 gagee, in the name of Mortgagee or otherwise to collect and receipt for any such
 237 award or payment and to file and prosecute such claim or claims, and although it
 238 is hereby expressly agreed that the same shall not be necessary in any event,
 239 Mortgagee shall, upon demand of Mortgagee, make, execute and deliver any and all
 240 assignments and other instruments sufficient for the purpose of assigning any
 241 such award or payment to Mortgagee, free and clear of any encumbrances of any
 242 kind or nature whatsoever. Notwithstanding anything to the contrary contained
 243 in this paragraph, if a non-material part of the premises is taken through em-
 244 ployment domain or otherwise and if such taking does not involve a material physical
 245 taking of the improvements or any portion thereof, any award given as a result
 246 of such taking may be retained by Mortgagee, provided (1) no default shall have
 247 occurred and be continuing under the Note, this mortgage or the Building Loan
 248 Agreement, and (2) Mortgagee promptly commences and expeditiously completes any
 249 necessary repair and restoration to the premises and the improvements.

7. Leases and Rents. Subject to the terms of this paragraph, Mort-
 252 gagee waives the right to enter the mortgaged property for the purpose of col-
 253 lecting the Rents, and grants Mortgagee the right to collect the Rents. The
 254 right of Mortgagee to collect the Rents may be revoked by Mortgagee upon any
 255 default by Mortgagee under the terms of the Note, this mortgage or the Building
 256 Loan Agreement, by giving notice of such revocation to Mortgagee. Following
 257 such notice Mortgagee may retain and apply the Rents toward payment of the debt
 258 in such priority and proportions as Mortgagee, in its sole and absolute discre-
 259 tion, shall deem proper, or to the operation, maintenance and repair of the
 260 mortgaged property. Mortgagee shall not, without the consent of Mortgagee,
 261 make, or suffer to be made, any leases other than in conformity with the
 262 requirements of paragraphs 16, 17 and 18 of the Building Loan Agreement or can-
 263 cel or modify any leases other than in conformity with the requirements of para-
 264 graph 18 of the Building Loan Agreement or (other than security deposits under
 265 the leases) accept prepayments of installments of the Rents for a period of more
 266 than one (1) month in advance or further assign the whole or any part of the
 267 Rents. Mortgagee shall (a) fulfill or perform each and every provision of the
 268 leases on the part of Mortgagee to be fulfilled or performed, (b) promptly send
 269 copies of all notices of default which Mortgagee shall send or receive under the
 270 leases to Mortgagee, and (c) enforce the performance or observance of the
 271 leases to Mortgagee.

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272 provisions thereof by the tenants thereunder. In addition to the rights which
 273 Mortgagee may have herein, in the event of any default under the Note, this
 274 Mortgage or the Building Loan Agreement, Mortgagee, at its option, may require
 275 Mortgagee to pay monthly in advance to Mortgagee, or any receiver appointed to
 276 collect the Rents, the fair and reasonable rental value for the use and occupa-
 277 tion of such part of the Mortgaged Property as may be in possession of Mortga-
 278 gor. Upon default in any such payment, Mortgagee will vacate and surrender pos-
 279 session of the Mortgaged Property to Mortgagee, or to such receiver and, in
 280 default thereof, Mortgagee may be evicted by summary proceedings or otherwise.
 281 Nothing contained in this paragraph shall be construed as imposing on Mortgagee
 282 any of the obligations of the lessor under the leases.

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 284 Maintenance of the Mortgaged Property. Mortgagee shall cause the
 285 Mortgaged Property to be maintained in good condition and repair and will not
 286 commit or suffer to be committed any waste of the Mortgaged Property. The
 287 Improvements and the equipment shall not be removed, demolished or materially
 288 altered (except for normal replacement of the equipment), without the consent of
 289 Mortgagee. Mortgagee shall promptly comply with all existing and future govern-
 290 mental laws, orders, ordinances, rules and regulations affecting the Mortgaged
 291 Property, or any portion thereof or the use thereof (including, without limita-
 292 tion, all environmental, petroleum products and hazardous waste laws, orders,
 293 ordinances, rules and regulations including those relating to the presence of
 294 asbestos) (hereinafter referred to collectively as "Environmental Require-
 295 ments"). Mortgagee hereby represents and warrants that to the best of the Mort-
 296 gagee's knowledge, there are no materials currently located on the Mortgaged
 297 Property that violate any Environmental Requirements. Mortgagee covenants and
 298 agrees that Mortgagee will not place or permit to be placed any such materials
 299 on the Mortgaged Property or use or permit the use of the Mortgaged Property in
 300 a manner that violates applicable Environmental Requirements, and further, that,
 301 at any time it is determined that the operation or use of the Mortgaged Prop-
 302 erty violates any applicable Environmental Requirements or that there are mate-
 303 rials located on the premises that, under any Environmental Requirement, require
 304 special handling in collection, storage, treatment or disposal, Mortgagee shall,
 305 within thirty (30) days after written notice thereof, take or cause to be taken,
 306 at its sole expense, such actions as may be necessary to comply with all Envi-
 307 ronmental Requirements; provided that if such compliance cannot reasonably be
 308 completed within such thirty (30) day period, Mortgagee shall commence such nec-
 309 essary action within such thirty (30) day period and thereafter shall diligently
 310 and expeditiously proceed to comply with all Environmental Requirements. If
 311 Mortgagee shall fail to take such action, Mortgagee may make advances or pay-
 312 ments towards performance or satisfaction of the same but shall be under no
 313 obligation so to do; and all sums so advanced or paid, including, without limi-
 314 tation, reasonable counsel fees, fines, or other penalty payments and all sums
 315 advanced or paid in connection with any judicial or administrative investigation
 316 or proceeding relating thereto, shall immediately, upon demand, be due from the
 317 Mortgagee and shall bear interest at the rate per annum set forth in para-
 318 graph 21 of this Mortgage from the date the same shall become due and payable
 319 until the date paid, and all sums so advanced or paid, with interest as afore-
 320 said, shall be added to the Debt and shall be secured by this Mortgage.

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321 Mortgagor shall execute and deliver, promptly after request, such instruments as
 322 Mortgagee may deem useful or required to permit Mortgagee to take any such
 323 action. Failure of Mortgagor to comply with all Environmental Requirements
 324 shall be a default under this Mortgage. Mortgagee may, at its option, at inter-
 325 vals of not less than one year, cause an environmental audit of the Mortgaged
 326 Property or portions thereof to be conducted to confirm Mortgagor's compliance
 327 with the provisions of this paragraph, for which audits Mortgagor shall be
 328 charged the actual costs thereof. Mortgagor shall pay such costs on demand and
 329 upon failure to pay same, same shall be added to the debt and shall be secured
 330 by this Mortgage. Mortgagor absolutely and unconditionally agrees to indemnify
 331 and to hold Mortgagee harmless from and against any and all loss, liability,
 332 cost or expense incurred by Mortgagee as a result of Mortgagor's failure to com-
 333 ply with all existing and future environmental, petroleum products and hazardous
 334 waste laws, orders, ordinances, rules and regulations, including those relating
 335 to the presence of asbestos affecting the Mortgaged Property, which indemnifica-
 336 tion shall, notwithstanding any provisions of the Note, this Mortgage, the
 337 Building Loan Agreement or any other document or instrument executed and
 338 delivered in connection with the loan evidenced and secured by the Note and this
 339 Mortgage, constitute the personal recourse undertakings, obligations and liabil-
 340 ities of Mortgagor, and shall be secured and evidenced by the Note and this
 341 Mortgage. The obligation and liabilities of Mortgagor under this paragraph
 342 shall terminate and shall be of no further force and effect as of the date upon
 343 which Mortgagor shall pay to Mortgagee, in cash, all principal, interest and
 344 other sums secured by this Mortgage or otherwise constituting part of the debt.
 345 If Mortgagor shall fail to pay to Mortgagee, in cash, all principal, interest
 346 and other sums secured by this Mortgage or otherwise constituting part of the
 347 debt as and when the same shall become due and payable and it as a result
 348 thereof Mortgagee, its nominee or wholly-owned subsidiary shall obtain title to
 349 and possession of the Premises and the Improvements as the result of the fore-
 350 closure of this Mortgage, the acceptance by Mortgagee, its nominee or wholly-
 351 owned subsidiary of a deed or assignment in lieu of foreclosure of this Mortgage
 352 or otherwise, then the obligations and liabilities of Mortgagor set forth in
 353 this paragraph shall remain in full force and effect and shall not be termi-
 354 nated, discharged or released. The personal recourse obligations created by
 355 this paragraph shall extend only to Mortgagor and its assets and not to any
 356 past, present or future partner of Mortgagor or their respective assets. Mort-
 357 gator shall promptly repair, replace or rebuild any part of the Mortgaged Prop-
 358 erty which may be damaged or destroyed or destroyed by any casualty (including any casualty
 359 for which insurance was not obtained or obtainable) or which may be affected by
 360 any taking by any public or quasi-public authority through eminent domain or
 361 otherwise, and shall complete and pay for, within a reasonable time, any struc-
 362 ture at any time in the process of construction or repair on the Premises. If
 363 such casualty shall be covered by the Policies, Mortgagor's obligation to
 364 repair, replace or rebuild such portion of the Mortgaged Property shall be con-
 365 tingent upon Mortgagee paying Mortgagee the proceeds of the Policies, or such
 366 portion thereof as shall be sufficient to complete such repair, replacement or
 367 rebuilding, whichever is less. Mortgagor will not, without obtaining the prior
 368 consent of Mortgagee, initiate, join in or consent to any private restrictive
 369 covenant, zoning ordinance, or other public or private restrictions, limiting or

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370 affecting the uses which may be made of the Mortgaged Property or any part thereof.

371 9. Estoppel Certificates. Mortgagor, within ten (10) days after
372 request by Mortgagor and at its expense, will furnish Mortgagor with a state-
373 ment, duly acknowledged and certified, setting forth the amount of the Debt and
374 the offsets or defenses thereto, if any. Mortgagor, within ten (10) days after
375 request by Mortgagor and at its expense, will furnish Mortgagor with a statement
376 setting forth the then outstanding principal balance of the Note and the inter-
377 est, if any, accrued and unpaid thereon.

378 10. Transfer or Encumbrance of the Mortgaged Property. No part of
379 the Mortgaged Property nor any interest therein shall in any manner be further
380 encumbered, sold, transferred or conveyed, or permitted to be further encum-
381 bered, sold, transferred or conveyed without the prior written consent of Mort-
382 gagee, which consent may be withheld in the sole and absolute discretion of
383 Mortgagor. The provisions of the foregoing sentence of this paragraph shall
384 apply to each and every such further encumbrance, sale, transfer or conveyance,
385 regardless of whether or not Mortgagor has consented to, or waived by its action
386 or inaction its rights hereunder with respect to any such previous further
387 encumbrance, sale, transfer or conveyance. Unless otherwise consented to the
388 Mortgagor shall, except as otherwise provided in the next sentence, be owned or
389 controlled (either directly or indirectly) on an unencumbered basis by Joseph S.
390 Beale (or in the event of death by his heirs). Notwithstanding anything to the
391 contrary hereinabove set forth in this paragraph or in subparagraph (c) of para-
392 graph 20 of this Mortgage or in paragraph 29(f) of the Building Loan Agreement,
393 it is expressly understood and agreed that interests in Mortgagor may be con-
394 veyed or transferred subsequent to the date of this Mortgage to persons or par-
395 ties selected by Mortgagor without the consent of Mortgagor, provided that (1)
396 Mortgagor promptly informs Mortgagor of any such conveyance or transfer, and
397 (11) any such conveyance or transfer does not result in the occurrence of a
398 default under subparagraphs (e), (f), (g) or (h) of paragraph 20 of this Mort-
399 gage.

400 11. Notice. Any notice, request, demand, statement or consent made
401 hereunder shall be in writing and shall be sent by registered or certified mail,
402 return receipt requested, and shall be deemed given when postmarked and
403 addressed as follows:

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If to Mortgagor:

Lincolnwood Associates
c/o Melvin Simon & Associates, Inc.
Merchants Plaza--15 South
P.O. Box 7033
Indianapolis, Indiana 46207
Attention: James Schmidt

With a copy to:

Hawthorn Realty Group
10275 West Higgins Road
Rosemont, Illinois 60018
Attention: Steven D. Bandoik
Vice President

With a copy to:

Rudnick & Wolfe
203 North LaSalle Street
Chicago, Illinois 60601
Attention: Howard Kane, Esq.

If to Mortgagee:

Chemical Bank
Chemical Realty Group - 12th Floor
277 Park Avenue
New York, New York 10172
Attention: Stephen D. Plavin

With a copy to:

Battle Fowler
280 Park Avenue
New York, New York 10017
Attention: Dean A. Stittie, Esq.

Each party may designate a change of address by notice to the other parties,
given at least fifteen (15) days before such change of address is to become
effective.

12. Sale of Mortgaged Property. If this mortgage is foreclosed, the
Mortgaged Property, or any interest therein, may, at the discretion of Mort-
gagee, be sold in one or more parcels or in several interests or portions and in
any order or manner.

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Property of Cook County Clerk's Office

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13. Changes in Laws Regarding Taxation. In the event of the passage after the date of this mortgage of any law of the State of Illinois deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or changing in any way the laws for the taxation of mortgages or 470 debts secured by mortgages for state or local purposes or the manner of the col- 471 lection of any such taxes, and imposing a tax, either directly or indirectly, on 472 this mortgage, the Note or the debt, Mortgagee shall, if permitted by law, pay 473 any tax imposed as a result of any such law within the statutory period or 474 within fifteen (15) days after demand by Mortgagee, whichever is less, provided, 475 however, that if, in the opinion of the attorneys for Mortgagee, Mortgagee is 476 not permitted by law to pay such taxes, Mortgagee shall have the right, at its 477 option, to declare the debt due and payable on a date specified in a prior 478 notice to Mortgagee of not less than thirty (30) days.

14. No Credits on Account of the Debt. Mortgagee will not claim or 481 demand or be entitled to any credit or credits on account of the debt for any 482 part of the taxes assessed against the mortgaged property or any part thereof 483 and no deduction shall otherwise be made or claimed from the taxable value of 484 the mortgaged property, or any part thereof, by reason of this mortgage or the 485 debt.

15. Other Security for the Debt. Mortgagee shall observe and perform 487 all of the terms, covenants and provisions contained in the Note, the Building 488 Loan Agreement, and in all other mortgages and other instruments or documents 489 evidencing, securing or guaranteeing payment of the debt, in whole or in part, 490 or otherwise executed and delivered in connection with the Note, this mortgage 491 or the loan evidenced and secured thereby

16. Documentary Stamps. If at any time the United States of America, 494 any state thereof or any governmental subdivision of any such state, shall 495 require revenue or other stamps to be affixed to the Note or this mortgage, 496 Mortgagee will pay for the same, with interest and penalties thereon, if any.

17. Right of Entry. Mortgagee and its agents shall have the right to 499 enter and inspect the mortgaged property at all reasonable times.

18. Books and Records. Mortgagee will keep and maintain or will 502 cause to be kept and maintained on a fiscal year basis in accordance with gener- 503 ally accepted accounting practices consistently applied proper and accurate 504 books, records and accounts reflecting all of the financial affairs of Mortgagee 505 and all items of income and expense in connection with the operation of the 506 mortgaged property or in connection with any services, equipment or furnishings 507 provided in connection with the operation of the mortgaged property, whether 508 such income or expense be realized by Mortgagee or by any other person whatso- 509 ever excepting lessees unrelated to and unaffiliated with Mortgagee who have 510 leased from Mortgagee portions of the mortgaged property for the purpose of 511 occupying the same. Mortgagee shall have the right from time to time at all 512 times during normal business hours to examine such books, records and accounts 513 at the office of Mortgagee or other person maintaining such books, records and 514

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563 maintain a net worth of at least \$150,000,000;
562 the event of death by their heirs), or if MSA shall at any time cease to
561 to be owned or controlled by Herbert Simon or Melvin Simon or both (or in
560 withheld in the sole and absolute discretion of Mortgagee) MSA shall cease
559 (d) If without the consent of Mortgagee (which consent may be

558 transferred or conveyed;
557 Property or any interest therein is in any manner further encumbered, sold,
556 in the sole and absolute discretion of Mortgagee) any part of the mortgaged
555 Mortgage) without the consent of Mortgagee (which consent may be withheld
554 (c) If (except as provided to the contrary in paragraph 10 of this

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552 or otherwise reserved for or secured to the satisfaction of Mortgagee
551 within thirty (30) days after the same is filed;
550 or the mortgaged Property and the same is not discharged of record, bonded
549 (b) If any federal tax lien is filed against Mortgagee, any Guarantor
548

547 notice by Mortgagee to Mortgagee that the same is past due;
546 (a) If any portion of the debt is not paid within ten (10) days after
545

544 upon the occurrence of any one of the following events:
543 20. Defaults. The debt shall become due at the option of Mortgagee
542

541 Mortgaged Property.
540 the terms of any agreement or recorded instrument affecting or pertaining to the
539 perform each and every term to be observed or performed by Mortgagee pursuant to
538 19. Performance of Other Agreements. Mortgagee shall observe and
537

536 Mortgages.
535 Mortgagee, or any Guarantor (as hereinafter defined), as may be requested by
534 the mortgaged Property and the financial affairs of Mortgagee, any affiliate of
533 days after request, such further detailed information covering the operation of
532 of time it has existed. Mortgagee shall furnish to Mortgagee, within ten (10)
531 ing loan agreement and if such event exists, the nature thereof and the period
530 does not exist an event which constitutes, or which upon notice or lapse of time
529 Mortgagee shall furnish to Mortgagee a certificate signed by a duly authorized repre-
528 sentative of Mortgagee certifying on the date thereof either that there does or
527 within ninety (90) days after the end of each fiscal year of Mortgagee, Mortga-
526 gor shall contain a fully itemized statement of profit and loss and of surplus
525 and a balance sheet and shall otherwise be in form acceptable to Mortgagee.
524 accurate in all material respects by a duly authorized representative of Mortga-
523 gor, which financial statement shall be certified as being true, correct and
522 to Mortgagee covering the operation of the mortgaged Property for such fiscal
521 an unaudited financial statement prepared by an in-house accountant acceptable
520 ing the end of each fiscal year of Mortgagee, with a complete executed copy of
519 Mortgagee will furnish Mortgagee annually, within ninety (90) days next follow-
518 accounts and to make copies or extracts thereof as Mortgagee shall desire.
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(e) If without the consent of Mortgagee (which consent may be withheld in the sole and absolute discretion of Mortgagee) Herbert Simon or Melvin Simon, or both (or in the event of death their heirs) shall cease to own or control (either directly or indirectly) at least a 50% ownership interest in the Mortgaged Property and in Mortgagee and in the profits and losses of Mortgagee;

(f) If without the consent of Mortgagee (which consent may be withheld in the sole and absolute discretion of Mortgagee) neither MSA nor its affiliates, Melvin Simon nor Herbert Simon continues to be active (either directly or indirectly) in the development of the Improvements (as defined in the Building Loan Agreement) and in the leasing, operation and management thereof;

(g) If without the consent of Mortgagee (which consent may be withheld in the sole and absolute discretion of Mortgagee) Joseph S. Beale (or in the event of death his heirs) shall cease to own or control (either directly or indirectly) at least a 50% ownership interest in the Mortgaged Property and in Mortgagee and in the profits and losses of Mortgagee;

(h) If without the consent of Mortgagee (which consent may be withheld in the sole and absolute discretion of Mortgagee) Joseph S. Beale shall cease to be active (other than by reason of death or other incapacity) in the development of the Improvements (as defined in the Building Loan Agreement) and in the leasing, operation and management thereof;

(i) If without the consent of Mortgagee any Improvement or the Equipment (except for normal replacement of the Equipment) is removed, demolished or materially altered, or if the Mortgaged Property is not kept in good condition and repair;

(j) If the Policies are not kept in full force and effect, or if the Policies are not assigned and delivered to Mortgagee upon request;

(k) If without the consent of Mortgagee any Leases are made (other than in conformity with the provisions of paragraphs 16, 17 and 18 of the Building Loan Agreement), or are cancelled or modified or if any portion of the Rents is paid for a period of more than one (1) month in advance or if any of the Rents are further assigned;

(l) If any representation or warranty of Mortgagee, or of any person (hereinafter referred to as a Guarantor) guaranteeing payment of the Debt or any portion thereof or performance by Mortgagee of any of the terms of the Note, this Mortgage or the Building Loan Agreement, made in the Note, this Mortgage, the Building Loan Agreement, any such guaranty or in any certificate, report, financial statement or other instrument furnished in connection with the making of the Note, this Mortgage, the Building Loan Agreement or any such guaranty, shall prove false or misleading in any material respect;

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(m) If Mortgagor or any Guarantor shall make an assignment for the benefit of creditors;

(n) If a court of competent jurisdiction enters a decree or order for relief with respect to Mortgagor or any Guarantor under Title 11 of the United States Code as now constituted or hereafter amended or under any other applicable Federal or state bankruptcy law or other similar law, or if such court enters a decree or order appointing a receiver, liquidator, assignee, trustee, sequestrator (or similar official) of Mortgagor or any Guarantor, or of any substantial part of their respective properties, or if such court decrees or orders the winding up or liquidation of the affairs of Mortgagor or any Guarantor;

(o) If Mortgagor or any Guarantor files a petition or answer or consent seeking relief under Title 11 of the United States Code as now constituted or hereafter amended, or under any other applicable Federal or state bankruptcy law or other similar law, or if Mortgagor or any Guarantor consents to the institution of proceedings thereunder or to the filing of any such petition or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of Mortgagor or any Guarantor, or of any substantial part of their respective properties, or if Mortgagor or any Guarantor fails generally to pay their respective debts as such debts become due, or if Mortgagor or any Guarantor takes any action in furtherance of any action described in this subparagraph;

(p) If a default shall occur and be continuing beyond any applicable grace period under the Note, the Building Loan Agreement or under any other mortgage or other instrument or document evidencing, securing or guaranteeing payment of the debt, in whole or in part, or otherwise executed and delivered in connection with the Note, this mortgage, the Building Loan Agreement or otherwise in connection with the loan evidenced and secured by the Note and this mortgage;

(q) If a default shall occur and be continuing beyond any applicable grace period under any mortgage covering any part of the mortgaged property whether superior or inferior in lien to this mortgage;

(r) If the mortgaged property shall become subject (1) to any tax lien, other than a lien for local real estate taxes and assessments not due and payable, or (2) to any mechanic's, materialman's or other lien and such lien shall remain undischarged or unbonded for thirty (30) days; or

(s) If Mortgagor shall continue to be in default under any of the other terms, covenants or conditions of this Mortgage for ten (10) days after notice from Mortgagor in the case of any default which can be cured by the payment of a sum of money or for thirty (30) days after notice from Mortgagor in the case of any other default, provided that if such default cannot reasonably be cured within such thirty (30) day period and Mortgagor

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shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Mortgagee in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of one hundred eighty (180) days and that nothing contained in this subparagraph shall be construed as having the effect of extending the Completion Dates (as defined in the Building Loan Agreement).

21. Right to Cure Defaults. If default in the performance of any of the covenants of Mortgagee herein occurs, Mortgagee may, at its discretion, remedy the same and for such purpose shall have the right to enter upon the mortgaged property or any portion thereof without thereby becoming liable to Mortgagee or any person in possession thereof holding under Mortgagee. If Mortgagee shall remedy such a default or appear in, defend, or bring any action or proceeding to protect their interest in the mortgaged property or to foreclose this mortgage or collect the debt, the costs and expenses thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this paragraph, shall be paid by Mortgagee upon demand. All such costs and expenses incurred by Mortgagee in remedying such default or in appearing in, defending, or bringing any such action or proceeding shall be paid by Mortgagee to Mortgagee upon demand, with interest at a rate per annum equal to the greater on a daily basis of (1) 13%, or (11) 3% plus the prime rate, provided, however, that such interest rate shall in no event exceed the maximum interest rate which Mortgagee may by law pay, for the period after notice from Mortgagee that such costs or expenses were incurred to the date of payment to Mortgagee. The term "prime rate" as used in this paragraph shall mean such rate of interest as is publicly announced by Mortgagee at its principal office from time to time as its prime rate. All such costs and expenses incurred by Mortgagee pursuant to the terms of this Mortgage, with interest, shall be secured by 694 gagee pursuant to the terms of this Mortgage, with interest, shall be secured by 695 this Mortgage.

22. Late Payment Charge. If any portion of the debt is not paid within ten (10) days after the date on which it is due, Mortgagee shall pay to Mortgagee upon demand an amount equal to 1% of such unpaid portion of the debt as a late payment charge, and such amount shall be secured by this Mortgage.

23. Appointment of Receiver. Mortgagee, in any action to foreclose this Mortgage or upon the actual or threatened waste to any part of the mortgaged property or upon the occurrence of any default hereunder, shall be at liberty, without notice, to apply for the appointment of a receiver of the rents, and shall be entitled to the appointment of such receiver as a matter of right, without regard to the value of the mortgaged property as security for the debt, or the solvency or insolvency of any person then liable for the payment of the debt.

24. Non-Waiver. The failure of Mortgagee to insist upon strict performance of any term of this Mortgage shall not be deemed to be a waiver of any term of this Mortgage. Mortgagee shall not be relieved of Mortgagee's

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714 obligation to pay the debt at the time and in the manner provided for its pay-
715 ment in the Note and this Mortgage by reason of (1) failure of Mortgagee to com-
716 ply with any request of Mortgagee to take any action to foreclose this Mortgage
717 or otherwise enforce any of the provisions hereof or of the Note, the Building
718 Loan Agreement or any other mortgage, instrument or document evidencing,
719 securing or guaranteeing payment of the debt or any portion thereof, (ii) the
720 release, regardless of consideration, of the whole or any part of the mortgaged
721 property or any other security for the debt, or (iii) any agreement or stipula-
722 tion between Mortgagee and any subsequent owner or owners of the mortgaged prop-
723 erty or other person extending the time of payment or otherwise modifying or
724 supplementing the terms of the Note, this Mortgage, the Building Loan Agreement
725 or any other mortgage, instrument or document evidencing, securing or guaran-
726 teeing payment of the debt or any portion thereof, without first having obtained
727 the consent of Mortgagee, and in the latter event, Mortgagee shall continue to
728 be obligated to pay the debt at the time and in the manner provided in the Note
729 and this Mortgage, as so extended, modified and supplemented, unless expressly
730 released and discharged by Mortgagee. Regardless of consideration, and without
731 the necessity for any notice to or consent by the holder of any subordinate
732 lien, encumbrance, right, title or interest in or to the mortgaged property,
733 Mortgagee may release any person at any time liable for the payment of the debt
734 or any portion thereof or any part of the security held for the debt and may
735 extend the time of payment or otherwise modify the terms of the Note, this Mort-
736 gage or the Building Loan Agreement, including, without limitation, a modifica-
737 tion of the interest rate payable on the principal balance of the Note, without
738 in any manner impairing or affecting this Mortgage or the lien thereof or the
739 priority of this Mortgage as so extended and modified, as security for the debt
740 over any such subordinate lien, encumbrance, right, title or interest. Mort-
741 gagee may resort for the payment of the debt to any other security held by Mort-
742 gagee in such order and manner as Mortgagee, in its discretion, may elect.
743 Mortgagee may take action to recover the debt, or any portion thereof, or to
744 enforce any covenant hereof without prejudice to the right of Mortgagee thereaf-
745 ter to foreclose this Mortgage. Mortgagee shall not be limited exclusively to
746 the rights and remedies herein stated but shall be entitled to every additional
747 right and remedy now or hereafter afforded by law. The rights of Mortgagee
748 under this Mortgage shall be separate, distinct and cumulative and none shall be
749 given effect to the exclusion of the others. No act of Mortgagee shall be con-
750 sidered as an election to proceed under any one provision hereof to the exclusion
751 of any other provision.

752

753 25. Liability. If Mortgagee consists of more than one person, the
754 obligations and liabilities of each such person hereunder shall be joint and
755 several.

756

757 26. Construction. The terms of this Mortgage shall be construed in
758 accordance with the laws of the State of Illinois.

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760 27. Security Agreement. The Mortgage constitutes both a real prop-
761 erty mortgage and a "security agreement", within the meaning of the Uniform Com-
762 mercial Code, and the mortgaged property includes both real and personal

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763 property and all other rights and interest, whether tangible or intangible in
764 nature of Mortgagor in the Mortgaged Property. Mortgagor by executing and
765 delivering this Mortgage has granted, as security for the Debt, a security
766 interest in the Equipment in favor of Mortgagee. If a default shall occur under
767 the Note, this Mortgage or the Building Loan Agreement and be continuing beyond
768 any applicable grace and cure period, Mortgagee, in addition to any other rights
769 and remedies which it may have, shall have and may exercise immediately and
770 without demand, any and all rights and remedies granted to a secured party upon
771 default under the Uniform Commercial Code, including, without limiting the gen-
772 erality of the foregoing, the right to take possession of the Equipment or any
773 part thereof, and to take such other measures as Mortgagee may deem necessary
774 for the care, protection and preservation of the Equipment. Upon request or
775 demand of Mortgagee, Mortgagor shall at its expense assemble the Equipment and
776 make it available to Mortgagee at a convenient place acceptable to Mortgagee.
777 Mortgagor shall pay to Mortgagee on demand any and all expenses, including legal
778 expenses and attorneys' fees, incurred or paid by Mortgagee in protecting the
779 interest in the Equipment granted hereby and in enforcing the rights granted
780 hereunder with respect to the Equipment. Any notice of sale, disposition or
781 other intended action by Mortgagee with respect to the Equipment sent to Mortga-
782 gor in accordance with the provisions hereof at least five (5) days prior to
783 such action, shall constitute reasonable notice to Mortgagor. The proceeds of
784 any disposition of the Equipment, or any part thereof, may be applied by Mort-
785 gagee to the payment of the Debt in such priority and proportions as Mortgagee
786 in its discretion shall deem proper.

787

788 28. Further Acts, etc. Mortgagor will, at the cost of Mortgagor, and
789 without expense to Mortgagee, do, execute, acknowledge and deliver all and every
790 such further acts, deeds, conveyances, mortgages, assignments, notices of
791 assignments, transfers and assurances as Mortgagee shall, from time to time,
792 require for the better assuring, mortgaging, conveying, assigning, transferring
793 and confirming unto Mortgagee, as the case may be, of the property and rights
794 hereby mortgaged, conveyed, assigned or transferred or intended now or hereafter
795 to be, or which Mortgagor may be or may hereafter become bound to mortgage,
796 convey, assign or transfer to Mortgagee, or for carrying out the intention or
797 facilitating the performance of the terms of this Mortgage or for filling, legis-
798 tering or recording this Mortgage and, on demand, will execute and deliver and
799 hereby authorizes Mortgagee to execute in the name of Mortgagor to the extent it
800 may lawfully do so, one or more financing statements, chattel mortgages or com-
801 parable security instruments, to evidence more effectively the lien hereof upon
802 the Mortgaged Property.

803

804 29. Headings, etc. The headings and captions of the various para-
805 graphs of this Mortgage are for convenience of reference only and are not to be
806 construed as defining or limiting, in any way, the scope or intent of the provi-
807 sions hereof.

808

809 30. Filing of Mortgage, etc. Mortgagor forthwith upon the execution
810 and delivery of this Mortgage and thereafter, from time to time, will cause this
811 Mortgage, and any security instrument creating a lien or evidencing the lien

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858 have the mortgaged property marshalled.
857 34. Marshalling. Mortgagor hereby waives and releases any right to

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855 commenced.
854 a default or defaults by mortgagor existing at the time such earlier action was
853 mortgage thereafter to bring an action of foreclosure, or any other action, for
852 the balance of the debt shall be due, and without prejudice to the right of
851 tute a part of the debt as the same become due, without regard to whether or not
850 right from time to time to take action to recover any sum or sums which consti-
849 33. Recovery of sums required to be paid. Mortgagee shall have the

848
847 Sec 6404(1)(c)).
846 money," approved May 24, 1879, as amended (11. Rev. Stats., 1981 ed., ch. 17,
845 and any other changes in connection with sales on credit and the lending of
844 subparagraph (1)(c) of section 4 of "an act in relation to the rate of interest
843 denoted by the note constitute a business loan which comes within the purview of
842 32. Business purpose. Mortgagor represents that the obligations evi-

841
840 the note.
839 shall be deemed to have been payments in reduction of the principal balance of
838 prior interest payments in excess of such maximum rate shall be applied and
837 sum rate and the interest payable shall be computed at such maximum rate and all
836 interest under the note shall be deemed to be immediately reduced to such maxi-
835 balance due under the note at a rate in excess of such maximum rate, the rate of
834 mortgagor is at any time required or obligated to pay interest on the principal
833 law to contract or agree to pay. If by the terms of this mortgage or the note
832 of being in excess of the maximum interest rate which mortgagor is permitted by
831 subject the holder of the note to either civil or criminal liability as a result
830 pay interest on the principal balance due under the note at a rate which could
829 express condition that at no time shall mortgagor be obligated or required to

828 31. Usury laws. This mortgage and the note are subject to the
827
826 recording of this mortgage.
825 any liability incurred by reason of the imposition of any tax on the making and
824 shall hold harmless and indemnify mortgagee, its successors and assigns, against
823 to the mortgaged property or any instrument of further assurance. Mortgagor
822 mortgage, any mortgage supplemental hereto, any security instrument with respect
821 charges arising out of or in connection with the execution and delivery of this
820 eral, state, county and municipal taxes, duties, imports, assessments and
819 to the mortgaged property, and any instrument of further assurance, and all fed-
818 mortgage, any mortgage supplemental hereto, any security instrument with respect
817 all expenses incident to the preparation, execution and acknowledgment of this
816 property. Mortgagor will pay all filing, registration and recording fees, and
815 protect the lien hereof upon, and the interest of mortgagee in the mortgaged
814 required by any present or future law in order to publish notice of and fully to
813 be filed, registered or recorded in such manner and in such places as may be
812 hereof upon the mortgaged property and each instrument of further assurance to

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860 35. Authority. Mortgagor (and the undersigned representatives of
861 Mortgagor) have full power, authority and legal right to execute this mortgage,
862 and to mortgage, give, grant, bargain, sell, alien, enclose, convey, confirm and
863 assign the mortgaged property pursuant to the terms hereof and to keep and
864 observe all of the terms of this mortgage on Mortgagor's part to be performed.
865
866 36. Actions and Proceedings. Mortgagor shall have the right to
867 appear in and defend any action or proceeding brought with respect to the mort-
868 gaged property and to bring any action or proceeding, in the name and on behalf
869 of Mortgagor, which Mortgagor, in its discretion, feels should be brought to
870 protect its interest in the mortgaged property.
871
872 37. Inapplicable Provisions. If any term, covenant or condition of
873 this mortgage shall be held to be invalid, illegal or unenforceable in any
874 respect, this mortgage shall be construed without such provision.
875
876 38. Duplicate Originals. This mortgage may be executed in any number
877 of duplicate originals and each such duplicate original shall be deemed to con-
878 stitute but one and the same instrument.
879
880 39. Certain Definitions. Unless the context clearly indicates a con-
881 trary intent or unless otherwise specifically provided herein, words used in
882 this mortgage shall be used interchangeably in singular or plural form and the
883 word "mortgagor" shall mean each mortgagor and any subsequent owner or owners of
884 the mortgaged property or any part thereof or interest therein, the word "mort-
885 gage" shall mean mortgage or any subsequent holder of the note, the word
886 "note" shall mean the note or any other evidence of indebtedness secured by this
887 mortgage, the word "guarantor" shall mean each person guaranteeing payment of
888 the debt or any portion thereof or performance by mortgagor of any of the terms
889 of this mortgage and their respective heirs, executors, administrators, legal
890 representatives, successors and assigns, the word "person" shall include an
891 individual, corporation, partnership, trust, unincorporated association, govern-
892 ment, governmental authority, or other entity, the words "mortgaged property"
893 shall include any portion of the mortgaged property or interest therein, and the
894 word "debt" shall mean all sums secured by this mortgage. Whenever the context
895 may require, any pronouns used herein shall include the corresponding masculine,
896 feminine or neuter forms, and the singular form of nouns and pronouns shall
897 include the plural and vice versa.
898
899 40. Waiver of Notice. Mortgagor shall not be entitled to any notices
900 of any nature whatsoever from mortgagee except with respect to matters for which
901 this mortgage specifically and expressly provide for the giving of notice by
902 Mortgagor to Mortgagee, and Mortgagee hereby expressly waives the right to
903 receive any notice from mortgagee with respect to any matter for which this
904 mortgage does not specifically and expressly provide for the giving of notice by
905 Mortgagee to Mortgagor.
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907 41. No Oral Change. This mortgage may only be modified or amended by
908 an agreement in writing signed by Mortgagor and Mortgagee, and may only be

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909 released, discharged or satisfied of record by an agreement in writing signed by
910 Mortgagee. Mortgagee shall join in any such agreement if required for such
911 agreement to be effective under applicable law.

42. Building Loan Agreement. This is a "construction loan" mortgage,
914 the proceeds of which are loaned for the purpose of financing the construction
915 of certain improvements on the premises. This mortgage is subject to all of the
916 terms, covenants and conditions of a certain building loan agreement dated the
917 date hereof entered into between Mortgagee and Mortgagor (hereinafter referred
918 to as the Building Loan Agreement), which Building Loan Agreement and all of the
919 terms, covenants and conditions thereof are by this reference incorporated
920 herein and made a part hereof with the same force and effect as if set forth at
921 length herein. The proceeds of the building loan secured hereby are to be
922 advanced by Mortgagee to Mortgagor in accordance with the provisions of the
923 Building Loan Agreement. Mortgagor shall observe and perform all of the terms,
924 covenants and conditions of the Building Loan Agreement on Mortgagor's part to
925 be observed or performed. All advances made and all indebtedness arising and
926 accruing under the Building Loan Agreement from time to time shall be secured
927 hereby.

43. Waiver of Statutory Rights. Mortgagor shall not and will not
929 apply for or avail itself of any appraisal, valuation, stay, extension or
930 exemption laws, or any so-called "moratorium laws", now existing or hereafter
931 enacted, in order to prevent or hinder the enforcement or foreclosure of this
932 mortgage, but hereby waives the benefit of such laws to the full extent that
933 Mortgagor may do so under applicable law. Mortgagor for itself and all who may
934 claim through or under it waives any and all right to have the property and
935 estates comprising the mortgaged property shall be liable upon any foreclosure of the
936 lien hereof and agrees that any court having jurisdiction to foreclose such lien
937 may order the mortgaged property sold as an entirety. Mortgagor hereby waives
938 any and all rights of redemption from sale under any order or decree of foreclo-
939 sure of this mortgage. The foregoing waiver of right of redemption is made pur-
940 suant to the provisions of Chapter 110, Section 15-1205 of the Illinois Code of
941 Civil Procedure.

44. Exemption. Notwithstanding anything to the contrary contained
944 in the Note, this mortgage, the Building Loan Agreement, or the other Loan Docu-
945 ments (as defined in the Building Loan Agreement), the liability and obligation
946 of Mortgagor to perform and observe and make good the obligations contained in
947 the Note, this mortgage, the Building Loan Agreement and the other Loan Docu-
948 ments and to pay the debt in accordance with the provisions of the Note and this
949 mortgage shall not be enforced by any action or proceeding wherein damages or
950 any money judgment or any deficiency judgment or any judgment establishing any
951 personal obligation or liability shall be sought, collected or otherwise
952 obtained against Mortgagor or against any past, present or future partner of
953 Mortgagor, and Mortgagee for itself and its successors and assigns irrevocably
954 waives any and all right to sue for, seek or demand any such damages, money
955 judgment, deficiency judgment or personal judgment against Mortgagor or any
956 past, present or future partner of Mortgagor under or by reason of or in

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-21-

984 IN WITNESS WHEREOF, Mortgagor has duly executed this Mortgage as of 985 the day and year first above written.

LINCOLNWOOD ASSOCIATES
By: Simon Lincolnwood Developers
limited partnership, an Indiana
limited partnership, and a
general partner of Mortgagor
Simon-Lincolnwood, Inc.
an Indiana corporation,
and a general partner of
Simon Lincolnwood Developers
limited partnership

By: J. L. Gershman
Name: J. L. Gershman
Title: ~~Vice President~~
Assistant Secretary

By: J.S.B. Corp., an Illinois
corporation, and a general
partner of Mortgagor

By: J.S. Beck
Name: J.S. Beck
Title: President

By: Hawthorn Lincolnwood Limited Partnership,
an Illinois limited partnership and
a general partner of Mortgagor

By: J.S.B. Corp., an Illinois
corporation and a general
partner of Hawthorn Lincolnwood
limited partnership

By: S.S. Beck
Name: S.S. Beck
Title: President

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1004 Name: R.L. Forward
Name: R.L. Forward
Title: ~~Secretary~~
Vice President

1010 ATTEST
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1018 Name: Jane B. Rolak
Name: Jane B. Rolak
Title: Secretary

1024 Name: Jane B. Rolak
Name: Jane B. Rolak
Title: Secretary

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1023 ATTEST
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Property of Cook County Clerk

DEBRA K. BURNS, Notary Public
CO. of Residence: Marion
My Commission Expires June 14, 1992

Debra K. Burns
Notary Public

GIVEN under my hand and Notarial Seal this 2nd day of September 1988.

I, Debra K. Burns, a Notary Public in and for said County, in the State aforesaid, do hereby certify that J. L. Gershard, personally known to me to be the Vice President, of SIMON LINCOLNWOOD, INC., an Indiana corporation, duly licensed to transact business in the State of Indiana and the State of Illinois, which corporation is a general partner of SIMON LINCOLNWOOD DEVELOPERS LIMITED PARTNERSHIP, an Illinois limited partnership, which limited partnership is a general partner of LINCOLNWOOD ASSOCIATES, an Illinois general partnership, and R. L. Foxworthy, personally known to me to be the Secretary of said corporation and 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 severally acknowledged that they signed and delivered the said instrument as Vice President and Secretary of said corporation, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

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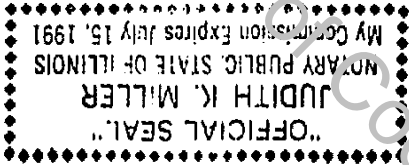
1031 STATE OF INDIANA)
: ss.:
1033 COUNTY OF MARION)

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Property of Cook County Clerk



Judith K. Miller
Notary Public

GIVEN under my hand and Notarial Seal this 22 day of Sept. 1988.

I, *Judith K. Miller*, Notary Public in and for said County, in the State aforesaid, do hereby certify that *Joseph S. Balle*, personally known to me to be the *President*, of J.S.B. CORP., an Illinois corporation, duly licensed to transact business in the State of Illinois, which corporation is a general partner of LINCOLNWOOD ASSOCIATES, an Illinois general partnership, and *Gene B. Fink*, personally known to me to be the *Secretary* of said corporation and 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 severally acknowledged that they signed and delivered the said instrument as *President* and *Secretary* of said corporation, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

1062 STATE OF ILLINOIS)
: 55. :
1064 COUNTY OF COOK)

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(Commencing at the intersection of the west line of the East 660 feet of the Northeast Quarter of said Section 35 and the South line of the South Half of the Northeast Quarter of said Section 35; thence North 0 Degrees 03 Minutes 49 Seconds West 418.00 feet along last said west line; thence North 45 Degrees 01 Minutes 55 Seconds West 42.45 feet; thence North 0 Degrees 03 Minutes 49 Seconds West 100.00 feet to a place of beginning; thence South 89 Degrees 56 Minutes 11 Seconds West 230.00 feet to a point of curve; thence Northwest on a curve convex to the southwest having a radius of 190.00 feet, an arc distance of 142.81 feet and a chord bearing of North 72 Degrees 59 Minutes 25 Seconds West to a point of tangent; thence North 45 Degrees 55 Minutes 59 Seconds West 58.00 feet to a point of curve; thence Northwest on a curve convex to the southwest having a radius of 190.00 feet, an arc distance of 152.02 feet, and a chord bearing of North 22 Degrees 59 Minutes 42 Seconds West to a point of tangent; thence North 0 Degrees 04 Minutes 24 Seconds West 5 feet; thence North 44 Degrees 55 Minutes 36 Seconds East 21.21 feet; thence North 89 Degrees 55 Minutes 36 Seconds West 587.00 feet; thence due North 95.00 feet; thence due West 267.00 feet; thence due North 248.96 feet; thence North 39 Degrees 33 Minutes 48 Seconds West 98.72 feet to a point on a line (hereinafter "Line A") drawn from a point in the west line of said Northeast 1/4 which is 149.58 feet North of the Southwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 35 to a point in the East line of said Quarter Section which is 121.2 feet South of the Northeast corner thereof; thence North 50 Degrees 26 Minutes 12 Seconds East 11.59 feet, along said "Line A", to a point of curve; thence Northeast on a curve convex to the southeast having a radius of 450.78 feet, an arc distance of 225.05 feet, the chord bearing North 36 Degrees 08 Minutes 06 Seconds East 222.81 feet to a point of tangent; thence North 21 Degrees 50 Minutes 01 Seconds East along a line parallel to and 450 feet southerly of the Easterly line of the 100 foot wide right of way of the Chicago and North Western Railway, a distance of 462.10 feet; thence North 1 Degree 39 Minutes 30 Seconds West along a line which, if continued, would intersect the North line of said Northeast 1/4 at a point 447.20 feet East of the East line of said 100 foot wide right of way of the Chicago and North Western Railway, a distance of 46.00 feet; thence North 88 Degrees 20 Minutes 30 Seconds East 54.00 feet South of and parallel with the North line of said Northeast 1/4, a distance of 420.00 feet; thence North 1 Degree 39 Minutes 30 Seconds West 14.00 feet to the South right-of-way line of Touhy Avenue being a line 40.00 feet South of and parallel with said North line of said Northeast 1/4; thence North 88 Degrees 20 Minutes 30 Seconds East 317.49 feet along last said South right-of-way line; thence South 1 Degree 39 Minutes 30 Seconds East 15.5 feet; thence North 89 Degrees 20 Minutes 30 Seconds East 311.00 feet; thence South 45 Degrees 03 Minutes 49 Seconds East 47.46 feet to the west line of the East 660 feet of the Northeast Quarter of said Section 35; thence South 0 Degrees 03 Minutes 49 Seconds East 140.00 feet; thence South 89 Degrees 56 Minutes 11 Seconds West 13.5 feet; thence East 450.00 feet; thence North 89 Degrees 56 Minutes 11 Seconds East 13.5 feet; thence South 0 Degrees 03 Minutes 49 Seconds East 385.43 feet; thence South 89 Degrees

A tract of land in the North Half of Section 35, Township 41 North, Range 13 East of the Third Principal Meridian bounded and described as follows:

EXHIBIT A - LEGAL DESCRIPTION

\$71,750,000.00

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Property of Cook County Clerk's Office

Vacant land located at the southwest intersection of Touhy Avenue and McCormick Boulevard in the Village of Lincolnwood, Cook County, Illinois.

Common Address:

COOK COUNTY RECORDER
45705 * 1-88-440937
142222 FROM 5022 09/26/88 14:46:00
\$27.00

- 10-35-200-019
- 10-35-200-017
- 10-35-200-014
- 10-35-200-010
- 10-35-200-009
- 10-35-200-008
- 10-35-200-007
- 10-35-200-006

(Affects part of the land and other property)

- 10-35-200-022
- 10-35-201-006

Volume: 130

Permanent Tax Numbers: 10-35-201-002

56 Minutes 11 Seconds West 13.5 feet; thence South 0 Degrees 03 Minutes 49 seconds East 340.0 feet; thence South 44 Degrees 56 Minutes 11 Seconds West 23.33 feet to the place of beginning, all in Cook County, Illinois.

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(Description of CPS Lease
and Madigan's Lease)

EXHIBIT B

1189 1. CPS Lease: Lease to be entered into between Mortgagor, as landlord, and
1190 Carson Fire Scott, as tenant, pursuant to the provisions of which Mortgagor
1191 shall lease to Carson Fire Scott a department store building constituting part
1192 of the improvements to be constructed on the Premises, containing approximately
1193 125,000 square feet.
1194
1195 2. Madigan's Lease: Lease to be entered into between Mortgagor, as landlord,
1196 and Madigan Brothers, Inc., as tenant, pursuant to the provisions of which Mort-
1197 gator shall lease to Madigans Brothers, Inc. a department store building
1198 constituting a part of the improvements to be constructed on the Premises,
1199 containing approximately 104,200 square feet.

Property of Cook County Clerk's Office
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